



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

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

In Re: 20358521

Date: DEC. 01, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Pakistan, seeks classification as a special immigrant juvenile (SIJ) under sections 101(a)(27)(J) and 204(a)(1)(G) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(27)(J) and 1154(a)(1)(G). The Director of the National Benefits Center denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the record did not establish that USCIS' consent was warranted due to material inconsistencies in the record evidence. Sections 101(a)(27)(J)(i)-(iii) of the Act; 8 C.F.R. § 204.11(b)(5).

The matter is now before us on appeal. On appeal, the Petitioner asserts that he has demonstrated his eligibility for SIJ classification and warrants USCIS consent. We review the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

To establish eligibility for SIJ classification, petitioners must show that they are unmarried, under 21 years old, and have been subject to a state juvenile court order determining that they cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b).<sup>1</sup> Petitioners must have been declared dependent upon the juvenile court, or the juvenile court must have placed them in 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; 8 C.F.R. § 204.11(c)(1). The record must also contain a judicial or administrative determination that it is not in the petitioners' best interest to return to their or their parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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

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<sup>1</sup> The Department of Homeland Security issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for petitioners who seek SIJ classification. *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (*revising* 8 C.F.R. §§ 204, 205, 245).

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). Petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

### A. Relevant Evidence and Procedural History

In [redacted] 2017, when the Petitioner was 16 years old, the Superior Court of California, [redacted] (Juvenile Court) issued an order (custody order) granting custody of the Petitioner to her uncle, F-R-<sup>2</sup>. In addition to the custody order, the Juvenile Court issued Special Immigrant Juvenile Findings (SIJ findings) on the same day. Based on these Juvenile Court orders, the Petitioner filed an SIJ petition in June 2017.

Subsequently, in September 2020, the Director issued a notice of intent to deny (NOID), advising the Petitioner that she had failed to establish USCIS consent was warranted because the record contained material inconsistencies. In response, the Petitioner submitted additional documentation including letters from family members and copies of articles on conditions in Pakistan. The Director denied the SIJ petition in May 2021, determining USCIS’ consent was not warranted, citing numerous inconsistencies between the documents submitted in support of the SIJ petition, the SIJ findings, and a prior petition filed by the Petitioner with USCIS.<sup>3</sup>

### B. USCIS’ Consent Is Not Warranted

Classification as an SIJ may only be granted upon the consent of USCIS. Section 101(a)(27)(J)(iii) of the Act; 8 C.F.R. § 204.11(b)(5). We do not question the Family Court’s purpose in issuing its orders, but here, USCIS’ consent is not warranted because the Petitioner has not established that a primary purpose in seeking the court order was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under California law.

To warrant USCIS’ consent, juveniles must establish that the request for SIJ classification was bona fide, such that a primary reason the requisite juvenile court or administrative determinations were sought was to gain relief from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(b)(5); *see also* section 101(a)(27)(J)(i)–(iii) of the Act. Furthermore, USCIS may

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<sup>2</sup> Initials are used to protect the privacy of this individual.

<sup>3</sup> On appeal, the Petitioner argues the Director “unlawfully withheld a decision” on the SIJ petition beyond the 180-day time period for adjudication indicated in 8 C.F.R. § 204.11(g)(1), which includes “[i]n general, USCIS will make a decision on a petition for classification as a special immigrant juvenile within 180 days of receipt of a properly filed petition.” Likewise, the USCIS Policy Manual specifies that SIJ petitions are *generally* adjudicated within 180 days, but does not impose a requirement upon adjudicators. *See* 6 USCIS Policy Manual at J.4(B).

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).<sup>4</sup>

The Petitioner has provided inconsistent information about her history of cohabitation with her father and her educational history, both of which formed part of the Family Court's findings of abandonment and neglect by her father. In September 2011, the Petitioner's uncle, F-R-, filed a Form I-600, Petition to Classify Orphan as an Immediate Relative, indicating he had adopted the Petitioner. The petition was based on the Petitioner's father's financial inability to support her, as well as his alleged mental instability. However, a site visit revealed the Petitioner's father was employed and successfully running the family business in Pakistan. At the time, the Petitioner was living with her father at least part time, and her father admitted he wanted her to come to the United States to obtain a better education for the possibility of a better future. Although her father stated he could not pay her school fees, the Petitioner lived part time at a school operated by two of her aunts. Based on the findings of the site visit, the Form I-600 was revoked because the Petitioner did not establish her father was unable to provide for her consistent with local standards in Pakistan and inconsistencies in the record remained unresolved.

Subsequently, in May 2017, the Petitioner obtained SIJ findings from the Juvenile Court as previously noted. Among the findings of the Juvenile Court, it was determined that the Petitioner could not be reunified with her father because he had abandoned and neglected her, having left her at her grandmother's house when the Petitioner was 11 years old. The Juvenile Court also found the Petitioner had not lived with or received any assistance from her father "for more than 5 years." As noted in the Director's decision, these findings are inconsistent with the records surrounding the Form I-600 and its revocation, which showed the Petitioner was living with her father as of at least 2013. The Petitioner did not submit any additional evidence related to this discrepancy on appeal, and the inconsistency has not been resolved. Further, the Juvenile Court found the Petitioner was left without a proper caregiver when her mother died in August 2011. Again, this is inconsistent with government records underlying the revocation of the Petitioner's Form I-600, which indicate the Petitioner resided with her father at least part time into 2013. The Petitioner likewise did not resolve this inconsistency on appeal.

The SIJ findings also contain a finding that it was not in the Petitioner's best interest to return to Pakistan because she had no one to care for her there. However, this finding is inconsistent with government records. During the site visit associated with the Form I-600 revocation, it was revealed that the Petitioner was living with her father at least part time and was living at a school run by her aunts the rest of the time. In 2016, when the Petitioner applied for a non-immigrant visa, she indicated she was in 11th grade studying in a pre-med program, cared for by family members, and was visiting

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<sup>4</sup> In the preamble to the final rule, DHS explained that "USCIS may withhold consent if evidence materially conflicts with the eligibility requirements for SIJ classification such that the record reflects that the request for SIJ classification was not bona fide. . . . This may include situations such as one in which a juvenile court relies upon a petitioner's statement, and/or other evidence in the underlying submission to the juvenile court, that the petitioner has not had contact with a parent in many years to make a determination that reunification with that parent is not viable due to abandonment, but USCIS has evidence that the petitioner was residing with that parent at the time the juvenile court order was issued. Such an inconsistency may show that the required juvenile court determinations were sought primarily to obtain an immigration benefit rather than relief from parental maltreatment." *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066, 13089 (March 8, 2022).

the United States for medical care with her grandmother. The factual basis for the SIJ findings is inconsistent with government records, and the Petitioner failed to resolve this inconsistency.

### III. CONCLUSION

The record contains unresolved discrepancies regarding the Petitioner's residence with her father that materially conflicts with the Juvenile Court's determinations that her father had abandoned her and that she lacked any support in Pakistan. The Petitioner has not provided sufficient evidence or argument to resolve these material inconsistencies. Accordingly, the Petitioner has not demonstrated by a preponderance of the evidence that her request for SIJ classification is bona fide, as required under 8 C.F.R. § 204.11(b)(5).

**ORDER:** The appeal is dismissed.