



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

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

In Re: 21929502

Date: OCT. 25, 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 Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and the matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews 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.

To establish eligibility for SIJ classification, petitioners must establish, among other requirements, that they are under 21 years of age. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b).<sup>1</sup> 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). 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).

The Petitioner filed the instant SIJ petition in March 2016, when he was 21 years old. The SIJ petition was based on an order issued by the New York Family Court on [REDACTED] 10, 2016, two days before the Petitioner turned 21 years old. In November 2020, the Director issued a notice of intent to deny (NOID) informing the Petitioner that he was over 21 years old at the time of filing and that consent was not warranted because of the material inconsistencies in the record.<sup>2</sup> The Petitioner responded to the NOID but did not address the issue surrounding his age. The Director denied the petition because

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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).

<sup>2</sup> Among other concerns, the Director noted that the Petitioner travelled to Central America on three occasions from his native India in a one-year period when he claimed he had no resources. Additionally, the Petitioner claimed he had not seen his father since he was 10 years old, but he had applied for a nonimmigrant visa at age 14 years and listed his mother on his application as a married housewife. The Director found this to be inconsistent with the claim that he had not seen his father since he was 10 years old.

the Petitioner was not under 21 years old at the time of filing, as section 101(a)(27)(J)(i) of the Act and 8 C.F.R. § 204.11(b) require.<sup>3</sup>

On appeal, the Petitioner does not dispute that he was born on [REDACTED] 12, 1995, a fact reflected by the affidavit submitted by his mother, the forms submitted to USCIS, the filings with the Family Court and various other documentation contained in the record. A review of the record indicates that the Petitioner attempted to file the SIJ petition on [REDACTED] 11, 2016, and USCIS rejected it as improperly filed on [REDACTED] 25, 2016. A rejected benefit request does not retain a filing date. 8 C.F.R. § 103.2(a)(7)(ii). Thereafter, the Petitioner filed the SIJ petition on March 10, 2016, after he turned 21 years old. Section 101(a)(27)(J)(i) of the Act and 8 C.F.R. § 204.11(b) require that an SIJ petitioner be under 21 years old at the time of filing, and we lack the authority to waive this requirement. *See United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (holding that government officials are bound to adhere to the governing statute and regulations). Therefore, the Petitioner has not met his burden of establishing he was under 21 years old at the time he filed his SIJ petition. As the Petitioner was not under 21 years old on the date he filed his petition, he is not eligible for SIJ classification under section 101(a)(27)(J) of the Act.<sup>4</sup>

**ORDER:** The appeal is dismissed.

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<sup>3</sup> In addition, the Director noted that there were several unresolved material inconsistencies in the record and concluded that the SIJ order was sought primarily or solely to gain an immigration benefit rather than relief from abuse, neglect, or abandonment. Thus, the Director determined that USCIS' consent was not warranted.

<sup>4</sup> On appeal, the Petitioner also asserts that the petition is *bona fide*, and the Director was arbitrary, abused her discretion and "second guessed" the Family Court's best interest determination. However, because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining appellate arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (instructing that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).