



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

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

In Re: 25372170

Date: FEB. 28, 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). The Director of the Long Island, New York Field Office (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and we dismissed his appeal. The Petitioner now submits a motion to reopen. Upon review, we will dismiss the motion.

I. LAW

A motion to reopen “must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.” 8 C.F.R. § 103.5(a)(2). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought.

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), (c)(1).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. Section 101(a)(27)(J)(ii) of the Act; 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 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

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).

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 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 establish their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

In [] 2016, when the Petitioner was 16 years old, the New York Family Court for [] County (Family Court) appointed guardianship of the Petitioner to his father. In [] 2016, the Family Court issued a separate order titled “ORDER-Special Immigrant Juvenile Status” (SIJ order), determining, among other findings necessary for SIJ eligibility, that the Petitioner is dependent upon the court, and that the court asserted jurisdiction over the Petitioner’s custody matter and / or has placed him in his father’s custody. The court also determined that the Petitioner’s reunification with his mother is not viable due to abandonment and neglect “in that the mother abandoned and relinquished responsibility for [the Petitioner] since she has never supported [him] in any capacity,” and that it was not in the Petitioner’s best interest to be returned to Honduras, his country of nationality.

Based on the SIJ order, the Petitioner filed his SIJ petition in July 2016. Following two notices of intent to revoke, the Director revoked the approval of the petition, concluding that the SIJ order lacked qualifying parental reunification and best interest determinations. The Director also found that the record lacked a reasonable factual basis for the best interest determination, such that the Petitioner did not show that his request for SIJ classification warranted USCIS’ consent. On appeal, we agreed with the Director and determined that the record lacked a qualifying parental reunification determination because the court did not specify a state law basis. We also determined that the Petitioner did not demonstrate that his request for SIJ classification warranted USCIS’ consent because the court’s best interest determination lacked a reasonable factual basis. The Petitioner then filed his motion to reopen.

On motion, the Petitioner reasserts his SIJ eligibility and argues that his request for SIJ classification warrants USCIS’ consent. Upon review of the evidence and the Petitioner’s arguments on motion, he has not demonstrated that reopening is warranted. He asserts that a recently obtained nunc pro tunc order (amended order), issued by the Family Court in [] 2022, provides the necessary SIJ related findings that overcome our previous determinations on appeal. But in support of these new assertions, the Petitioner submits as only new evidence an incomplete copy of the amended order—specifically, the first page. Although this incomplete copy of the amended order contains the court’s additional findings clarifying its original parental reunification determination relating to our previous determination on that issue, it does not otherwise contain new evidence relevant to the other remaining grounds on which we also independently relied in dismissing the Petitioner’s appeal. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5), (d)(5)(i), (d)(5)(ii). It is also unclear, based on the incomplete copy, whether the Family Court authorized the issuance of the amended order. Without competent new evidence, the Petitioner therefore has not demonstrated that reopening is warranted or that he has overcome our previous determinations on appeal such that he has established his SIJ eligibility and that his request for SIJ classification warrants USCIS’ consent.

ORDER: The motion to reopen is dismissed.