



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

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

In Re: 21206808

Date: NOV. 21, 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 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 (Director) denied the petition, concluding that the Petitioner did not meet the threshold requirements, as he was over the age of 21 at the time he filed his SIJ petition. The Petitioner filed a subsequent combined motion to reopen and reconsider, and the Director dismissed the motions. The matter is now before us on appeal. 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, the appeal will be dismissed.

**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).

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).

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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).

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

The Petitioner was born on [ ] 26, 1999. On [ ] 2020, when the Petitioner was 20 years old, the Circuit Court for [ ] Maryland, issued orders titled *Order for Granting Sole Legal and Physical Custody* and *Order Finding Special Immigrant Juvenile Status*. In its order, the Court placed him in the custody of A-L-D-, his mother, upon determining that he was abandoned by his father.<sup>2</sup> The court further found that the Petitioner could not be reunited with his father, and that it was not in his best interest to return to El Salvador, his country of nationality. On [ ] 26, 2020, the Petitioner filed his petition for SIJ classification.

The Director denied the petition, concluding that the Petitioner was ineligible for SIJ classification because he was 21 years old when his SIJ petition was filed. The Director also dismissed the Petitioner's combined motion to reopen and reconsider, finding that the Petitioner had not overcome the original decision.

On appeal, the Petitioner claims that his SIJ petition was mailed on [ ] 21, 2020, via United States Postal Service next day priority service, and that it should have been delivered to USCIS on [ ] 22, 2020. The Petitioner provided a printout of the tracking information, which states, "label created, not yet in system," and does not provide a date of delivery. However, 8 C.F.R. § 103.2(a)(7)(i) holds that a receipt date is recorded as the "actual date of receipt at the location designated for filing such benefit request." The Petitioner's receipt date for his SIJ petition was recorded as [ ] 26, 2020.

The Petitioner also asserts that his petition was filed before he reached age 21, even if it was not received until [ ] 26, 2020, because his birth certificate, which is included in the record, states that he was born at 5:45 pm on [ ] 26, 1999. To support his argument, the Petitioner cites the Trafficking Victims Protection and Reauthorization Act (TVPRA) § 235(d)(6), which states, "[USCIS] is prohibited from denying Special Immigrant Juvenile status to a self-petitioner, based solely on age if [he] was a child on the date the petition was filed." However, that consideration is inapplicable to the present petition, as the Petitioner was no longer a child as of the date his SIJ petition was received. Further, neither the Act nor the regulations indicate that a day is a divisible unit or that an SIJ petitioner's age is determined by the specific time of birth. Absent an indication that Congress intended them to be read otherwise, we are expected to give the words of a statute their "ordinary, contemporary, common meaning." *Williams v. Taylor*, 529 U.S. 420, 431 (2000). And, "[a]s a general rule, in the computation of time, a day is to be considered an indivisible unit or period of time and the law will not, unless there is sufficient reason therefor, take cognizance of fractions of a day." *Matter of L M- & C-Y-C-*, 4 I&N Dec. 617, 619 (BIA 1952). Consequently, the date of the Petitioner's birth, rather than the specific hour, is determinant of whether he was under 21 years of age at the time he filed his SIJ petition.

A petitioner must be eligible for the immigration benefit sought at the time of filing, and a petitioner seeking SIJ classification must be unmarried and under the age of 21. 8 C.F.R. §§ 103.2(b)(1)

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<sup>2</sup> We use initials to protect the identity of individuals.

(providing that a petitioner for an immigration benefit “must establish that he or she is eligible for the requested benefit at the time of filing the benefit”) and 204.11(b)(1) (stating that an SIJ petitioner must be under 21 years of age).

As the Petitioner was 21 years old on the date that his petition was received, he is ineligible for SIJ classification.

**ORDER:** The appeal is dismissed.