



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 20968950

Date: OCT. 13, 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 the Petitioner is ineligible for SIJ classification because he was over the age of 21 when he filed his SIJ petition. 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 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) of the Act; 8 C.F.R. § 204.11(b).¹ 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 [] 11, 1999. On [] 10, 2020, one day before the Petitioner turned 21 years old, 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 [] 10, 2020, and USCIS received it on [] 11, 2020.

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).

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

We acknowledge that the Petitioner mailed the SIJ petition to USCIS one day 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 10, 2020, 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(c)(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).

Here, 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.