



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

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

In Re: 18985914

Date: MAY 23, 2023

Appeal of National Benefits Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 denied the petition, concluding that the record did not establish that USCIS' consent to the Petitioner's SIJ classification is warranted. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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). 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 sustain the appeal.

I. LAW

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 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). The petitioner 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 petitioner's best interest to return to their or their parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

SIJ classification may only be granted upon the consent of the Secretary of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (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). 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. 8 C.F.R. § 204.11(b)(5).

II. ANALYSIS

A. Relevant Facts and Procedural History

In [] 2017, the [] County Family Court in New York issued an order appointing a guardian for the Petitioner in proceedings brought under section 661 of the New York Family Court Act and section 1707 of the New York Surrogate's Court Procedure Act. The order stated that "the appointment shall last until the [Petitioner's] 21st birthday, since [she] is over 18 and has consented to the appointment until [she] . . . reaches the age of 21" In a separate *ORDER – Special Immigrant Juvenile Status* (SIJ order) issued on the same date, the Family Court determined, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner is "dependent on the Family Court" under New York law. Additionally, the Family Court found that the Petitioner's reunification with her father, S-O-O-,¹ was not viable due to his death, which the court determined qualified as a similar basis and "extraordinary circumstances" under New York law. Further, the Family Court found that it would not be in the Petitioner's best interest to return to Nigeria, her country of nationality, because there is no one there who would be willing and able to support her. As relevant here, the Family Court also noted that the Petitioner's legal name was one with the initials S-N-O- but that she was also known by a name with initials V-E-O-.²

In October 2020, the Director issued a notice of intent to deny (NOID), informing the Petitioner in relevant part that due to unresolved inconsistencies in the record, USCIS' consent to her SIJ classification was not warranted. The Director explained that the names of the Petitioner's parents as listed on her birth certificate were different than the names she provided on her application for a B1/B2 nonimmigrant visa in 2015. Also, the Director indicated that the death certificate the Petitioner provided for her father stated that he died in July 2007 but the registration date on the death certificate was July 2016, and the name listed there differed from the name she provided for her father on her B1/B2 visa application.

In response to the Director's NOID, the Petitioner submitted an amended SIJ order, dated [] 2020 but issued nunc pro tunc to the date of the original order. In the amended order, the Family Court noted in relevant part that the Petitioner's name at birth was V-E-O- and that, per the birth certificate the Petitioner submitted to the court, her biological parents were S-O-O- and A-U-O-. The Family Court acknowledged that the Petitioner changed her name to S-N-O- in 2015, and that it "credit[ed] the [Petitioner's] testimony as to her date of birth, age, name, and parents' identities." The court stated that the Petitioner's reunification "with [S-O-O-], who this Court determines to be the child's legal father, is not viable" Further, the Family Court specified that it appointed a guardian for the Petitioner "in order to relieve [her] from the death of her father, which left the [Petitioner] in a position similar to a 'destitute child' under New York law." The Family Court noted that the Petitioner's father died in July 2007 and that she submitted a death certificate showing his death was registered in July

¹ We use initials throughout this decision to protect privacy.

² Other documentation in the record shows that the Petitioner's given name at birth included two middle names, forming the initials V-E-C-O-.

2016. The court stated that it “accords the death certificate full weight as proof that the [Petitioner’s] father, [S-O-O-], is deceased, and full weight as to date of death,” and that the court “credits the [Petitioner’s] testimony as to her father’s date of death.”

