



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

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

In Re: 27295971

Date: July 24, 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) 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 noncitizen children in the United States who cannot reunify with one or both parents due to 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 Amerasian, Widow(er), Or Special Immigrant (SIJ petition), concluding that the Petitioner did not establish that he was under the age of 21 when he filed the petition, and therefore was not eligible for SIJ classification. We dismissed his appeal on the same basis. The matter is now before us on 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 motions.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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.

II. ANALYSIS

The Petitioner, who claims his date of birth is in [redacted] 1997, entered the United States in June 2014. As noted in our previous decision, incorporated here by reference, in [redacted] 2017, when the Petitioner asserts that he was 19 years old, the Superior Court of the [redacted] Family Court (Family Court), issued an order titled ORDER REGARDING RESPONDENT'S ELIGIBILITY FOR SPECIAL IMMIGRANT JUVENILE STATUS (SIJ order). In its SIJ order, the Family Court found that the Petitioner previously had been committed to the care and custody of the Child and Family Services Agency (CFSA) of the [redacted] in accordance with the law of

the [] by its juvenile division, and that reunification with both of the Petitioner's parents was not viable due to neglect within the meaning of the law of the []. The Family Court further found that it was not in the Petitioner's best interest to return to his or his parents' previous country of nationality or country of last habitual residence, but that it was instead in his best interest to remain in the United States.

In October 2017, the Petitioner filed his petition for SIJ classification based on the Family Court order. On his SIJ petition, the Petitioner claimed that he is named M-K-¹ and his date of birth is in [] 1997, but that his family had obtained fake identification documents for him under the name M-H- so that he could obtain health care and attend school while residing in Iran. The Petitioner further noted on his SIJ petition that he had used the alias A-J- to travel from Iran to Turkey in 2012. In response to a Request for Evidence (RFE) from the Director regarding his aliases,² the Petitioner provided school records from Iran showing that he was named M-H- and had a [] 1995 date of birth,³ and a 2012 bus ticket for him under the name A-J- for a departure from [] Turkey.⁴ The Director ultimately denied the SIJ petition, stating that the Petitioner had not shown that his true date of birth is in [] 1997 because the Iranian school records indicated he was born in [] 1995 and, therefore, the Petitioner had not shown he was under 21 years of age when he filed the SIJ petition in October 2017.

On appeal, we affirmed the Director's decision, stating that the record contains contradictory documentation regarding the Petitioner's actual identity and date of birth such that he has not shown that his date of birth is in [] 1997, as he asserts, rather than [] 1995, as reflected in his Iranian school records. Consequently, we dismissed the appeal, concluding that the Petitioner had not established by a preponderance of the evidence that he was under 21 years old on the date that he filed his SIJ petition, and that he was therefore ineligible for SIJ classification. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b).

On motion, the Petitioner contends that he has provided more than enough evidence to show that his name is M-K- and that his true date of birth is in [] 1997. He submits an updated personal statement, a brief, a February 2023 statement from his former guardian ad litem during Family Court proceedings in the United States, and photographs that he asserts are of his sister in mourning and of his mother's grave.

In his updated personal statement, the Petitioner maintains that his parents obtained fake identity documents in Iran so that he could attend school and therefore the name and date of birth on them are not correct. He refers to documents he previously provided on appeal: an Afghan passport and his Tazkira, an Afghan identity document. The Petitioner questions why these documents are not

¹ Name withheld to protect the individual's identity.

² The RFE was issued in 2020 and related to a Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), filed by the Petitioner in 2015 with respect to adjusting his refugee status to that of a lawful permanent resident. On the 2015 Form I-485, he claimed to have no aliases but subsequently admitted to them in a 2019 adjustment interview with USCIS. The 2015 Form I-485 remains pending.

³ The Iranian school records include: (1) a Foreign Students Obligation document, which the mother signed in October 2005 to confirm her liability regarding the knowing or deliberate submission of false documents or for the falsification of any information regarding the Petitioner for purposes of registering him for education; and (2) school records from 2005 to the 2010-2011 school year.

