



**U.S. Citizenship
and Immigration
Services**

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 9628891

Date: JANUARY 8, 2024

Motion of Administrative Appeals Office Decision

Form I-914, Application for T Nonimmigrant Status

The Applicant seeks T-1 nonimmigrant classification as a victim of human trafficking under sections 101(a)(15)(T) and 214(o) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(T) and 1184(o). The Director of the Vermont Service Center denied the Applicant's Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant did not establish that he is the victim of a severe form of trafficking, is physically present in the United States on account of such trafficking, and complied with reasonable requests for assistance from law enforcement. We dismissed a subsequent appeal, concluding that the Applicant did not establish that he is the victim of a severe form of trafficking. The matter is now before us on a motion to reopen and reconsider. On motion, the Applicant submits a brief and reasserts his eligibility for the benefit sought. The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Matter of Chawathe, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will remand this matter for further proceedings consistent with this decision.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We cannot grant a motion that does not meet applicable requirements. See 8 C.F.R. § 103.5(a)(4).

In our prior decision, we determined that the evidence established that smugglers coerced the Applicant to carry a backpack containing what he believed to be drugs but determined that the record reflects that the smugglers actions towards him were incidental to, and in furtherance of, the ongoing smuggling operation. Upon further review of the record, the record shows that while the Applicant entered into a voluntary agreement under which the smugglers he hired would transport him to the United States, the smuggling arrangement became a trafficking situation as the smugglers harbored and transported him through force, fraud, or coercion, as defined at 8 C.F.R. § 214.11(a). Specifically, the evidence indicates that after entering the United States, the smugglers did not release the Applicant to his family but instead threatened him with physical violence in order to compel him to carry a backpack containing drugs through the desert, and he was warned that he would be killed if he lost the backpack. Accordingly, the record shows that the Applicant was transported and harbored through

the use of “threats of serious harm” and “physical restraint,” as required by the definition of coercion at 8 C.F.R. § 214.11(a).

The record also reflects that the smugglers transported and harbored the Applicant for the purpose of subjecting him to involuntary servitude. Involuntary servitude is defined as, in pertinent part, “a condition of servitude induced by means of any scheme, plan, or pattern, intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint.” 8 C.F.R. § 214.11(a). Servitude is not defined in the Act or the regulations but is commonly understood as “the condition of being a servant or slave,” or a prisoner sentenced to forced labor. *Black’s Law Dictionary* (B.A. Garner, ed.) (11th ed. 2019). Per the Applicant’s statements, the smugglers forced him, with threats of violence, to carry a backpack containing drugs which supports the determination that the smugglers harbored and transported the Applicant for the purpose of subjecting him to involuntary servitude while they carried out an operation unrelated to the smuggling arrangement agreed to by the Applicant.

Based upon the foregoing, the Applicant has established by a preponderance of the evidence that his smuggling arrangement became a trafficking situation as the smugglers harbored and transported him through force, fraud, or coercion, for the purpose of subjecting him to involuntary servitude. As the Applicant has overcome the Director’s determination and established that he is a victim of a severe form of trafficking in persons, as required section 101(a)(15)(T)(i) of the Act, we will remand this matter to the Director to determine whether he meets the remaining eligibility criteria for T nonimmigrant classification.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new a decision consistent with foregoing analysis.