



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

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

In Re: 19318408

Date: SEPT. 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), concluding the Petitioner is ineligible for SIJ classification because he did not establish that he was under the age of 21 when he filed his SIJ petition, and that U.S. Citizenship and Immigration Services' (USCIS) consent was not warranted. On appeal, the Petitioner asserts his eligibility for SIJ classification. The Administrative Appeals Office 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, 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) 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. 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).

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

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).

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). 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

On [] 22, 2016, the Family Court of [] New York (Family Court) issued an order entitled Order-Special Immigrant Juvenile Status (SIJ Order). The Family Court placed the Petitioner in the custody of an individual appointed by the Court and made other SIJ-related determinations. Based on the SIJ order, the Petitioner filed an SIJ petition on [] 28, 2016. In April 2020, prior to issuing a decision, the Director issued a notice of intent to deny (NOID) advising the Petitioner that the record contained inconsistent documentation regarding his date of birth and lacked documentation to establish a reasonable basis for the Family Court's findings.

In response to the NOID, the Petitioner submitted, inter alia, a personal affidavit; a copy of a birth certificate and English translation, with a birth date of [] 2, 1996; a copy of the memorandum of law in support of the guardianship application; and a school record from 2012.

The Director denied the SIJ petition, concluding that the Petitioner did not meet his burden of proof in establishing that he was under the age of 21 when he filed his SIJ petition or that USCIS' consent is warranted due to inconsistencies in the record. The Director noted that while the Petitioner submitted a birth certificate indicating that he was born on [] 2, 1996, government records reflect that in prior encounters with immigration officials he indicated that his date of birth was [] 2, 1994, and [] 1, 1996. Further, during one of these encounters, he also provided immigration officials with an alias. The Director also noted that the record contained inconsistent documentation regarding the identity of the individual who was appointed as the Petitioner's guardian. Specifically, the Petitioner submitted an [] 2016 guardianship order and a [] 2016 guardianship which listed different file numbers and guardians.

On appeal, the Petitioner asserts that that while he did use an alias when traveling to the United States, his true date of birth is as indicated on his birth certificate. With respect to the inconsistent documentation relating to his guardianship proceedings, Petitioner's counsel asserts that the only signed guardianship order in the record is dated [] 2016, and the [] 2016 order was placed in the record due a clerical error.

Upon de novo review, government records indicate that the birth certificate submitted by the Petitioner in response to the NOID is genuine, therefore, he has established that he was under 21 years of age on the date that he filed his SIJ petition. Nonetheless, the Petitioner remains ineligible for SIJ classification on other grounds.

To warrant USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence include the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). In addition, these documents must include relief, granted or recognized by the juvenile court, from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(d)(5)(ii). The regulations specify that such relief may include a court-ordered

custodial placement, court-ordered dependency on the court for the provision of child welfare services, or court-ordered or recognized protective or remedial relief. *Id.*

A request for SIJ classification must be bona fide for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). To demonstrate a bona fide request, a petitioner must establish a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). *Id.* If the evidence contains a material conflict related to SIJ eligibility requirements so that the record reflects a request is not bona fide, USCIS' may withhold consent. *Id.*

With the appeal, the Petitioner submitted an amended SIJ order which indicates that reunification with his father is not viable because "his father abandoned him at the age of six and has failed to care for and provide for him in any way since." In addition, in his affidavit submitted to the Family Court, the Petitioner states "My father left the house permanently while I was around 6 years old. He abandoned our whole family." The statements in the SIJ order and Petitioner's affidavit are in conflict with government records, including numerous photographs, which reflect that in 2011, when the Petitioner was 15 years old, he attended a wedding accompanied by his father, mother, and siblings in India. As the findings in the SIJ order and the Petitioner's assertions of abandonment by his father materially conflict with government records, the Petitioner has not established by a preponderance of the evidence that the request for SIJ classification was bona fide, and thus USCIS' consent to a grant of SIJ classification is not warranted. 8 C.F.R. § 204.11(b)(5). Accordingly, the Petitioner has not demonstrated his eligibility for SIJ classification.

ORDER: The appeal is dismissed.