U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20916810

Date: MAR. 22, 2022

Appeal of Vermont Service Center Decision

Form I-914, Application for T Nonimmigrant Status

The Applicant seeks T-1 nonimmigrant status as a victim of human trafficking under Immigration and Nationality Act (the Act) sections 101(a)(15)(T) and 214(o), 8 U.S.C. §§ 1101(a)(15)(T) and 1184(o). The Director of the Vermont Service Center denied the Form I-914, Application for T Nonimmigrant Status (T application), concluding that the Applicant did not establish that he is physically present in the United States on account of a severe form of trafficking in persons. The matter is now before us on appeal. We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand the matter to the Director.

I. LAW

Section 101(a)(15)(T)(i) of the Act provides that an applicant may be classified as a T-1 nonimmigrant if they: are or have been a victim of a severe form of trafficking in persons; are physically present in the United States on account of such trafficking; have complied with any reasonable requests for assistance in the investigation or prosecution of the trafficking; and would suffer extreme hardship involving unusual and severe harm upon removal from the United States. The term "severe form of trafficking in persons" is defined in relevant part as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery." 8 C.F.R. § 214.11(a) (2017).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.11(d)(5); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). An applicant may submit any credible, relevant evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the value of that evidence. 8 C.F.R. § 214.11(d)(5).

II. ANALYSIS

The Applicant is a citizen of Peru who last entered the United States in 1996. He filed his T application in June 2018. He alleged that he had a difficult childhood in Peru and he and his mother were kidnapped by members of the [redacted] when he was 15 years old. He stated that in 1993, at the age of 18, he entered the United States with an H-2A visa to work as a sheepherder at a ranch in

Oregon. According to his statements, the managers at the ranch mistreated him, deprived him of basic necessities, confiscated his passport and social security card, kept him isolated from family members, forced him to work long hours in difficult conditions, underpaid him, and deposited his wages into a bank account to which he had no access. When he complained or did things the managers did not like, they threatened to fire him, blacklist him from future employment, and have him deported to Peru. The Applicant eventually escaped the ranch by walking to a nearby town and calling his brother to pick him up. He never received payment for his years of work at the ranch.

The Director issued a request for evidence (RFE), notifying the Applicant that he had not submitted sufficient evidence to show that he is physically present in the United States on account of a severe form of trafficking in persons. In response, the Applicant provided a brief; a May 2019 letter from his therapist; a copy of a previously submitted report from a community wellness program at [redacted]; a copy of an undated, previously submitted letter from his therapist at the [redacted]; and a copy of another undated, previously submitted letter from [redacted]. The Director denied the T application based on a conclusion that the Applicant had not met his burden of establishing that he is physically present in the United States on account of a severe form of trafficking in persons.

In response to the Director's denial in June 2020, the Applicant filed a motion to reconsider in September 2020, accompanied by a brief alleging that the Director had not considered the arguments he made in his RFE response brief. Furthermore, the Applicant submitted new letters, issued in July 2020, from his therapist, case manager at [redacted] spouse, daughter, and son. Additionally, the Applicant submitted medical records with updated information from June 2020. The Director denied the motion to reconsider, stating that the motion "does not provide new facts, nor does it give reasons for reconsideration."

The Applicant then filed a motion to reopen before the Director, arguing that the Director did not consider his RFE response brief and resubmitting a copy of that brief and the evidence he had filed in support of his motion to reconsider. The Director denied the motion to reopen, noting that the Applicant had "provided a duplicate copy of [his] previous motion" and did not submit new facts. On appeal, the Applicant again submits a brief alleging that the Director did not consider the arguments in his RFE response brief and violated his due process rights. He resubmits copies of his RFE response brief and the evidence he provided in support of his motion to reconsider.

The record does not establish that the Director considered the evidence the Applicant submitted in support of his September 2020 motion to reconsider, including new letters from the Applicant's therapist, case manager, spouse, daughter, and son, and updated medical records. Accordingly, we will remand this case to the Director to consider that evidence in the first instance.

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