



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

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

In Re: 21161438

Date: OCT. 20, 2022

Appeal of National Benefits Center 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 National Benefits Center (Director) denied the Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), because the Petitioner did not establish that he was under the age of 21 at the time of filing and that he warranted the consent of U.S. Citizenship and Immigration Services (USCIS), as the record included material inconsistencies and he did not establish that a primary reason he sought his juvenile court order was to obtain relief from parental maltreatment. On appeal, the Petitioner asserts his eligibility for SIJ classification. We review the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

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).<sup>1</sup> 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. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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 the Department of Homeland Security (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

---

<sup>1</sup> The Department of Homeland Security issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for petitioners who seek SIJ classification. *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (*revising* 8 C.F.R. §§ 204, 205, 245).

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

## II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of India, submitted an SIJ petition in June 2019. The Petitioner included an order from the Family Court of the State of New York, [redacted] (Family Court) appointing A-K-<sup>2</sup> as his guardian in guardianship proceedings. He submitted a separate order titled *AMENDED ORDER-SPECIAL IMMIGRANT JUVENILE STATUS* (SIJ order), which provided that reunification with his mother was not viable due to abandonment and neglect as defined under New York law and reunification with father was not viable due to abandonment, and that it was not in his best interest to be removed from the United States and returned to India.

The Director issued a notice of intent to deny (NOID) providing the Petitioner had not met his burden of proof that he was under 21 years old on the date he filed his SIJ petition. The birth certificate provided with the SIJ petition reflected that the Petitioner was born on [redacted] 7, 2001, which would have made him under 21 years old at the time of filing. However, the Director noted that government records indicated that the Petitioner previously used [redacted] 6, 1997, and [redacted] 30, 1998, as his date of birth, which would have made him over 21 years old at the time of filing his SIJ petition. The Director also mentioned that USCIS' consent was not warranted because the record contained material inconsistencies and the Petitioner did not establish a primary reason in seeking his juvenile court order was to obtain relief from parental maltreatment. The Petitioner responded to the NOID with an affidavit, birth certificate, passport pages, photographs, educational records, identification documents, his father's death certificate, and Family Court records. The Petitioner asserted that he never used a date of birth other than [redacted] 7, 2001.

After review, the Director denied the SIJ petition, noting that government records indicate the Petitioner previously used [redacted] 6, 1997, and [redacted] 30, 1998, as his date of birth prior to entering the United States, which was inconsistent with the [redacted] 7, 2001, date of birth on his birth certificate. Furthermore, the Director noted that the birth certificate was issued on November 20, 2015, and was not an original as claimed by the Petitioner. Considering the evidence in the record, the Director determined that the Petitioner had not established his actual date of birth and concluded that he did not meet his burden of proof to establish that he was under 21 years old on the date he filed his SIJ petition.<sup>3</sup>

On appeal, the Petitioner submits a brief and previously submitted evidence. The Petitioner claims that he has never used any other dates of birth, and if he did use them before entering the United States,

---

<sup>2</sup> We use initials to protect the privacy of individuals.

<sup>3</sup> The Director also noted the findings in the SIJ order reflected the Petitioner's claim of neglect and abandonment by his

it was by mistake as he left India under terrible circumstances and was anxious and nervous during his journey. He also states that he will submit his original passport when it is obtained and he can provide a biological age test if requested. Lastly, the Petitioner asserts that a primary reason of seeking his juvenile court order was to obtain relief from his mother's maltreatment.

The burden of proof is on the Petitioner to establish by a preponderance of the evidence that his true date of birth is [redacted] 7, 2001, which would have made him under the age of 21 at the time he filed his SIJ petition. We acknowledge the documents submitted by the Petitioner that list or refer to [redacted] 7, 2001, as his date of birth. However, the Petitioner's birth certificate, which is not the original, was registered over 14 years after the date of birth listed on it which diminishes its evidentiary weight. More importantly, U.S. governments records, which are based on the Petitioner's fingerprints and as such are given significant weight, reflect that the Petitioner used [redacted] 6, 1997, and [redacted] 30, 1998, as his date of birth during multiple encounters outside the United States. Based on the foregoing and upon *de novo* review of the entire record, the Petitioner has not established by a preponderance of the evidence that his actual date of birth is [redacted] 7, 2001. Therefore, the Petitioner has not established that he was under 21 years of age on the date his SIJ petition was filed and he is not eligible for SIJ classification under section 101(a)(27)(J) of the Act.<sup>4</sup>

**ORDER:** The appeal is dismissed.

---

mother, including her forcing him to work daily since the age of 13, taking him out of school in January 2016 to work instead of attending school, and not letting him attend school. However, the Director determined that the Petitioner's claims were not supported by the documents he submitted, which showed that he was enrolled in school for the 2014-2015 and 2016-2017 school years until his examinations in March 2017, there was no indication of attendance problems, and there was no record of removal from school by his mother. The Director concluded that the record included material inconsistencies and as the Petitioner did not establish there was a reasonable factual basis for the Family Court's ruling of parental neglect and abandonment, the Director was unable to determine whether a primary reason in seeking his juvenile court order was to obtain relief from parental maltreatment or to obtain an order for immigration purposes. Therefore, the Director also determined that USCIS' consent was not warranted.

<sup>4</sup> As the Petitioner has not established by a preponderance of the evidence that he was under 21 years of age on the date his SIJ petition was filed, we decline to reach and hereby reserve the Petitioner's arguments that a primary reason in seeking his juvenile court order was to obtain relief from parental maltreatment and he therefore warrants USCIS' consent. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).