



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 21862163

Date: NOV. 08, 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), concluding that U.S. Citizenship and Immigration Services' (USCIS) consent was not warranted because the record contained material inconsistencies. 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).¹

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).

II. ANALYSIS

In [] 2020, the Family Court of [], New York (Family Court) issued an order placing the Petitioner in the custody of a guardian. On the same day, the Family Court issued an order entitled Order-Special Findings (SIJ order), determining that the Petitioner's reunification with his parents was not viable due to neglect and abandonment, and it would not be in the Petitioner's best interest to be removed to India, his country of nationality.

Based on the Family Court's orders, the Petitioner filed his SIJ petition in September 2020. In July 2021, the Director issued a notice of intent to deny (NOID) advising the Petitioner that the record contained inconsistent documentation. Specifically, the Director noted that while the Petitioner asserts that his date of birth is [] 2002, government records indicate that while enroute to the United States, he encountered Mexican government officials on three separate occasions and provided them with an alternate date of birth of [] 1999. The Director also noted that in his Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), the Petitioner indicated that he had never been refused a visa to the United States. However, government records indicate that the Petitioner appeared for a consular interview in New Delhi in connection with his nonimmigrant visa application, which was denied in March 2016.² In response to the NOID, the Petitioner submitted a copy of a birth certificate, a brief, and a statement. In his statement, the Petitioner asserted that the misrepresentation of his identity was unintentional and under the direction of the individuals who assisted him in entering the United States without inspection. With respect to the error in his Form I-485, he claims to have misunderstood the question. In June 2021, the Director denied the SIJ petition, concluding that the record contained unresolved inconsistencies, and therefore, USCIS' consent was not warranted.

On appeal, the Petitioner submits, *inter alia*, an affidavit and a brief. He asserts that he entered the United States using his correct name, nationality, and date of birth, and only used an alias when he was encountered by government officials in Mexico. He also contends that his former attorney did not provide him with an interpreter when completing his Form, I-485, and therefore, he was unaware of the error relating to his 2016 visa application when he signed the Form I-485.

Upon *de novo* review, the Petitioner has not met his burden of establishing that he was under 21 years of age on the date that he filed his SIJ petition. The burden of proof is on the Petitioner to establish by a preponderance of the evidence that his true date of birth is [] 2002, which would have made him under the age of 21 at the time he filed his SIJ petition. We acknowledge the copy of the birth certificate submitted by the Petitioner that refers to [] 2002, as his date of birth. However, U.S. governments records, which are based on the Petitioner's fingerprints and as such are given significant weight, reflect that the Petitioner used [] 1999, as his date of birth during multiple encounters outside the United States. Based on the foregoing, the Petitioner has not established by a preponderance of the evidence that his actual date of birth is [] 2002.

² On his Form DS-160, Nonimmigrant Visa Application, the Petitioner indicated that he intended to travel with his mother and his father was funding the trip.

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.³

ORDER: The appeal is dismissed.

³ 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).