



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

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

In Re: 26953630

Date: JUL. 06, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner, a native and citizen of Bangladesh, 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 denied the petition, concluding that the Petitioner did not establish that the state court made a qualifying parental reunification finding. The Director further concluded the record contained material inconsistencies related to the Petitioner's date of birth, which made it impossible to determine the Petitioner's accurate age or date of birth. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion to reopen, the Petitioner submits an additional affidavit from a religious worker from his home community, who serves as a birth date witness. He also provided an affidavit from himself; however, this affidavit is identical to that submitted with his appeal, including only one new line identifying the nature of the religious worker's affidavit. The Petitioner asserts that these new facts establish eligibility, as they confirm his accurate date of birth. We previously considered substantial evidence in this case, and the new evidence submitted by the Petitioner with his motion to reopen does not establish new facts such that it overcomes the multiple grounds for our prior dismissal and establishes his eligibility for SIJ classification. Thus, the Petitioner's motion to reopen is dismissed.

On motion to reconsider, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner reiterates his prior arguments regarding his eligibility for SIJ classification, all of which we previously reviewed on appeal. He does not specifically cite any error of law or policy at the time of our prior decision, rather he relies on general assertions of error. The Petitioner's contentions in his current motion merely reargue facts and issues we have already considered in our previous decision. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (stating that "a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). He has submitted a nearly identical brief in support of his motions. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motions will be dismissed.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.