As further support in her NOID response, the Petitioner submitted a sworn and notarized personal affidavit explaining that her father died when she was a child, after which her mother struggled to support the family. An acquaintance of her mother’s named Y-O- offered to take the Petitioner in and help her obtain legal status in the United States. Accordingly, the Petitioner’s mother sent her to live with Y-O- in 2014, when she was 17 years old, and Y-O- then told her that “in order for [Y-O-] to help [her], [she] had to change [her] name legally to [S-N-O-]³ and convert to Islam.” The Petitioner recalled that she did not want to do so, but felt she had no choice because she knew her mother could not care for her and she “was trying to be a good daughter and do what [her] mother wanted.” The Petitioner recalled that Y-O- made her “cook, clean, shop, and take care of the home,” care for Y-O-’s child, and work part-time in sales, without any compensation and on a schedule determined by Y-O-. She stated that Y-O- “presented herself as very controlling and powerful” and screamed at her if she did not do the work the way she wanted. Also, she noted that her mother and another friend paid Y-O- to care for the Petitioner, but the money was not used to provide for her basic needs, and she believes her mother was intimidated by Y-O-. According to the Petitioner, Y-O- also forced her to have dinner with a much older man, who paid Y-O- for the opportunity to spend time with the Petitioner and attempted to touch her while they were riding together in a car.

In about January 2015, Y-O- told the Petitioner and her mother that she was a lawful permanent resident in the United States and would bring the Petitioner here to attend college. Y-O- filed visa and passport applications on the Petitioner’s behalf, without showing her the documents or asking her for any information, and then took her to [REDACTED] Nigeria for the visa interview. The Petitioner recalled that Y-O- held her and several other people, for whom she was also applying for visas as her family members, in a hotel room in [REDACTED] for several days prior to the visa interview. One day, Y-O- called the Petitioner to the hotel bar and made her sit in the lap of an older man who “wanted to meet [her] and give [her] a gift,” and the man paid Y-O- for this encounter. When Y-O- took the Petitioner to the visa interview, she instructed her to be quiet and let Y-O- answer all the questions and that if asked, she must say Y-O- was her mother. After she received the visa, Y-O- took it and the Petitioner’s Nigerian passport. During travel to the United States, Y-O- again instructed the Petitioner to tell officials that Y-O- was her mother.

Upon arrival in the United States, the Petitioner learned that Y-O- was not a lawful permanent resident, did not have a home here, and would not help her attend college. Instead, they lived with someone the Petitioner did not know and she had to sleep on the floor in the living room. Y-O- forced the Petitioner to work doing hair in order to support Y-O- and her son. The Petitioner eventually escaped but Y-O- continued to threaten her and her mother. Later, the Petitioner’s mother told her that Y-O- had returned to Nigeria and threatened her there. The Petitioner’s mother died in 2017, after which Y-O- called the Petitioner “to tell [her] that she had heard [she] was an orphan now.”

The Petitioner also provided with her NOID response affidavits and identification documents from her two brothers, both of whom confirmed the identities of the Petitioner’s parents and explained the

³ S-N-O-’s surname is the same as that of Y-O-, reflecting a claimed family relationship.

circumstances around their father's death and the Petitioner's name change. Her elder brother stated that the family was surprised when Y-O- obtained a passport for the Petitioner in the name of S-N-O, but Y-O- said it would "make things smoother with the visa application." He also expressed that he was concerned about the Petitioner's situation while she lived with Y-O- but did not feel he could oppose his mother, who was under a lot of stress and "wanted to be careful in how she handled the relationship with [Y-O-]" in order to avoid problems. Additionally, the Petitioner submitted a Sworn Affidavit of Name Change filed before the Chief Magistrate's Court of [REDACTED] Nigeria in September 2015, changing her name from V-E-O- to S-N-O; a copy of the notice of name change that appeared in a Nigerian newspaper in September 2015; her passport, visa, and Form I-94 showing her name as S-N-O-; a funeral announcement for her mother; and country conditions information relating to Nigeria.

The Director denied the SIJ petition based on a conclusion that the Petitioner did not merit USCIS' consent to the grant of SIJ classification. The Director explained that because the Petitioner's nonimmigrant visa application falsely listed Y-O- as her mother and a man named L-O-⁴ as her father, and that information differed from the information she provided in support of her SIJ petition, USCIS was unable to determine that the Petitioner's request for SIJ classification is bona fide. Although the Director listed the evidence the Petitioner had provided in response to the NOID, the Director did not address any of that evidence in detail or explain why it was insufficient to resolve the noted discrepancies.

