



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

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

In Re: 18276000

Date: SEP. 19, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Bangladesh, 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 because the Petitioner did not explain or address the multiple dates of births noted in the record. On appeal, the Petitioner asserts his eligibility for SIJ classification and submits a forensic dental examination report and X-rays, and an explanation for the many dates of births associated with his record. 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 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

In [REDACTED] 2017, when the Petitioner was 18 years old, the Family of New York, [REDACTED] (Family Court) issued an order appointing a guardian for the Petitioner. The Family Court also issued a separate order titled Special Immigrant Juvenile Status (SIJ order) in accordance with sections 1044 and 1012(f)(i) of the New York Family Court Act and section 384-b(5)(a) of New York Social Services Law.

Based on the SIJ order, the Petitioner filed this SIJ petition in December 2017. While the SIJ petition was pending, the Director issued a request for evidence (RFE), requesting evidence to establish the Petitioner's true date of birth. The Director noted that there were multiple dates of births found in the record which called into question Petitioner's claimed date of birth of [REDACTED] 10, 1999. In his response to the RFE, the Petitioner submitted an affidavit in which he asserts that his date of birth is [REDACTED] 10, 1999, and the other dates of birth found in his file were mistakes. He also submitted copies of his birth certificate; copies of school records from Bangladesh; affidavits from family members; a copy of his vaccination records from Bangladesh; a copy of his unexpired Bangladeshi passport; copies of his age progression photographs; and copies of various identification cards. We note that the official records and affidavits submitted into the record consistently reflect that the Petitioner was born on [REDACTED] 10, 1999.

The Director denied the SIJ petition, determining that while the Petitioner established his date of birth as [REDACTED] 10, 1999, he did not sufficiently address or explain the multiple dates of birth present in the record.²

On appeal, the Petitioner affirms that his date of birth is [REDACTED] 10, 1999, and that he provided this correct date of birth when he was apprehended by U.S. immigration officials.³ He also explains the discrepant dates of birth in the record, noting that while in transit to the United States, he was advised by a broker to provide a false date of birth to officials in Panama, Costa Rica, and Mexico, and he did so. Because this evidence specifically addresses the Director's sole stated reason for denying the SIJ petition, we will remand the matter for a determination of whether the Petitioner has established eligibility for SIJ classification.

ORDER: The Director's decision is withdrawn, and the matter is remanded for further proceedings consistent with the foregoing opinion.

² The Director did not specify whether the SIJ petition was denied on consent or another eligibility requirement.

³ On appeal, the Petitioner also submits a forensic dental examination report and X-rays which estimate that as of March 22, 2022, the Petitioner is over 21 years of age but under 22 years of age.