



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

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

In Re: 27125768

Date: JUN. 12, 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 Guatemala, 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 a juvenile court had issued an order containing the requisite findings as to dependency, parental reunification, and best interest of the child. We dismissed a subsequent appeal, agreeing with the Director's conclusions as to the court order lacking the necessary parental reunification and best interest determinations, and we further dismissed prior combined motions to reopen and reconsider. The matter is again 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.

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). 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). 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.

On motion, the Petitioner submits new evidence of medications he has been prescribed, as well as a recent medical treatment for symptoms of anxiety and depression. The Petitioner asserts that these new facts establish eligibility, as they support a finding that he merits a favorable exercise of discretion. However, we note that SIJ classification is not a discretionary form of relief, and as such, evidence going solely to the matter of discretion do not serve to establish eligibility for SIJ classification. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b).

Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. 8 C.F.R. § 103.5(a)(2).

The Petitioner also contests the correctness of our prior decision. In support of the motion, the Petitioner relies on general assertions of eligibility for SIJ classification but does not cite any specific provisions of law or policy that render our prior decision erroneous at the time it was issued. The Petitioner's contentions in his current motion merely reargue 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 Petitioner has not met the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3) and the underlying petition remains denied.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

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

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