



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

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

In Re: 17579326

Date: SEP. 27, 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), because the Petitioner did not establish that he was under the age of 21 at the time of filing. 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 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. *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 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

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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).

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).

On [ ] 2019, the Juvenile and Domestic Relations Court for [ ] (Family Court), located in Virginia, appointed custody of the Petitioner to M-S-K-.<sup>2</sup> The Family Court held that the Petitioner's reunification with his parents was not viable due to abandonment, and that it was not in his best interest to return to India, his country of nationality. The Family Court listed the Petitioner's date of birth as [ ] 2001, which would have made him under the age of 21 on June 2, 2020, the date he filed his SIJ petition.

The Director issued a notice of intent to deny (NOID) stating the Petitioner had not met his burden of proof that he was under 21 years old on the date he filed his SIJ petition. The Director also mentioned that USCIS' consent was not warranted because the record contained material inconsistencies. Specifically, during four previous encounters with immigration officials outside of the United States, the Petitioner stated that he was born on [ ] 1998, which is inconsistent with the date on his birth certificate, [ ] 2001. The Director also noted that his birth certificate was registered 13 years after the date of birth provided on it. The Director listed additional evidence the Petitioner could provide to establish his actual date of birth. The Petitioner responded to the NOID with an affidavit, a Form I-862, Notice to Appear (NTA), birth certificate, Office of Refugee Resettlement Verification of Release form (release verification form), [ ], transition plan, school certificates, national identification card, and father's affidavit. In his affidavit, the Petitioner claimed he never used a date of birth other than [ ] 2001. The other documents list or refer to [ ] 2001, as the Petitioner's date of birth. After reviewing the evidence submitted in response to the NOID, the Director denied the SIJ petition, concluding that the Petitioner did not meet his burden of proof to establish he was under 21 years old at the time of filing. The Director referenced the Petitioner's use of [ ] 1998, as his date of birth during four previous immigration encounters outside the United States, and that his identity was confirmed during these encounters with his fingerprints.

On appeal, the Petitioner submits a brief and previously submitted evidence. The Petitioner again claims that he was born on [ ] 2001, and he refers to the documents submitted in response to the NOID in support of his claim. He further contends that there is no reason for the Director to presume any other date of birth, no document was provided by the Director to show a different date of birth, the different date of birth was not based on an investigation or inquiry, and the Director has no justification to disregard all the documents showing his date of birth as [ ] 2001.

The burden of proof is on the Petitioner to establish by a preponderance of the evidence that his true date of birth is [ ] 2001, which would have made him under the age of 21 at the time he filed his SIJ petition. We acknowledge the documents submitted by the Petitioner that list or refer to [ ] 2001, as his date of birth, but they do not establish this as true. First, the Petitioner's birth certificate was registered 13 years after the date of birth listed on it which diminishes its evidentiary weight. Second, and more importantly, U.S. governments records, which are based on the

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

Petitioner's fingerprints and as such are given significant weight, reflect that he used [REDACTED] 1998, as his date of birth during four previous immigration encounters outside the United States. Based on the foregoing and upon *de novo* review of the entire record, the Petitioner has not established by a preponderance of the evidence that his actual date of birth is [REDACTED] 2001. Therefore, as the Petitioner has not established that he was under 21 years of age on the date his SIJ petition was filed, he is not eligible for SIJ classification under section 101(a)(27)(J) of the Act.

**ORDER:** The appeal is dismissed.