



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

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

In Re: 2040835

Date: NOV. 23, 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 SIJ petition because the Petitioner did not establish that he was under the age of 21 when he filed the Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and was therefore not eligible for SIJ classification. On appeal, the Petitioner submits a brief and additional evidence and claims that he has shown by a preponderance of the evidence that he was under 21 years of age when he filed the SIJ petition. We review the questions in this matter *de novo*. See *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. 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 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

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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).

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

The Petitioner claims that he was born in Afghanistan in [ ] 1997. In [ ] 2017, when the Petitioner asserts that he was 19 years old, the Superior Court of the [ ] Family Court (Family Court), issued an order titled ORDER REGARDING RESPONDENT'S ELIGIBILITY FOR SPECIAL IMMIGRANT JUVENILE STATUS (SIJ order). In its SIJ order, the Family Court found that the Petitioner previously had been committed to the care and custody of the Child and Family Services Agency (CFSA) of the [ ] in accordance with the law of the [ ] by its juvenile division,<sup>2</sup> and that reunification with both of the Petitioner's parents was not viable due to neglect within the meaning of the law of the [ ]. The Family Court further found that it was not in his best interest to return to his or his parents' previous country of nationality or country of last habitual residence, but that it was instead in his best interest to remain in the United States.

In October 2017, the Petitioner filed his petition for SIJ classification based on the Family Court order. The Director issued a Notice of Intent to Deny the petition (NOID) based on Iranian school records reflecting a different date of birth for the Petitioner that indicated he was over 21 years of age when he filed the SIJ petition. These included an Iranian Foreign Students Obligation document, which the mother signed in October 2005 to confirm her liability regarding the knowing or deliberate submission of false documents or for the falsification of any information regarding the Petitioner for purposes of registering him for education. The Petitioner thereafter attended school in Iran from 2005 to 2011 under the name M-H- with a [ ] 1995 date of birth. The Petitioner responded to the NOID; however, the Director denied the SIJ petition, concluding that the Petitioner was ineligible for SIJ classification because he had not shown that he was under 21 years of age when he filed his SIJ petition.

On appeal, the Petitioner asserts that he and his immediate family were refugees from Afghanistan while they were living in Iran and, as such, subject to discrimination. He claims that because of discrimination against Afghans in Iran, his mother obtained identification documents for him with a false last name that sounded more Iranian so that he would not be so easily identified as an Afghan while attending school in Iran. The Petitioner claims that, in addition to a false last name, the [ ] 1995 date of birth on his Iranian school documents is incorrect. The Petitioner contends that his true date of birth is in [ ] 1997, and therefore he was only 19 years old when he filed his SIJ petition. Also on appeal, the Petitioner includes a copy of an Afghan passport issued to him in January 2021 reflecting that his date of birth is in [ ] 1997, and an Afghan national identity card that

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<sup>2</sup> On appeal, the Petitioner includes a [ ] 2014 Family Court order titled FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, which confirms that the Family Court placed the Petitioner in the custody of CFSA, as asserted in the 2017 order. He also provides a [ ] 2014 Disposition Hearing Order reflecting that the Petitioner was to be in the care and custody of DCFS for a period of two years.

states the Petitioner's age was 14 years as of the date the card was issued in 2011. Although the date of birth on these documents is consistent with his currently asserted date of birth, the Petitioner does not explain how he has been able to obtain these identity documents and what evidence he used to secure them. We note that in a February 2014 interview with a USCIS officer, the Petitioner claimed that he did not have an "ID card from Afghanistan, Iran or Turkey;" therefore, it is unclear how he obtained the 2011 Afghan national identity card to support his 2021 appeal.

On appeal, the Petitioner further contends that it is arbitrary and capricious for us to decline to accept other U.S. government-issued identification documents he provided as valid proof of identity and that he has established his true identity by the preponderance of the evidence, in part because, beginning with his 2013 refugee processing in Turkey, he has continuously claimed that his date of birth is in [redacted] 1997. However, the U.S. government-issued documents reflecting the Petitioner's date of birth as [redacted] 1997 with the name M-K-<sup>3</sup> were issued to him as a refugee based only on his statements rather than based on an original birth certificate or other such documentation. Moreover, some of the statements are internally inconsistent or contradicted by later evidence. For example, according to 2014 interview notes on the Petitioner's Form I-590, Registration for Classification as Refugee, he stated that his name was M-K- and that he had no aliases; however, in response to the Director's NOID, the Petitioner confirmed that his Iranian school records reflect an alias of M-H-, and that he had used the alias A-J- to travel from Iran to Turkey in 2012. In addition, in his 2013 Best Interests Determination Report from the United Nations High Commissioner for Refugees (UNHCR) at Section 2: Options and Recommendations, his interviewer wrote that the Petitioner was born in [redacted] Iran in [redacted] 1995" and then immediately stated "[a]ccording to him, he was born in [redacted] Afghanistan." The Petitioner has not submitted an original birth certificate from Afghanistan or similar documentation, and it remains that his earliest identification documents show that between at least 2005 to 2011, he attended school in Iran with the [redacted] 1995 date of birth under a different name.

Accordingly, the Petitioner has not overcome the Director's decision on appeal. It is the Petitioner's burden to establish eligibility for the immigration benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 375. Based on the contradictory documentation regarding the Petitioner's actual identity and date of birth, he has not shown that his date of birth is in [redacted] 1997, as he asserts, rather than [redacted] 1995, as reflected in his Iranian school records. As a consequence, the Petitioner has not established by a preponderance of the evidence that he was under 21 years old on the date that he filed his SIJ petition, and is therefore ineligible for SIJ classification. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b).

**ORDER:** The appeal is dismissed.

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<sup>3</sup> Name withheld to protect the individual's identity.