



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

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

In Re: 22319444

Date: NOV. 10, 2022

Motion on Administrative Appeals Office 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 New York, New York District Office denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and we dismissed the Petitioner's subsequent appeal. We also dismissed the Petitioner's combined motion to reopen and motion to reconsider. The matter is now before us on a second motion to reopen and reconsider. On motion, the Petitioner submits additional evidence and asserts his eligibility for SIJ classification. Upon review, we will grant the motion to reopen and sustain the appeal. The motion to reconsider is moot.

I. LAW

A motion to reconsider is based on an incorrect application of law or policy to the prior decision and a motion to reopen is based on documentary evidence of new facts. The requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3), and the requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

To establish eligibility for SIJ classification, a petitioner 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 of their parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b). The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner in the custody of a state agency or an individual or entity appointed by the state or 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 petitioner's 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).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when a 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. 8 C.F.R. § 204.11(b)(5). 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. *Id.* The petitioner bears 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 filed his SIJ petition in September 2016. The Director denied the SIJ petition, and the Petitioner filed an appeal. In our prior decision on appeal, we determined that the Petitioner had overcome the Director's conclusions that the Family Court was not acting as a juvenile court and had not made a qualifying determination that it was not in his best interest to return to India. However, we indicated that the Petitioner remained ineligible because he had not established that the Family Court made a qualifying parental reunification determination under state law and that USCIS' consent to his SIJ classification was warranted. Thereafter, the Petitioner filed a motion to reopen and reconsider. In our prior decision on motion, we found that the Petitioner had established that the Family Court determined that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law, as section 101(a)(27)(J)(i) of the Act requires. However, we concluded that the Petitioner remained ineligible because he had not established that USCIS' consent to his SIJ classification is warranted. Specifically, we noted that there were unresolved discrepancies regarding the Petitioner's identity as he used another identity before a foreign government, and he did not explain why he did so or submit sufficient evidence to resolve the discrepancy between his two identities.

On the instant motion, the Petitioner submits additional evidence, as well as a sworn statement. In the sworn statement, the Petitioner explains that his smugglers "told us to identify ourselves as Nepali with Nepali names they gave us" to the Panamanian government or they would not release them to continue to the United States. The Petitioner further explains that as there was no one in India to protect him from "the political thugs" that endangered his life, he feared of being returned to India if the Panamanian government knew of his Indian identity. He therefore gave the Panamanian government the false Nepali name given to him by the smugglers. The Petitioner attests that he has been continually known as S-S-¹ and provides four sworn affidavits from family friends in India and a letter from his school in India, with his photo attached to each document, confirming that he is S-S-, along with previously submitted identity documents, including school records and an identification card issued by the Government of India.

Upon review, we find that the Petitioner has sufficiently explained why he used a false identity in Panama, and the new documents submitted on motion support his explanation. Therefore, the Petitioner has established that USCIS' consent to his SIJ classification is warranted.

¹ We use initials to protect privacy.

III. CONCLUSION

The Petitioner has provided documentary evidence sufficient to establish his eligibility. Consequently, on motion to reopen, the Petitioner has demonstrated his eligibility for SIJ classification.

ORDER: The motion to reopen is granted and the appeal is sustained.