



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

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

In Re: 29713022

Date: DEC. 20, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner seeks classification as a special immigrant juvenile (SIJ). *See* Immigration and Nationality Act (the Act) sections 101(a)(27)(J) and 204(a)(1)(G), 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 denied the petition, concluding that the Petitioner did not establish that the New York juvenile court found reunification with the Petitioner's parents not viable due to abuse, neglect, abandonment, or a similar basis under state law. We dismissed a subsequent appeal and a following motion to reopen and reconsider.<sup>1</sup> The matter is now before us on second combined motions to reopen and reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits additional documentation explaining the inconsistent dates of birth. He presents a passport listing the 1997 date of birth; he contends the passport was fabricated by smugglers who aided him in traveling to the United States and its information is inaccurate. He also submits a search of Bangladeshi government records showing that the passport is not official. The Petitioner submits a new affidavit detailing the process of traveling with smugglers. The Petitioner also provides documentation prepared by the Office of Refugee Resettlement (ORR) after the

---

<sup>1</sup> The Director also noted inconsistencies in the record regarding the Petitioner's date of birth. Our decisions on appeal and on motion reserved this issue and did not address the Petitioner's age, instead determining that the lack of a qualifying reunification determination made the Petitioner ineligible for SIJ classification.

Petitioner's apprehension, reflecting a date of birth in 1999. The Petitioner attaches dental age examination records and an age progression chart, as well as an immunization record. In addition, the Petitioner provides various documents issued in New York and by the U.S. Government reflecting a date of birth in 1999. Finally, the Petitioner presents country conditions information from Bangladesh explaining why late registration of births occurred with frequency. The Petitioner asserts that these new facts establish eligibility, as they show that the Petitioner was under the age of 21, as asserted, when applying for SIJ classification.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the motion to reopen. Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion, as he has not addressed the basis for that decision: the sufficiency of the juvenile court order. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

A motion to reconsider must establish 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 proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner relies on various circuit and district court opinions that explain the procedures for U.S. Citizenship and Immigration Services (USCIS) to disclose derogatory information, and that outline ORR's procedures for determining the age of immigrant children. He argues that decisions to revoke approval of petitions must specifically list the facts and supporting evidence underlying revocation, relying on *Matter of Estime*, 19 I&N Dec. 450, 452 (BIA 1987). In addition, the Petitioner contends that our decision violated 8 C.F.R. § 103.2(b)(16), which allows for inspection of evidence, details the process for disclosing derogatory information, and limits USCIS to making decisions based on record evidence. The Petitioner also argues that due process requires adequate notice, and that the previously-issued notice of intent to deny (NOID) lacked sufficient detail.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). The perceived deficiencies outlined by the Petitioner center on the Director's concerns regarding the Petitioner's age and on insufficiencies in the NOID. The Petitioner does not contend that we committed legal error in our prior decision, on motion, finding the underlying juvenile court order insufficient. Beyond this, the Petitioner's current motion reargues facts and issues we have already considered in our previous decisions. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). Therefore, the underlying petition remains denied.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.