



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

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

In Re: 19289203

Date: NOV. 22, 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. On appeal, the Petitioner asserts his eligibility for SIJ classification. The Administrative Appeals Office 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 sustain 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) 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).

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

A. Relevant Facts and Procedural History

The Petitioner entered the United States in May 2016. In [REDACTED] 2019, the Family Court of [REDACTED] New York (Family Court) issued an order entitled Special Findings Order (SIJ order). The SIJ order provided, in pertinent part, that the Petitioner is dependent upon the Family Court and has been placed in the custody of an individual appointed by the Family Court. The SIJ order further provided that the Petitioner's reunification with his father was not viable due to neglect, and it was not in the Petitioner's best interest to be returned to Nigeria, his country of nationality. Based on the SIJ order, the Petitioner filed his SIJ petition in November 2019.

Prior to issuing a decision, the Director issued a notice of intent to deny (NOID). The NOID stated that the record contained inconsistent documentation regarding the factual basis for the petition, particularly the Petitioner's date of birth. Specifically, the record contained a Nigerian passport with a date of birth of [REDACTED] 24, 2001; a copy of a Nigerian birth certificate, registered in November 2016, with a date of birth of [REDACTED] 24, 1999; and a New York City (NYC), Department of Education (DOE) form, signed by the Petitioner's mother indicating that the Petitioner's date of birth is [REDACTED] 24, 1999. The NOID also stated that while the SIJ order and supporting documentation indicated that the Petitioner's father had not been a consistent presence in his life for over a decade, in 2016, the Petitioner and his mother each submitted a Form DS-160, Nonimmigrant Visa Application (Form DS-160), and indicated that they resided at the same address as the Petitioner's father.

In response to the NOID, the Petitioner submitted, inter alia, identification documents issued in the United States with the [REDACTED] 24, 1999, date of birth; a copy of the Petitioner's father's Nigerian voter's registration card reflecting that his father does not live in the same town as his mother; and updated affidavits indicating that in 2016, the Petitioner and his mother did not know where the Petitioner's father resided, and therefore, they listed their own address as the father's last known address on the Form DS-160.

The Director denied the SIJ petition concluding that the Petitioner did not provide sufficient proof of his age or meet his burden of showing that his petition for SIJ classification is bona fide and that USCIS' consent is warranted.

B. USCIS' Consent is Warranted

To warrant USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence include the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). In addition, these documents must include relief, granted or recognized by the juvenile court, from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(d)(5)(ii). The regulations specify that such relief may include a court-ordered custodial placement, court-ordered dependency on the court for the provision of child welfare services, or court-ordered or recognized protective or remedial relief. *Id.*

A request for SIJ classification must be bona fide for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). To demonstrate a bona fide request, a petitioner must establish a primary

reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). If the evidence contains a material conflict related to SIJ eligibility requirements so that the record reflects a request is not bona fide, USCIS may withhold consent. *Id.*

On appeal, the Petitioner asserts that his submitted birth certificate accurately reflects his date of birth of [REDACTED] 24, 1999. He contends that his original birth certificate was lost in 2010 when his family fled northwestern Nigeria due to ethnic violence and religious persecution. He further contends that even if we were to conclude that his father resided with him until his departure from Nigeria, the Family Court determined that his father neglected him and that reunification with his father was not viable. In addition, he states that his mother passed away in February 2021, and as a result, he has now established that he also cannot reunify with his mother due to abandonment.

We acknowledge the Director's finding that the record contains inconsistent evidence regarding the Petitioner's date of birth. However, attributing any of the birth dates to him would result in a determination that the Petitioner was under 21 years of age on the date that he filed his SIJ petition, as required under the Act. Further, the Petitioner has adequately explained the inconsistencies regarding his father, and if any ambiguity remains, it does not materially conflict with the Family Court's determination that the Petitioner's father abandoned the Petitioner. Therefore, the inconsistencies do not constitute a material conflict related to SIJ classification requirements.

As stated above, USCIS' consent function is limited to determining whether there are reasonable factual bases for the court's parental reunification and best interest determinations, whether relief from parental maltreatment was granted or recognized, and whether the request for SIJ classification is bona fide. We do not go behind a court order to reevaluate determinations of abuse, neglect, abandonment, or a similar basis properly made under state law. See 87 Fed. Reg. 13066, 13086 (March 8, 2022) ("USCIS does not go behind the juvenile court order to reweigh evidence and generally defers to the juvenile court on matters of State law."). Here, guardianship of the Petitioner was granted to an individual appointed by the Family Court, the Family Court determined that the Petitioner was neglected by his father who "failed 'to exercise a minimum degree of care' in supplying the child with adequate food, clothing, shelter, or education, or in providing the child with proper supervision or guardianship," and the Family Court made all of the requisite findings relevant to the Petitioner's eligibility for SIJ classification. As such, the Petitioner has established both a factual basis for the Court's determinations and that a primary reason he sought SIJ classification was to obtain relief from parental maltreatment.

Based upon the evidence submitted on appeal, the Petitioner has overcome the Director's determination and established, by a preponderance of the evidence, that a primary reason he sought the juvenile court orders to obtain relief from parental abandonment and neglect and that the Court, in fact, granted such relief. Consequently, the Petitioner's request for SIJ classification merits USCIS' consent under section 101(a)(27)(J)(iii) of the Act.

ORDER: The appeal is sustained.