



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 29095346

Date: JAN. 03, 2024

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 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 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 San Antonio, Texas Field Office denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile) (SIJ petition), concluding that the Petitioner did not establish the court, which issued the order serving as the basis for the SIJ petition, had jurisdiction over him as a juvenile. We dismissed the Petitioner's appeal. The Petitioner then filed four combined motions to reopen and to reconsider. We dismissed the first as untimely, the second on the merits, the third we rejected, and the fourth we dismissed on the merits. The fifth combined motion to reopen and to reconsider is now before us. 8 C.F.R. § 103.5(a)(2)-(3).

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 to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

SIJ classification may only be granted upon the consent of U.S. Citizenship and Immigration Services (USCIS) after the petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act; 8 C.F.R. § 204.11(b)(5). For USCIS' consent, the petitioner must establish that the request for SIJ classification is bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect,

abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(b)(5). Petitioners must also establish the juvenile court order or supplemental evidence includes the factual basis for the parental reunification and best interest determinations and the relief from parental maltreatment that the court ordered or recognized. 8 C.F.R. § 204.11(d)(5)(i).

## II. ANALYSIS

We hereby incorporate by reference the procedural history and background as discussed in our prior decisions. We highlight the following as relevant to our analysis of the instant motion. In [redacted] 2015, when the Petitioner was 18 years old, the district court in [redacted], Texas issued an order in “Suit Affecting Parent-Child Relationship” (SAPCR) and this order was the basis for the Petitioner’s SIJ petition. In the order the court found: the Petitioner was under the age of 21 and unmarried; the Petitioner was subjected to parental abandonment and neglect by E-P-<sup>1</sup> his mother, and E-C-, his father, as defined under Texas law; reunification with the Petitioner’s mother is not viable due to neglect and/or abandonment; the Petitioner is unable to reunify with his father because he is deceased; it is not in the Petitioner’s best interest to return to Honduras; and the Petitioner had been declared dependent on the court and placed under the shared custody of an individual appointed by the court. The court ordered the Petitioner’s mother to pay child support to C-C-, whose relationship to the Petitioner was not explained in the record. The Petitioner obtained an amended SAPCR order in [redacted] 2017 from the court. The 2017 order specified, in relevant part, that the court “asserted jurisdiction over [the Petitioner] as a ‘child’ as defined by Tex. Fam. Code § 101.003(b)” and the Petitioner was dependent on the court “under Texas Family Code 154.001(a)(I) and 154.002.” The 2017 order also determined that at the time of the original SAPCR proceeding, the Petitioner was “enrolled in a program leading toward a high school diploma and in compliance under Chapter 25, Education Code” which “established the basis for dependency for the support and care of the child,” and “this Court ordered child support be paid in order to provide relief to the child . . . from parental abandonment or neglect.”

In our decision on the previous combined motion, we concluded that the Petitioner had established that the court made a qualifying declaration of dependency, pursuant to 8 C.F.R. § 204.11(c)(1)(i)(A) and withdrew the Director’s determination otherwise. However, we further concluded that USCIS’ consent was not warranted. We acknowledged that by ordering child support, the court provided relief from parental abuse, abandonment, neglect, or a similar basis under state law, as section 8 C.F.R. § 204.11(d)(5)(ii) requires. But, because the Petitioner had not established the factual basis for the court’s qualifying parental reunification and best interest determinations, as required under 8 C.F.R. § 204.11(d)(5)(i), we denied the combined motion. Our decision explained that the Petitioner was notified in our 2017 decision on appeal that he could provide the underlying petition for dependency or custody, any supporting documents submitted to the juvenile court, affidavits summarizing such evidence, or affidavits and records consistent with the court’s findings to establish the factual basis for the parental reunification and best interest determinations.

In the instant motion, the Petitioner mainly explains how we erred in determining that the court did not make a qualifying dependency declaration. However, as described above, our previous decision already addressed this issue. The Petitioner also asserts that the court determined that his father was deceased and therefore did provide a factual basis for its reunification determination. This issue was

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<sup>1</sup> We use initials to protect the privacy of individuals.

also addressed in our 2017 appeal decision, where we explained that the Petitioner had not demonstrated the court made a legal conclusion that the death of his father is legally equivalent or a similar basis to abuse, abandonment, or neglect under Texas child welfare law. The Petitioner does not cite to any binding precedent to establish we erred in our analysis, nor does he submit new evidence to establish the court concluded that his father's death is legally equivalent or a similar basis to abuse, abandonment, or neglect under Texas child welfare law. See generally 6 USCIS Policy Manual J.3(A)(1), <https://www.uscis.gov/policymanual> (explaining, as guidance, qualifying juvenile court determinations).

The Petitioner also provides new evidence on motion. He includes emails from his counsel to an individual at a "[redacted]tx.gov" email address seeking a copy of the 2015 court transcript, to which the individual states, "I do not have notes from 2015. We only keep three years." We note that the Petitioner does not identify the individual, provide the person's job title, or any proof of what authority the individual has with respect to court documents. Moreover, the Petitioner again does not provide the underlying petition for custody or dependency or any supporting documents submitted to the juvenile court in 2015 nor does he explain why he is unable to provide this evidence.<sup>2</sup> Rather, the Petitioner submits a personal statement by him and C-C-, asserting these statements provide a summary of what was testified to during the 2015 proceedings. However, neither the Petitioner nor C-C- present details on what representations they made to the court and do not provide insight into how the court came to its parental reunification and best interest determinations. For example, C-C- states, "I remember that I had to testify in front of the judge and got this custody order." The new evidence provided on motion does not provide the factual basis for the court's parental reunification and best interest determinations and, therefore, does not establish that USCIS consent is warranted.

We note that also relevant to our consent analysis is that the Petitioner's statement identifies C-C- as his biological mother and describes her love and support of him and how she obtained a custody order in 2015 so she could make decisions for him. C-C-'s statement also says she is the biological mother of the Petitioner and identifies an individual by the name of M-J- as the Petitioner's father. C-C- and M-J- are not the individuals identified as the Petitioner's parents in the record before the court or in USCIS records. C-C- also states that in August 2015 a petition was filed to establish her rights and duties as a conservator, to establish her right to receive child support, and to provide her with legal proof that she has the right to possess Petitioner. Both C-C- and the Petitioner's statements describing the order as a custody order raise issue with whether they were aware of the nature and purpose of the SAPCR proceedings and that other individuals were identified as the Petitioner's parents in the court filings.

The Petitioner has not presented new facts or other documentary evidence establishing USCIS' consent is warranted and is thereby ineligible for SIJ classification. 8 C.F.R. § 103.5(a)(2). Further, the Petitioner has not cited any binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied the pertinent law or agency policy with respect to the granting of USCIS' consent and has not established that our prior decision was incorrect based on the evidence

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<sup>2</sup> We note based on the record and past appeal and motion filings that the Petitioner has been represented by the same legal firm since at least 2015. We also acknowledge that in a prior motion to us, the Petitioner submitted 2017 filings with the court, however, the 2017 court filings did not provide a factual basis for the parental reunification and best interest determinations.

of record at the time of the initial decision with respect to consent, as required under 8 C.F.R. § 103.5(a)(3). Therefore, the Petitioner has not established eligibility for the benefit sought.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.