

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23557096 DATE: Dec. 09, 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 Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), because she did not establish that she was under 21 years of age when she filed her SIJ petition. On appeal, the Petitioner reasserts her eligibility for SIJ classification. We review this matter de novo. *See 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

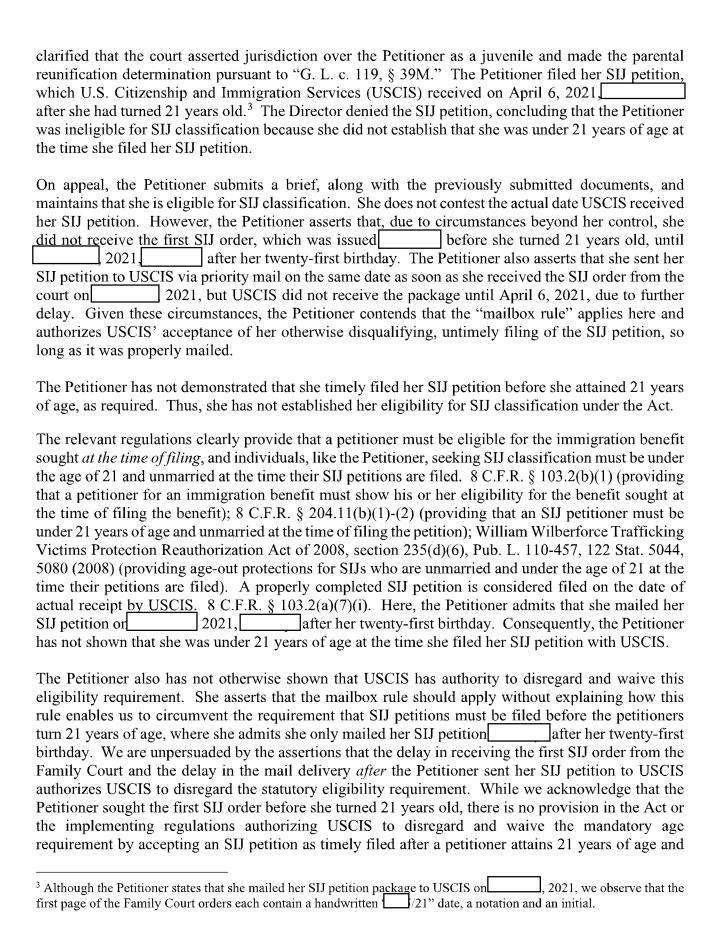
To establish eligibility for SIJ classification, petitioners must show, inter alia, that they are unmarried, under 21 years old, and have been subject to a state juvenile court order determining that they cannot reunify with one or both parents due to parental abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b), (c)(1). Petitioners bear the burden of proof to demonstrate their eligibility for SIJ classification by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Petitioner, whose undisputed date of birth is	2000, entered the United States on or
about July 28, 2019. On 2021, befo <u>re</u>	the Petitioner turned 21 years old, the
Massachusetts Probate and Family Court (Family Court),	issued an order titled
Special Findings of Fact and Rulings of Law (SIJ order), re	eleasing the Petitioner "to the care and
custody of her guardian, [P-G-H-G]." ² This order further pro	
with her father was not viable due to his neglect and abandonment and that it is not in her best interest	
to be returned to Brazil, her country of nationality. On	, 2021 after the Petitioner
turned 21 years old, the court issued a "Judgment of Depend	lency" (amended SIJ order). This order

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

² We use initials to protect the privacy of individuals.



they are no longer a "child" under the Act. *See, e.g., United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (holding that government officials are bound by governing statutes and regulations in force); *see also United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (stating that immigration regulations carry the force and effect of law).

As the Petitioner has not overcome the Director's determination that she was over 21 years of age on the date her SIJ petition was filed, she has not established her eligibility for SIJ classification.

ORDER: The appeal is dismissed.