



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

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

In Re: 21199844

Date: NOV. 14, 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 petition, finding that “due to the lack of supporting factual basis for the non-viability of reunification and the best interest determinations, USCIS cannot consent to the grant of special immigrant juvenile status.” The Director further stated that it “appears that the SIJ benefit has been sought primarily for the purposes of obtaining the status of an alien lawfully admitted for permanent residence, rather than for the purpose of obtaining relief from abuse or neglect or abandonment.” The Petitioner’s appeal of this decision and a subsequent motion to reconsider were dismissed.

In October 2020, the Petitioner filed a Form I-290B, Notice of Appeal of Motion, seeking review in accordance with the Amended Judgment entered on May 31, 2019, by the United States District Court for the Southern District of New York in *R.F.M. v. Nielsen*, 18 Civ. 5068.¹ We determined that the Petitioner was not an R.F.M. class member and that his Form I-290B thus did not meet the criteria for review under the Amended Judgment in *R.F.M. v. Nielsen*. With the instant motion to reopen and reconsider, the Petitioner again asserts he is an R.F.M. class member and seeks review in accordance with the Amended Judgment.

In *R.F.M. v. Nielsen*, the district court determined that USCIS erroneously denied plaintiffs’ SIJ petitions based on USCIS’ determination that New York Family Courts lacked jurisdiction over the custody of individuals who were over 18 years of age. 365 F. Supp. 3d 350, 377-80 (S.D.N.Y. 2019). Because the plain language of the Act requires either a dependency declaration or a custodial placement and the New York Family Court guardianship orders rendered the plaintiffs dependent upon the family court, the district court held that USCIS exceeded its statutory authority in requiring New York Family Courts to nonetheless have jurisdiction over a juvenile’s custody in order to qualify as

¹ The Petitioner’s Form I-290B, Notice of Appeal or Motion, was filed on October 6, 2020, approximately 509 days after the May 16, 2019, decision to dismiss the Petitioner’s motion to reconsider. Pursuant to 8 C.F.R. § 103.5, motions to reopen or reconsider must be filed within 33 calendar days of the date of the decision that the motion seeks to reopen or reconsider, unless, in the case of a motion to reopen, the petitioner establishes that the delay was reasonable and was beyond his or her control. For R.F.M. class members, the Amended Judgment permitted filing of a Form I-290B more than 33 days after the decision denying their petition. The deadline for class members to file their Form I-290B was May 31, 2021.

juvenile courts under the SIJ provisions of section 101(a)(27)(J) of the Act. *Id.* The district court also found that guardianships issued under FCA section 661 were judicial determinations about the custody and care of juveniles, pursuant to the definition of juvenile court at 8 C.F.R. § 204.11(a). *Id.* at 378. The district court held that USCIS erroneously required that the New York Family Court have authority to order the return of a juvenile to the custody of the parent(s) who abused, neglected, abandoned, or subjected the juvenile to similar maltreatment in order to determine that the juvenile's reunification with the parent(s) was not viable pursuant to section 101(a)(27)(J)(i) of the Act. *Id.* at 378-80.

To have their case reopened and readjudicated under the Amended Judgement as an R.F.M. class member, petitioners must demonstrate, among other things, that USCIS denied or revoked their SIJ petition solely or in part because of the Competent Jurisdiction Requirement (in other words, on the ground that the New York Family Court is not a juvenile court under 8 C.F.R. § 204.11(a) and/or that the Family Court lacks the jurisdiction and authority to issue Special Findings Orders for juvenile immigrants between their 18th and 21st birthdays under section 101(a)(27)(J) of the Act).

As we detailed in our prior decision, the Petitioner's Form I-290B does not meet the criteria for review under the Amended Judgment because the underlying SIJ petition was not denied on the ground that the New York Family Court is not a juvenile court under 8 C.F.R. § 204.11(a) and/or that the Family Court lacks the jurisdiction and authority to issue SFOs for juvenile immigrants between their 18th and 21st birthdays under section 101(a)(27)(J) of the Act. Rather, the Director specifically acknowledged the Family Court of the State of New York that issued the SIJ order as the "juvenile court" and went on to conclude that the request for SIJ classification did not merit USCIS' consent because the Petitioner had not established that his primary purpose in seeking the juvenile court order was to obtain relief from abuse, abandonment, neglect, or a similar basis under state law. Therefore, the Petitioner remains ineligible for special immigrant juvenile (SIJ) classification.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.