



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 17253128

DATE: AUG. 17, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner seeks classification as a special immigrant juvenile (SIJ) under section 101(a)(27)(J) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(27)(J). The Director of the National Benefits Center (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant (SIJ petition) and the Petitioner appealed that decision to the Administrative Appeals Office (AAO). Upon *de novo* review, we will dismiss the appeal.¹

To establish eligibility for SIJ classification, a petitioner must show that he or she is unmarried, under 21 years old, and has been subject to a state juvenile court order determining that the petitioner cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b). The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner under the custody of a state agency or an individual or entity appointed by the state or the juvenile court. Section 101(a)(27)(J)(i) of the Act. The record must also contain a judicial or administrative determination that it is not in the petitioner's best interest to return to his or her parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(b)(5).

U.S. Citizenship and Immigration Services (USCIS) has sole authority to implement the SIJ provisions of the Act and regulation. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 471(a), 451(b), 462(c), 116 Stat. 2135 (2002). SIJ classification may only be granted upon the consent of the Secretary of the Department of Homeland Security (DHS), through USCIS, when the petitioner meets all other eligibility criteria and establishes that the request for SIJ classification is bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5). USCIS may also withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona fide. 8 C.F.R. § 204.11(b)(5).

¹ On July 18, 2022, we issued a final administrative decision which contained a scrivener's error. We are re-issuing the decision to correct that error. We are also allowing the Petitioner 33 days from the date of this current decision to file a motion under 8 C.F.R. § 103.5 if desired.

In [] 2016, five days before the Petitioner's 21st birthday, the [] Family Court in New York appointed guardianship of the Petitioner to G-K-,² finding that such appointment "shall last until the [Petitioner's] 21st birthday." In a separate order issued on the same day and titled *ORDER – Special Immigrant Juvenile Status* (SIJ order), the Family Court determined, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner is dependent upon the Family Court. The Family Court also found that the Petitioner's reunification with his parents was not viable due to neglect, and that it was not in his best interest to be removed from the United States and returned to India, his country of nationality. The SIJ order formed the basis of the Petitioner's SIJ petition, which he filed in December 2016.

The Director issued a notice of intent to deny (NOID). The NOID notified the Petitioner that the record contained inconsistencies regarding the parental reunification finding of the Family Court. The NOID further indicated that it appeared the Petitioner's birth certificate was fraudulent. Specifically, the Director stated that government records showed the Petitioner's parents paying for private school in India and for the Petitioner's travel and expenses to the United States, which was inconsistent with the allegations of neglect against his parents in the SIJ proceedings. The Director also noted that when the Petitioner entered the United States, he told immigration officials that he fled India in fear of violence from a rival political party and did not mention the abuse he suffered from his father. The Petitioner responded timely to the NOID by submitting letters from his counsel and a school official, multiple affidavits, a statement from the Petitioner, and copies of his passport and school records.

In December 2020, the Director denied the SIJ petition concluding that the information in the record did not support the testimony given to the Family Court. The Director held that the Family Court's conclusion that the Petitioner's parents prevented him from going to school was inconsistent with the record that showed his parents paid for a private school that he attended from the age of 2 years old until he left for the United States when he was 17 years old. Additionally, the Director concluded that the Petitioner's claim that he was forced to work on his parents' farm instead of going to school was inconsistent with the statements he made during his 2015 asylum interview where he stated that he was unfamiliar with his father's farm. Due to the discrepancies in the record, the Director held that she was unable to determine whether a primary purpose of the Petitioner's in seeking the SIJ order was to obtain relief from parental maltreatment or to obtain an order for immigration purposes, and USCIS' consent was therefore not warranted.³

On appeal, the Petitioner submits a brief and affidavits from himself, his teacher in India, and his neighbor in India. The Petitioner, through counsel, argues that the Director erred in finding that inconsistencies existed in the record and that he is eligible for SIJ classification and warrants USCIS' consent.

As stated above, SIJ classification may only be granted upon the consent of USCIS, when the petitioner meets all other eligibility criteria and establishes that the request for SIJ classification is bona fide,

² We use initials to protect the privacy of individuals.

³ We note that it is unclear whether the SIJ order contained a qualifying parental reunification determination. The SIJ order did not cite to the state law basis for the parental reunification determination, as required for SIJ eligibility, and only cited to federal immigration law. *See* section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(c)(1)(ii). However, since we are dismissing the appeal on separate grounds, we will not address this issue further.

which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5). USCIS may also withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona fide. 8 C.F.R. § 204.11(b)(5).

The Petitioner argues that the inconsistencies perceived by the Director are not apparent in the record. He claims that contrary to the Director’s decision, the Petitioner did not attend an expensive private school; he was attending a “low-fee private school” with a tuition of about \$15.00 per year. In his statement, the Petitioner also contends that his school was “inexpensive.” The Petitioner states that there are no inconsistencies in the record regarding his attendance at school, and underscores his statement and affidavit, affidavits of school workers, an affidavit from his neighbor, and school records as evidence that his parents only allowed him to attend school twice a week. Finally, the Petitioner maintains that the evidence is not inconsistent regarding whether his father forced the Petitioner to work on their farm rather than go to school and again points to the evidence submitted in support of his SIJ petition indicating that the Petitioner was forced to work on the farm.

However, contrary to the Petitioner’s arguments, the evidence is inconsistent with the testimony he provided in his asylum interview. In his asylum interview, the Petitioner told the asylum officer that his school was an “expensive” private school at least two times and that his parents paid for him to attend the private school for 15 years. The Petitioner also stated that he attended school nine hours a day, six times per week, and had homework and projects to do after school. Additionally, the Petitioner told the asylum officer that he only went to his parents’ farm a few times per year. When asked why he would go to the farm, he explained that he would go to the farm when he wanted to take a walk and did not state that he worked on the farm. When the asylum officer asked him who helped his father on the farm, the Petitioner recalled that his parents hired low-wage workers to help on the farm and did not mention that he worked on the farm.

The testimony the Petitioner provided in his asylum interview contradicts that the information he provided that formed the basis of his SIJ order; that his parents neglected him because they tried to prevent him from attending school and forced him to work on the farm. Therefore, the Petitioner’s testimony at his asylum interview materially conflicts with the testimony provided in order to meet the eligibility requirement of a qualifying parental reunification determination. As such, the record reflects that the request for SIJ classification was not bona fide, and USCIS’ consent to a grant of SIJ classification is not warranted. *See* 8 C.F.R. § 204.11(b)(5).

Accordingly, the Petitioner has not demonstrated his eligibility for SIJ classification.

ORDER: The appeal is dismissed.