



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

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

In Re: 17143478

Date: JUN. 3, 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), and the matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews 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, the appeal will be dismissed.

**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). 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).

U.S. Citizenship and Immigration Services (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 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

In [ ] 2019, the [ ] Juvenile and Domestic Relations Court in Virginia (juvenile court) issued a *Consent Order of Custody*, placing the Petitioner in the custody of her brother. The juvenile court also determined that the Petitioner's reunification with her mother and father is not viable due to neglect and abandonment under Virginia law and that it would not be in her best interest to be returned to Bolivia, her country of nationality. The juvenile court noted that the Petitioner's father "left her in Bolivia within two months of her birth and came to the United States and her mother also left her in Bolivia and maintains a separate residence in the United States." Based on the juvenile court's order, the Petitioner filed her SIJ petition. The Director denied the Petition, explaining that records from the U.S. Department of State show that the Petitioner's father accompanied her during her 2016 interview for a B1/B2 nonimmigrant visa and that she stated he would be paying for her trip. Additionally, the Director noted that USCIS records showed that the Petitioner's father was residing in Virginia at a residence previously associated with her custodial brother. Accordingly, the Director determined that due to unresolved inconsistencies regarding the Petitioner's relationship with her father, the record did establish that USCIS' consent to the Petitioner's SIJ classification was warranted.

SIJ classification may only be granted upon the consent of the Secretary of Homeland Security, through USCIS, where the petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act. For USCIS to consent, the request for SIJ classification must be bona fide, which requires the petitioner to establish that a primary reason for seeking the juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. 8 C.F.R. § 204.11(b)(5) (2022).<sup>1</sup> USCIS may 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. *Id.*

On appeal, the Petitioner argues that although her father appeared at her visa interview, he did so at her brother's request and has not otherwise been involved in her life or provided her with any financial support. Further, she states that she has not lived with her father in the United States because he has not been present in this country since 2015. She also states that regardless of any relationship with her father, the juvenile court found that her reunification with her mother was not viable due to neglect and abandonment and that she therefore qualifies for SIJ classification on that basis. During our adjudication of the appeal, we issued a notice of intent to dismiss (NOID). We acknowledged the Petitioner's statements regarding her father's limited involvement in her visa interview and his lack of support during most of her life. However, we noted that the Bolivian identity documents the Petitioner submitted for her

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<sup>1</sup> The Department of Homeland Security issued a final rule, effective April 7, 2022, amending its regulations at 8 C.F.R. § 204.11 for petitioners who seek SIJ classification. *See Special Immigrant Juvenile Petitions*, 87 Fed. Reg. 13066 (March 8, 2022). At the time of the Director's decision, petitioners were required to show that the requisite juvenile court or administrative determinations were sought primarily to gain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. In this decision, we will apply the less restrictive standard articulated in the final rule, which requires petitioners to show that their request for SIJ classification is bona fide, meaning that a primary reason for seeking the juvenile court orders was to obtain protection from parental abuse, neglect, abandonment, or a similar basis under state law.

father in support of her assertion that he has not been in the United States since 2015 were not translated, as 8 C.F.R. § 103.2(b)(3) requires. Further, we informed the Petitioner that USCIS records indicate that the Petitioner's father resided in Virginia between January and September 2017 and again in September 2020, at addresses with which her custodial brother was associated. Additionally, we noted that USCIS records indicate that the Petitioner's mother was associated with an address in [REDACTED] Virginia in November 2019. The Petitioner listed the same address on the SIJ petition she filed in April 2019, and maintained that address until filing a Form AR-11, Alien's Change of Address Card, in January 2020. This information conflicts with the juvenile court's determination that the Petitioner's father abandoned her and that her mother "maintains a separate residence in the United States." Accordingly, we granted the Petitioner an opportunity to submit evidence to rebut the derogatory information pursuant to 8 C.F.R. § 103.2(b)(16)(i).

In response to our NOID, the Petitioner submits an affidavit from her father, who states that he currently resides in Bolivia and has resided there since August 2015. She also provides translated copies of two Bolivian identification cards for her father, issued in June 2018 and November 2019; a letter from a bank in Bolivia showing that her father has two active accounts, both of which were opened in 2009; and her father's "Certificate of Suffrage" for general elections in Bolivia on October 18, 2020. This evidence is insufficient to overcome the derogatory information we discussed in our NOID relating to the Petitioner's father's residence in Virginia at addresses associated with the Petitioner's custodial brother. The documentation the Petitioner submits in response to our NOID shows that her father was in Bolivia to open a bank account in 2009, obtain identification documents in June 2018 and November 2019, and participate in an election in October 2020. None of this evidence conflicts with or overcomes the USCIS records showing the Petitioner's father resided in Virginia between January and September of 2017 and in September 2020. The Petitioner does not submit a statement or argument with her NOID response to explicitly dispute our determination that her father resided in Virginia. Although her father indicates in his affidavit that he has resided in Bolivia since August 2015, we addressed the Petitioner's similar claim in our NOID and noted that USCIS records provide contrary information. The Petitioner has not provided any explanation for the USCIS records indicating that her father resided in Virginia at addresses associated with her custodial brother, and the documentation she has provided in her NOID response is insufficient to resolve the discrepancy. Furthermore, although the Petitioner indicates in her NOID response cover page that she has submitted a bank statement, hospital bill, and affidavit relating to her mother, the record does not contain those documents or any other evidence to show that the Petitioner's mother did not reside in the United States in 2019 at an address shared with the Petitioner. The Petitioner also has not provided a statement or argument in response to the information we discussed in our NOID, based on USCIS records, that the Petitioner and her mother shared an address in Virginia in 2019.

The record contains unresolved discrepancies regarding shared residences in the United States between the Petitioner and her parents. This evidence materially conflicts with the juvenile court's determination that the Petitioner's father abandoned her when she was two months old and that her mother "maintains a separate residence in the United States." Accordingly, she has not shown by a preponderance of the evidence that her request for SIJ classification is bona fide, as required under 8 C.F.R. § 204.11(b)(5).

**ORDER:** The appeal is dismissed.