



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

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

In Re: 20459435

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 Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), because the Petitioner did not establish that he warranted the consent of U.S. Citizenship and Immigration Services (USCIS). 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 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. Section 101(a)(27)(J)(ii) of the Act; 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)

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).

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

The record reflects that the Petitioner, a native and citizen of Bangladesh, submitted an SIJ petition in July 2018. The Petitioner included an order from the Family Court of the State of New York, [REDACTED] (Family Court) appointing K-A-² as his guardian in guardianship proceedings. He submitted a separate order titled *ORDER REGARDING MINOR'S ELIGIBILITY FOR SPECIAL IMMIGRANT JUVENILE STATUS* (SIJ order), which provided that “reunification with one or both of [the Petitioner’s] biological parents [S-B-] and [M-A-] is not viable due to abuse, neglect, abandonment, financial hardship or similar basis found under New York State law, and under INA Section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J).”

The Director issued a notice of intent to deny (NOID) providing the Petitioner did not submit all the required initial documentation, namely a copy of his birth certificate or other evidence of his age. Furthermore, the Director noted the SIJ order lacked a qualifying determination that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law, as it did not specify whether the lack of viability of reunification was due to abuse, neglect, abandonment, or a similar basis under state law. Next, the Director mentioned that USCIS’ consent was not warranted due to material inconsistencies in the record related to the Petitioner’s date of birth and because there was no reasonable factual basis for the Family Court’s parental reunification and best interest rulings. As such, the Director was unable to determine whether 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. The Petitioner responded to the NOID with numerous documents including, but not limited to, a brief, his affidavit, his passport, his birth certificate, his court orders and related documents, birth certificates for his parents, U.S. government records, medical and educational records, and third-party affidavits.

After review, the Director denied the SIJ petition, determining that USCIS’ consent was not warranted. Specifically, the Director concluded that the SIJ order lacked a qualifying determination that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law, as it did not specify whether the lack of viability of reunification was due to abuse, neglect, abandonment, or a similar basis under state law. The Director noted that the SIJ order only mirrors the reunification language in the INA, and the Petitioner did not establish how financial hardship is a similar basis to abuse, neglect, or abandonment under New York law. The Director also concluded that USCIS’ consent is not warranted as the record contained material inconsistencies related to the Petitioner’s date of birth.³ On appeal, the Petitioner submits a brief, an affidavit, vaccination records, and

² We use initials to protect the privacy of individuals.

³ The Director stated the Petitioner previously used [REDACTED] 1997, as his date of birth prior to his entry to the United States, which would have made him over the age of 21 at the time he filed his SIJ petition. However, the Petitioner reported [REDACTED] 1999, as his date of birth after entering the United States. In response to the NOID, the Petitioner asserted that a

third-party affidavits. The Petitioner asserts that he qualifies for SIJ status under state and federal law, the Family Court is a juvenile court with jurisdiction to make determinations for the care and custody of children between the ages of 18 and 21, the Family Court's guardianship proceedings produce orders that satisfy SIJ requirements, and a primary reason in seeking the SIJ order was to obtain relief from parental maltreatment. In addition, the Petitioner claims that it is not in his best interest to return to Bangladesh and USCIS does not have the authority to question the Family Court's jurisdiction and best interest determinations. Lastly, the Petitioner claims that he submitted sufficient evidence to determine his date of birth. We note that the Petitioner did not address the SIJ order not specifying whether the lack of viability of reunification was due to abuse, neglect, abandonment, or a similar basis under state law.

Based on a *de novo* review of the record below, we adopt and affirm the Director's decision that the Petitioner did not establish by a preponderance of the evidence that he warrants USCIS' consent, as his SIJ order lacks a qualifying determination that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law. *See, e.g., Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) does not preclude adopting or affirming the decision below "in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) (noting that, "[a]s a general proposition, if a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by" the decision below, "then the tribunal is free to simply adopt those findings" provided the tribunal's order reflects individualized attention to the case"). The Director's decision thoroughly discussed relevant evidence submitted by the Petitioner, namely his SIJ order which did not specify whether the lack of reunification viability was due to abuse, neglect, abandonment, or a similar basis under state law. The Petitioner's submission on appeal did not include new evidence which would overcome the Director's findings.

As we determined that the Petitioner has not established by a preponderance of the evidence that he warrants USCIS' consent, we decline to reach and hereby reserve the Petitioner's arguments that he was under the age of 21 when he filed his SIJ petition. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

ORDER: The appeal is dismissed.

smuggler used a wrong date of birth for him even though this alternate date of birth is associated with his fingerprints. Furthermore, the Petitioner's birth certificate was registered seven years after the date of birth listed, [REDACTED] 1999, and his passport was issued 21 years after his claimed date of birth. Lastly, the Director noted the letter from his primary school headmaster was insufficient to establish his date of birth. Therefore, the Director was unable to determine the Petitioner's true date of birth.