



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

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

In Re: 25983013

Date: APR. 26, 2023

Motion on Administrative Appeals Office 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). SIJ classification protects foreign-born children in the United States who cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law. The Director of the National Benefits Center (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), because he did not establish that he was under 21 years of age when he filed his SIJ petition, and we dismissed the appeal. The Petitioner now submits combined motions to reopen and reconsider. Upon review, we will dismiss the motions.

A motion to reopen must state new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must show that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceeding at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought.

To be eligible for SIJ classification, petitioners must show, inter alia, 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 parental 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), (c)(1)¹; *see also* 8 C.F.R. § 103.2(b)(1) (providing that a petitioner must establish their eligibility for the benefit sought at the time of filing the benefit). Petitioners bear the burden of proof to show their eligibility for SIJ classification by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

The Petitioner, whose claimed date of birth is [REDACTED] 2001, entered the United States on or about December 3, 2017. As stated in our prior decision, incorporated here, in [REDACTED] 2018, the Juvenile and Domestic Relations Court for [REDACTED] Virginia, appointed custody of the Petitioner to M-S-K-² and provided findings relevant to the Petitioner's SIJ eligibility. Based on the

¹ The Department of Homeland Security (DHS) issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for those who seek SIJ classification. *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (revising 8 C.F.R. §§ 204, 205, 245).

² We use initials for privacy.

state court order, the Petitioner filed his SIJ petition with U.S. Citizenship and Immigration Services (USCIS) on June 2, 2020. The Director determined that the record contained evidence that during previous immigration encounters, the Petitioner used a different date of birth [redacted] 1998), which materially conflicts with his claimed date of birth. Following a notice of intent to deny (NOID), the Director concluded that the Petitioner did not establish that [redacted] 2001, is his true date of birth and denied the SIJ petition because the 1998 date of birth would have made the Petitioner over 21 years old when the SIJ petition was filed and therefore render him ineligible for SIJ classification. We subsequently dismissed the Petitioner's appeal on the same basis and the instant combined motions followed. On motion, the Petitioner submits a brief and new supporting documents.

In our previous decision, we acknowledged and carefully considered all the documents the Petitioner submitted in order to show that he was in fact born on his claimed date of birth, [redacted] 2001. These supporting documents included, inter alia, a birth certificate, school-related documents, the Petitioner's statement, and a sworn affidavit from his father. However, we determined that the documentary evidence before us did not establish the Petitioner's claimed date of birth in part because his birth certificate showed that his birth was registered in August 2014, nearly 13 years after his claimed birth date and because his explanations did not reasonably resolve U.S. government records indicating that he used the 1998 date of birth during four separate immigration encounters in November 2017 while en route to the United States.

On his motion to reconsider, the Petitioner broadly asserts that we improperly considered the documentary evidence he submitted in support of his claimed date of birth. He also explains on motion that when he came to the United States as a juvenile, it was hard for him to obtain birth-related documents from India, his home country. However, apart from these general assertions, he does not clearly identify any incorrect application of law or policy in our previous decision or specify how we erred based on the evidence before us at the time of our decision. 8 C.F.R. § 103.5(a)(3). The record reflects that we have fully considered the arguments and evidence before us on appeal. The Petitioner does not allege any other error in our previous decision that would warrant reconsideration.

Turning to the Petitioner's motion to reopen, his arguments and new documentary evidence still do not establish [redacted] 2001, as his true date of birth. He submits a new birth certificate indicating that his birth was registered on [redacted] 2001, only weeks after his claimed date of birth. However, while we acknowledge this new document, the Petitioner does not reasonably explain why the copy of his original birth certificate initially indicated a 13-year delay in his birth registration. Moreover, the Petitioner's new claim based on the new birth certificate that his birth record was registered only weeks after his claimed date of birth is further inconsistent with his father's sworn affidavit explaining in detail that no official record existed for the Petitioner's birth until his father was finally able to register the Petitioner's birth record in August 2014 as "Late Entry," and that his father applied for and obtained for the first time a corresponding birth certificate, a copy of which the Petitioner in turn submitted to the Director and resubmitted to us on appeal.

The Petitioner also maintains in his updated statement on motion that he has never used any other date of birth and further explains that he was in fear during his travel to the United States and the men who transported him may have provided the wrong date of birth to the immigration officials on his behalf without his knowledge. However, the record does not indicate that other individuals falsified the Petitioner's date of birth during his four separate (photographed and fingerprinted) immigration

encounters in 2017, as the Petitioner claims. The remaining documents on motion, including the Petitioner's 2013 and 2013 school documents and an undated handwritten doctor's note stating that the Petitioner's late mother delivered an unnamed baby on [] 2001, do not overcome our determination that he has not established his true date of birth and that he was under 21 years old at the time he filed his SIJ petition with USCIS. As the Petitioner has not overcome our prior determination, he has not demonstrated that reopening is warranted.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.