



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

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

In Re: 21036234

Date: NOV. 8, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of India, 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) approved the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (SIJ petitioner) petition, but later revoked its approval. We subsequently dismissed the Petitioner's appeal of that decision. The matter is now before us on a combined motion to reopen and to reconsider. On motion, the Petitioner reasserts his eligibility for SIJ classification. Upon review, we will dismiss the motions.

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).¹

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).

¹ 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).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our 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 a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

A. Relevant Factual and Procedural History

The record indicates that the Petitioner entered the United States in 2011, when he was 15 years old. In [redacted] 2016, when the Petitioner was 20 years old, the New York Family Court for the [redacted] [redacted] New York (Family Court) appointed guardianship of the Petitioner to R-S-,² finding that such appointment “shall last until the [Petitioner’s] 21st birthday.” In the same month, the Family Court issued a separate order titled *ORDER-Special Immigrant Juvenile Status* (SIJ order), determining among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner was “dependent upon the Family Court, or has been committed to or placed in the custody of a state agency or department, or an individual or entity appointed by state of Family Court.” The Family Court found that the Petitioner’s reunification with one or both of his parents was not viable due to a similar basis under New York law namely, that, “[the Petitioner’s] [m]other and [f]ather ha[d] neglected [the Petitioner]. During his childhood, the [f]ather used excessive corporal punishment against [the Petitioner] and the [m]other and [f]ather forced [the Petitioner] to drop out of school at the age of 14 to join a political party and to work.” The Family Court further found that it was not in the Petitioner’s best interest to be removed from the United States and returned to India, his country of nationality. In February 2016, based on this order, the Petitioner filed a petition for SIJ classification.

The Director revoked the SIJ petition, concluding that the Petitioner had not established that his request for SIJ classification was bona fide, and therefore, that USCIS’ consent was warranted. Specifically, the Director explained that, due to several material inconsistencies regarding the Petitioner’s life in India, his parent’s abandonment and neglect, and subsequent travel to the United States, the record indicated that his primary purpose in seeking the juvenile order was to obtain an order with factual findings to enable him to file an SIJ petition rather than to obtain relief from parental maltreatment.

We dismissed the Petitioner’s appeal. We acknowledged the Petitioner’s contention that he was eligible for SIJ classification because he was abandoned and neglected by his parents under New York law. However, we noted that said issue was not in dispute as the Director did not determine that the SIJ order lacked a qualifying parental reunification determination. We further acknowledged the Petitioner’s updated personal statement in which he clarified several inconsistencies in the record. However, we afforded the statement limited weight given the numerous, significant inconsistencies in the record, which called into question the veracity of the Petitioner’s testimony.

² Initials are used to protect the individual’s privacy.

B. USCIS' Consent Is Not Warranted

To warrant USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence include the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). In addition, these documents must include relief, granted or recognized by the juvenile court, from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(d)(5)(ii). The regulations specify that such relief may include a court-ordered custodial placement, court-ordered dependency on the court for the provision of child welfare services, or court-ordered or recognized protective or remedial relief. *Id.* An example of court-recognized remedial relief includes the recognition of a petitioner's placement in the custody of the Department of Health and Human Services, Office of Refugee Resettlement. *Id.*

A request for SIJ classification must be bona fide for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). To demonstrate a bona fide request, a petitioner must establish a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). If the evidence contains a material conflict related to SIJ eligibility requirements so that the record reflects a request is not bona fide, USCIS' may withhold consent. *Id.* USCIS recognizes that there may be some immigration-related motive for seeking a juvenile court order. However, to warrant USCIS' consent, the requisite SIJ determinations must be made under state law in connection with proceedings in which a petitioner seeks and is granted some form of relief or remedy from parental abuse, neglect, abandonment, or a similar basis that the court has authority to provide under state law. 8 C.F.R. § 204.11(d)(5)(ii).

The Petitioner argues that our prior decision was "manifestly wrong because [we] admitted there was nothing wrong with the special findings order of the family court judge." We note, however that we did not dismiss the Petitioner's appeal due to any deficiency in the SIJ order. Rather, we dismissed the Petitioner's appeal due to discrepancies in the record, which indicated that he sought the SIJ order to obtain an immigration benefit rather than relief from parental maltreatment. On motion, the Petitioner submits no additional evidence or explanation addressing the inconsistent information we highlighted in our prior decision. We reiterate that 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. 8 C.F.R. § 204.11(b)(5). As such, the Petitioner has not established on motion that a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law. Accordingly, USCIS' consent to a grant of SIJ classification is not warranted.

III. CONCLUSION

As the Petitioner has not established on motion that his request for SIJ classification merits USCIS' consent, he is not eligible for SIJ classification under section 101(a)(27)(J) of the Act.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.