



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

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

In Re: 26953648

Date: JUL. 10, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a native and citizen of Bangladesh, 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 denied the petition, concluding that the Petitioner did not establish that he was under the age of 21 at the time of filing his SIJ petition because the record contained material inconsistencies related to the Petitioner's date of birth, which made it impossible to determine the Petitioner's accurate age or date of birth. The Director further concluded due to the inconsistencies, the Petitioner did not establish that his SIJ petition was bona fide nor that the consent of U.S. Citizenship and Immigration Services (USCIS) was warranted. We dismissed a subsequent appeal. The matter is now before us on a motion to 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 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 our appellate decision, incorporated here by reference, we concluded the record contains evidence that materially conflicts regarding the Petitioner's name and date of birth, such that we agreed with the Director's conclusion that the Petitioner had not established he was under 21 at the time of filing his SIJ petition nor that his SIJ petition was bona fide and warranted USCIS' consent. In support of the motion, the Petitioner reiterates his prior arguments regarding his eligibility for SIJ classification, all of which we previously reviewed on appeal, contending the record is sufficient to support his SIJ classification and to warrant USCIS' consent. He does not specifically cite any error of law or policy at the time of our prior decision. The Petitioner's contentions in his current motion largely reargue facts and issues we have already considered in our previous decision, generally arguing we now erred in our appellate review by continuing to find the inconsistencies in the record were material and prevented the Petitioner from

meeting his burden of proof as to his date of birth and age. *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”). He asserts we erroneously relied on material inconsistencies in the record, without citing any specific law or policy to support that argument. We noted in our appellate decision where evidence submitted on appeal created additional inconsistencies within the record. The Petitioner now argues on motion that our reliance on that evidence and those inconsistencies was erroneous; however, we note the Petitioner submitted the evidence – specifically the excerpt of his credible fear interview notes – on which he now argues we erroneously relied. He has not addressed the specific additional inconsistencies we noted in our appellate decision, including the inconsistencies between his statements on appeal and the credible fear interview notes, arguing instead that there is no conflict between the record of his credible fear interview and the rest of the record. To support these assertions, the Petitioner has not cited any specific law or policy that is binding on us. As such, he has not established by a preponderance of the evidence our prior decision was incorrect. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.