



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

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

In Re: 23650842

Date: Dec. 30, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner 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) and we dismissed the Petitioner's appeal. The matter is now before us on a motion to reopen. Upon review, we will grant the motion to reopen and sustain the appeal.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). We cannot grant a motion that does not meet applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

The issue before us is whether the Petitioner has submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal. We find that the Petitioner has submitted new facts supported by documentary evidence sufficient to warrant reopening her appeal.

In the decision to deny the SIJ petition, the Director determined that records from the U.S. Department of State showed that the Petitioner's father accompanied her during her 2016 interview for a B1/B2 nonimmigrant visa and that he would be paying for her trip. Additionally, the Director noted that USCIS records showed that the Petitioner's father was residing in Virginia at a residence previously associated with her custodial brother. Accordingly, the Director determined that due to unresolved inconsistencies regarding the Petitioner's relationship with her father, the record did not establish that USCIS' consent to the Petitioner's SIJ classification was warranted.

On appeal, the Petitioner argued that although her father appeared at her visa interview, he did so at her brother's request and had not otherwise been involved in her life or provided her with any financial support. Further, she stated that she had not lived with her father in the United States because he had not been present in this country since 2015. She also stated that regardless of any relationship with her father, the juvenile court found that her reunification with her mother was not viable due to neglect and abandonment and that she therefore qualified for SIJ classification on that basis.

During our adjudication of the appeal, we issued a notice of intent to dismiss (NOID). We acknowledged the Petitioner's statements regarding her father's limited involvement in her visa interview and his lack of support during most of her life. However, we noted that the Bolivian identity documents the Petitioner submitted for her father in support of her assertion that he had not been in the United States since 2015 were not translated, as 8 C.F.R. § 103.2(b)(3) requires. Further, we informed the Petitioner that USCIS records indicated that the Petitioner's father resided in Virginia between January and September 2017 and again in September 2020, at addresses with which her custodial brother was associated. Additionally, we noted that USCIS records indicated that the Petitioner's mother was associated with an address in [REDACTED] Virginia in November 2019. The Petitioner listed the same address on the SIJ petition she filed in April 2019, and maintained that address until filing a Form AR-11, Alien's Change of Address Card, in January 2020. This information conflicted with the juvenile court's determination that the Petitioner's father abandoned her and that her mother "maintains a separate residence in the United States." Accordingly, we granted the Petitioner an opportunity to submit evidence to rebut the derogatory information pursuant to 8 C.F.R. § 103.2(b)(16)(i).

In response to our NOID, the Petitioner submitted an affidavit from her father, who stated that he currently resides in Bolivia and has resided there since August 2015. She also provided translated copies of two Bolivian identification cards for her father, issued in June 2018 and November 2019; a letter from a bank in Bolivia showing that her father has two active accounts, both of which were opened in 2009; and her father's "Certificate of Suffrage" for general elections in Bolivia on October 18, 2020. We determined that this evidence was insufficient to overcome the derogatory information we discussed in our NOID relating to the Petitioner's father's residence in Virginia at addresses associated with the Petitioner's custodial brother because the documentation submitted in response to the NOID did not overcome the USCIS records showing the Petitioner's father resided in Virginia between January and September of 2017 and in September 2020. Furthermore, although the Petitioner indicated in her NOID response cover page that she had submitted a bank statement, hospital bill, and affidavit relating to her mother, the record did not contain those documents or any other evidence to show that the Petitioner's mother did not reside in the United States in 2019 at an address shared with the Petitioner. The Petitioner also had not provided a statement or argument in response to the information we discussed in our NOID, based on USCIS records, that the Petitioner and her mother shared an address in Virginia in 2019. We concluded that as the evidence in the record materially conflicted with the juvenile court's determination that the Petitioner's father abandoned her when she was two months old and that her mother "maintains a separate residence in the United States," the Petitioner's request for SIJ classification was not bona fide, as required. The appeal was dismissed accordingly.

On motion, the Petitioner maintains that she remains eligible for SIJ classification and warrants USCIS' consent because the record does not contradict the Family Court's finding that reunification with her parents is not viable due to actual abandonment. Regarding her father, the Petitioner provides an affidavit that states that her father did appear when she went to the embassy for her visa interview, but the arrangement was made by her brother/guardian, and that was the first and only time she had contact with him; she maintains that she never saw him again after the visa interview in 2016 and she has no knowledge of his whereabouts. As for her mother, the Petitioner contends that upon arriving in the United States, she had no communication or relationship with her mother, and while we noted that her mother appeared to have the same address as she did, she "had no clue," "had no contact with my mother," and states, "from my conversations with [brother/guardian], I knew that she [the

Petitioner's mother] asked to use our address to get important mail during the custody proceedings. Aside from that, I have never had any contact with my mother since she left me in Bolivia." She concludes that she and her brother/guardian are "both out of contact with my father and mother." The Petitioner's brother/guardian echoes the Petitioner's statements, confirming that the Petitioner's parents have no relationship with the Petitioner and never contact her or provide any financial support.

As discussed, the Family Court here found that the Petitioner's reunification with both her parents was not viable due to abandonment, and appointed her brother as her guardian. The guardianship and SIJ orders contain specific factual findings by the court to support its parental reunification and best interest determinations, including that the Petitioner's parents abandoned her and have not supported her financially. The inconsistencies identified by the Director do not inherently conflict with the Family Court's findings regarding the Petitioner's abandonment by her parents. The record shows that the nature and purpose of the SIJ proceedings were to protect the Petitioner from parental abandonment. For these reasons, a preponderance of the evidence establishes the court had a factual basis for the court's determinations, and, consequently, a primary reason that the court's SIJ-related findings and the guardianship appointment were sought was to obtain relief from parental abandonment. We withdraw the Director's determination to the contrary.

On motion, the Petitioner has demonstrated that she is eligible for and merits USCIS' consent to her request for SIJ classification. As the record otherwise demonstrates that the Petitioner meets the remaining eligibility criteria and her request for SIJ classification warrants USCIS' consent, she has established eligibility under section 101(a)(27)(J) of the Act.

ORDER: The motion to reopen is granted and the appeal is sustained.