



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

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

In Re: 21124252

Date: NOV. 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), 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, we will dismiss the appeal.

**I. LAW**

To establish eligibility for SIJ classification, petitioners must establish, among other requirements, that they were under 21 years of age at the time of filing their SIJ petition. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b)(1).<sup>1</sup> 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). 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**

The Petitioner was born on [ ] 17, 2000. On [ ] 9, 2021, the Superior Court of [ ] California (Superior Court) issued an order entitled Special Immigrant Juvenile Findings (SIJ order). The Superior Court placed the Petitioner in the custody of an individual appointed by the Court and made other SIJ-related determinations. The Petitioner mailed his SIJ petition to USCIS on [ ] 12, 2021, and USCIS received it on [ ] 17, 2021.

Upon review, the Director denied the SIJ petition, concluding that the Petitioner was ineligible for SIJ

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<sup>1</sup> 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).

classification because he was not under 21 years old when his SIJ petition was filed, as required under 8 C.F.R. § 204.11(b)(1). On appeal, the Petitioner contends that his SIJ petition was sent to USCIS before he reached age 21.

On appeal, the Petitioner asserts that his petition was filed before he reached age 21, as the petition was delivered at 7:48 am on [REDACTED] 17, 2021, and his birth certificate, which is included in the record, states that he was born at 10:00 pm on [REDACTED] 17, 2000. He asserts that we should construe his filing as timely in furtherance of justice, given the vulnerable condition of unaccompanied minors such as him. Neither the Act nor the regulations indicate that a day is a divisible unit or that an SIJ petitioner's age is determined by the specific time of birth. Absent an indication that Congress intended them to be read otherwise, we are expected to give the words of a statute their "ordinary, contemporary, common meaning." *Williams v. Taylor*, 529 U.S. 420, 431 (2000). And, "[a]s a general rule, in the computation of time, a day is to be considered an indivisible unit or period of time and the law will not, unless there is sufficient reason therefor, take cognizance of fractions of a day." *Matter of L M- & C-Y-C-*, 4 I&N Dec. 617, 619 (BIA 1952). Consequently, the date of the Petitioner's birth, rather than the specific hour, is determinant of whether he was under 21 years of age at the time he filed his SIJ petition.

The Petitioner further asserts that SIJ eligibility should be based on the date of application, rather than the date of receipt. We acknowledge that the Petitioner mailed the SIJ petition to USCIS before he turned 21 years old; however, the date of receipt of the SIJ petition, and not the date the SIJ petition was sent, is considered the filing date. See 8 C.F.R. § 103.2(a)(7)(i) (providing that USCIS will consider a benefit request received and will record the receipt date as of the actual date of receipt at the location designated for filing); *United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (holding that both governing statutes and their implementing regulations have "the force of law" and must be adhered to by government officials). Therefore, in order to meet the required deadline, the SIJ petition would have had to been received at a USCIS office by [REDACTED] 16, 2021, one day prior to the Petitioner's 21st birthday.

A petitioner must be eligible for the immigration benefit sought at the time of filing, and a petitioner seeking SIJ classification must be unmarried and under the age of 21. See 8 C.F.R. §§ 103.2(b)(1) (providing that a petitioner for an immigration benefit "must establish that he or she is eligible for the requested benefit at the time of filing the benefit") and 204.11(b)(1)-(2) (providing that an SIJ petitioner must be under 21 years of age and unmarried); see also William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, section 235(d)(6), Pub. L. 110-457, 122 Stat. 5044, 5080 (2008) (providing age-out protections for SIJs who are unmarried and under the age of 21 at the time their petitions are filed).

The Petitioner has not overcome the Director's finding that he was not under 21 years old on the date that his SIJ petition was received as required by the Act. Accordingly, he has not established his eligibility for SIJ classification.

**ORDER:** The appeal is dismissed.