



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

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

In Re: 18275723

Date: OCT. 4, 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 Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding that the record included material inconsistencies and the Petitioner did not establish that a primary purpose of seeking his juvenile court order was to obtain relief from parental maltreatment. On appeal, the Petitioner asserts his eligibility for SIJ classification. 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 remand the matter to the Director for the entry of a new decision.

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).¹ 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 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

¹ 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 record reflects that the Petitioner, a native and citizen of China, submitted an SIJ petition in February 2020 when he was 17 years old. The Petitioner included an order from the Family Court of the State of New York, [REDACTED] appointing H-L-,² his aunt, as his guardian in guardianship proceedings. He submitted a separate order titled *SPECIAL FINDINGS* (SIJ order), which provided that reunification with his mother and father was not viable due to abandonment and neglect as defined under New York law and that it was not in his best interest to be removed from the United States and returned to China. Following a notice of intent to deny and the Petitioner's response to it, the Director determined that USCIS' consent was not warranted as the record contained material inconsistencies. The Director noted that the Petitioner's August 2015 nonimmigrant visa application included different names for his parents than those listed in both his SIJ order and his Notarial Certificate of Birth, which was issued less than a month after his nonimmigrant visa issuance in August 2015. The Director stated that the Petitioner did not submit any other documents verifying the identities of his parents which existed prior to the issuance of his Notarial Certificate of Birth. In addition, the Director mentioned inconsistencies in the record related to where the Petitioner resided in the United States since entering in September 2015. Due to these material inconsistencies, the Director determined that the Petitioner did not establish a primary purpose of seeking his juvenile court order was to obtain relief from parental maltreatment and that USCIS's consent was warranted. Therefore, the Director determined that the Petitioner did not meet his burden of proof to establish eligibility for SIJ classification.

On appeal, the Petitioner provides a brief and additional evidence, including his affidavit, his aunt's affidavit, his purported birth certificate, his immunization records, his family's household registration records, and his education records. As the Petitioner has provided new evidence related to his parents' names and his residence in the United States, and the Director has not had the opportunity to review it, we will remand the matter to the Director to consider this evidence in the first instance, and to determine whether he has satisfied the eligibility requirements for SIJ classification under sections 101(a)(27)(J) and 204(a)(1)(G) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

² We use initials to protect the privacy of individuals.