



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

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

In Re: 17402246

Date: NOV. 9, 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 dismissed the subsequent motion to reopen and reconsider. The matter is now before us on appeal. We review the questions in 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 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 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 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

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).

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

A. Relevant Evidence and Procedural History

In [] 2017, a probate and family court (family court) in Massachusetts issued an *Order of Special Findings of Fact and Rulings of Law* (SIJ order) in which it declared the Petitioner to be dependent on the court. On the same day, the family court also issued a *Decree and Order of Appointment of Guardian of a Minor* appointing D-A-² as her guardian. The SIJ order stated that the Petitioner was abandoned and neglected by her mother and father as her father is deceased and her mother sent her to Sweden to live with her paternal grandparents when they lived in Kenya and severed all communication with the Petitioner. The SIJ order further stated that the Petitioner was sent to the United States to live with D-A-, her aunt, when her grandparents could no longer take care of her, and her mother refused to take her back. The family court determined that it is not in the Petitioner's best interest to return to her country of nationality, Somalia, because she has no ties there. In addition, the family court determined that it is not in the best interest of the Petitioner to return to Sweden because her grandparents no longer live there or to be returned to Kenya, where her mother resides, because her mother has demonstrated no interest in caring for her.

Based on the SIJ order, the Petitioner filed this SIJ petition in November 2017. While the SIJ petition was pending, the Director issued a request for evidence (RFE), requesting evidence of the Petitioner's identity and age as the record contains a Swedish passport showing a different name and country of birth for the Petitioner and a date of birth of [] 2000. In response to the RFE, the Petitioner submitted a personal statement, an affidavit from D-A-, her high school transcripts, and her medical records, along with documents previously submitted with the initial SIJ petition. The Director denied the SIJ petition in August 2020 concluding that she is unable to determine the Petitioner's identity and if she was under the age of 21 when she filed the petition. In January 2021, the Director dismissed the Petitioner's motion to reopen and reconsider.

On appeal, the Petitioner submits a brief. In the brief, the Petitioner contends that she "has demonstrated by more than a preponderance of the evidence" that she was under the age of 21 when she submitted her SIJ petition. She further contends that she has submitted sworn and notarized affidavits that are consistent with the U.S. Department of State's (DOS) directives for applicants that cannot obtain a birth certificate from Somalia, along with additional evidence including her own affidavits, a letter from the Somalian Development Center, and school and medical records.

Upon review, we find that the Petitioner has not met her burden of establishing her identity or that she was under the age of 21 when she filed her SIJ petition.

² We use initials to protect the identity of individuals.

B. The Petitioner Has Not Established her Identity or Age

The Petitioner states that she is unable to obtain a birth certificate from Somalia and instead submits affidavits of birth consistent with DOS requirements. According to DOS' Reciprocity Schedule,³ the affidavits of birth must contain the applicant's place of birth, date of birth, and the full name of both parents. Here, the Petitioner submitted an affidavit from A-A-, stating that she is the Petitioner's mother and currently resides in Kenya. The affidavit states the Petitioner's father's name, her place of birth as [REDACTED] and her date of birth as "[REDACTED] 2000" but indicates that she does not remember the exact date. However, the affidavit from D-A- states that the Petitioner was born on "[REDACTED] 2000 in Somalia" and provides the father's name. D-A- does not explain how she has knowledge of the Petitioner's date of birth and place of birth and does not indicate if she was present at the birth. Moreover, the Petitioner's affidavit from May 2019 states "[m]y mother told me my date of birth, her name, and my father's name" but, as previously noted, A-A- indicated in her affidavit that she did not remember the exact date of the Petitioner's birth. The Petitioner also provided an affidavit from A-A-'s friend, also currently lives with her in Kenya. The affidavit states that she and A-A- were neighbors in Somalia and that she witnessed the Petitioner's birth but does not provide the Petitioner's date of birth or the father's name. Here, the affidavits do not provide specific information concerning the Petitioner's date and place of birth or explain how the respective affiants know this information. Therefore, the affidavits carry limited probative value and are insufficient to establish the Petitioner's identity and date of birth.

Further, the Petitioner provided a Swedish passport, used to enter the United States under the visa waiver program, under the name [REDACTED] with a date of birth of [REDACTED] 2000, and a country of birth of Sweden. In her declaration to the family court, the Petitioner stated that her grandparents got her the Swedish passport and changed her name to [REDACTED]. The Petitioner explained that her grandmother changed her name so that it would give her a "fresh start" and she would not have to worry or be scared of her past. However, the Petitioner does not explain how her grandparents got the Swedish passport or provide further detail about her use of a different identity when she resided in Sweden.

In view of the unresolved questions and discrepancies in the record, the Petitioner has not met her burden to establish her identity and whether she was under the age of 21 when she filed the SIJ petition. As we find the Petitioner has not established her identity and actual date of birth, she has not demonstrated her eligibility for SIJ classification.

ORDER: The appeal is dismissed.

³ See <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Somalia.html>