⁴ The record does not reflect a date of birth that relates to the Petitioner under the name A-J-.

sufficient evidence of his true identity as they were issued by Afghan officials. In our appellate decision, we stated that the Petitioner already had claimed that he did not have an “ID card from Afghanistan, Iran or Turkey” during a February 2014 interview with a USCIS officer, but the Tazkira showed a 2011 issuance date when he submitted it on appeal in 2021. The Petitioner now claims that when he was with his parents in Iran, they asked a cousin still living in Afghanistan to obtain it on behalf of the Petitioner. According to the Petitioner, he did not have the Tazkira in 2014, when he was interviewed, but subsequently asked an unnamed friend with connections in Afghanistan to arrange to have the Tazkira sent from Afghanistan sometime between 2016 and 2018. He asserts that he did not previously present the Tazkira as evidence of his date of birth because “it does not have the exact birth date” but in the same statement refers to the Tazkira and Afghan passport as “both showing my date of birth is [redacted] 1997.” In fact, the translation of the Tazkira reflects that the Petitioner was found to be 14 years of age in 2011 and does not list a day or month of birth, and therefore is not evidence of his actual date of birth. Moreover, the Afghan passport indicates that it was issued in January of 2021, but the Petitioner did not provide a copy of it or mention its existence in his May 2021 response to a notice of intent to deny (NOID) from the Director and does not explain on motion why he first submitted it with his September 2021 appeal. The Petitioner also does not show what documents he provided to the Afghan consulate in order to obtain the passport. Consequently, the Tazkira and passport do not contain sufficient information to show that the Petitioner’s date of birth is in [redacted] 1997.

According to the Petitioner, and in response to our discussion of the same in the dismissal of his appeal, he does not know why an official from the United Nations High Commissioner for Refugees (UNHCR) who interviewed him in 2013 wrote down an incorrect [redacted] 1998 date of birth and place of birth on the interview notes but claims that he would not have provided that date of birth. He also claims that he only used the name of A-J- to travel from Iran to Turkey. The Petitioner also contends that he does not know why his mother signed the October 2005 Iranian document regarding her liability in falsification of any information regarding the Petitioner when registering him for school. Nevertheless, the Petitioner asserts that because his family “lived as undocumented immigrants in Iran,” his parents obtained documents to allow him to go to school with the “incorrect” name of M-H- and a [redacted] 1995 date of birth. A review of the Petitioner’s October 2013 UNHCR Refugee Resettlement Form contradicts this as it shows that he asserted to the UNHCR interviewer that his family initially lived in Iran without legal residence permits because of a “simple mistake done by the Foreigner Dept[.],” but “when the mistake was corrected” his family obtained residence permits and he “then was able to go to a formal school” in Iran. Consequently, rather than advise UNHCR that he had attended school in Iran with a false name and incorrect date of birth in [redacted] 1995, as he now claims, he stated that the residence permit that allowed him to attend school in Iran was corrected by the Iranian government *before* he began his school studies. Moreover, notes taken in February 2014 during the Petitioner’s Form I-590, Registration for Classification as Refugee (Form I-590), interview reflect that he asserted to the USCIS interviewing officer that that he initially could not go to school or work in Iran but that “with great difficulty, [the parents] were able to get IDs in the end [and] he was then able to attend school.” The Form I-590 and interview notes from 2014 also do not reflect that he claimed any aliases or stated that his parents had obtained false identity documents. Consequently, the Petitioner’s claims here that the name M-H- and [redacted] 1995 date of birth in his Iranian school records are based on false identity documents his parents obtained are not supported by his previous assertions.

The Petitioner argues in his motion brief that it is arbitrary and capricious for us not to rely on his government-issued documents with the [] 1997 date of birth under the name M-K- and that we are incorrectly placing more weight on the name M-H- and [] 1995 date of birth in his Iranian school records. The Turkish and U.S. government-issued documents showing the Petitioner's name is M-K- and his date of birth is in [] 1997 were issued to him after he arrived in Turkey as a refugee and are based only on his statements rather than an original birth certificate or other such evidence regarding his identity. Regardless, although the Petitioner's earliest identification documents are Iranian school records showing his name is M-H- and his date of birth is in [] 1995, we have not placed more weight on those records. Rather, based on the Petitioner's own contradictory and unresolved evidence regarding his identity and date of birth, the Petitioner has not established his date of birth is in [] 1997, [] 1995, or any other date. Therefore, the Petitioner has not met his burden of proof to show that he filed the SIJ petition prior to reaching the age of 21 years of age, as required for SIJ classification. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b)(1). As discussed in our appellate decision, because this issue is dispositive, we need not reach the issue as to whether USCIS' consent is warranted.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.