B. USCIS' Consent is Warranted

Upon de novo review of the record in its totality, the Petitioner has submitted sufficient evidence to resolve the inconsistencies in the record and meet her burden of showing by a preponderance of the evidence that USCIS' consent to her SIJ classification is warranted. SIJ classification may only be granted upon the consent of the Secretary of Homeland Security, through USCIS, where the petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act. For USCIS to consent, the request for SIJ classification must be bona fide, which requires the petitioner to establish that a primary reason for seeking the juvenile court determinations 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.*

On appeal, the Petitioner submits copies of her 2014 identification documents from a Nigerian state university and a local college, both listing her name as V-E-O- and bearing her photograph; her biological mother's Nigerian passport and National Identification Number Slip; her biological father's employment identification card; her biological brother's Nigerian passport; non-precedent AAO decisions relating to USCIS' consent in SIJ cases; a *Notice of Confirmation as a Human Trafficking Victim in New York State* from the New York State Office of Temporary and Disability Assistance, stating that she qualifies for services based on a determination that meets state criteria as a trafficking victim; and copies of previously submitted evidence.

⁴ The surname for L-O- is the same as the surname of Y-O- and the Petitioner's changed name, S-N-O-.

Additionally, she provides a 2021 psychological evaluation from a licensed clinical psychologist. The evaluation reflects that the Petitioner provided a consistent report of her experience of being sent to live with Y-O- after her father's death. As she had stated in her personal affidavit, the Petitioner told the psychologist that Y-O- was an intimidating person who mistreated her, forced her to work without pay and spend time with older men, demanded money from the Petitioner's family, and falsely promised to help her get an education in the United States. After arriving in the United States, Y-O- again forced the Petitioner to work. The evaluation adds that after the Petitioner escaped Y-O-, she lived with a couple in Maryland whom she met through a coworker, but the man violently raped her twice and physically injured her during other attempts. She informed the psychologist that she was afraid to report the man because she had nowhere else to live and thought she would be deported. Additionally, the evaluation confirms that the Petitioner changed her name because Y-O- demanded it, and that her mother told her "to do as [Y-O-] instructed." However, the Petitioner told the psychologist that she prefers to be called by her birth name, V-O-, as that name "is associated with her innocence and represents the person who did not undergo such horrific traumas." The psychologist determined that the Petitioner meets the criteria for post-traumatic stress disorder and "exhibits symptoms of complex trauma" due to experiences including poverty, "forced involvement in commercial sexual exploitation, forced labor without pay, and rape."

In addition to the other evidence discussed above, the Petitioner also previously submitted her original birth certificate, which was issued in Nigeria in 2002 and listed her name as V-E-C-O-, her father's name as S-O-, and her mother's name as A-U-O-. Furthermore, in September 2021 she filed a Notice of Name Change to USCIS accompanied by an August 2021 order from the Civil Court of the City of [redacted] granting her petition to legally change her name back to her birth name, V-E-C-O-.

A preponderance of the evidence demonstrates that the Petitioner was named V-E-C-O- upon her birth in Nigeria in 1996 and that Y-O- forced her to legally change her name to S-N-O-, thus sharing Y-O-'s surname, for purposes of filing a visa application on her behalf in 2015. At that time, the Petitioner was living under Y-O-'s control due to her family's difficult circumstances and followed her mother's instructions to comply with Y-O-'s demands in order to avoid problems for her family. Although the Petitioner's nonimmigrant visa application listed her name as S-N-O- and listed Y-O- as her mother and L-O- as her father, she has provided significant documentary evidence to establish her true identity, family relationships, the death of her father, and the circumstances surrounding her name change, visa application, and travel. The record contains credible evidence of the coercive, abusive, and dishonest behavior of Y-O- toward the Petitioner and her family and provides a reasonable explanation for the discrepancies between the Petitioner's visa application and the information she provided the Family Court. Furthermore, the Family Court explicitly acknowledged the Petitioner is known by two different names, made a clear finding about her identity and that of both of her parents, and specified that it accords her testimony and her father's death certificate "full weight."

Accordingly, the record shows that the Family Court was fully informed when it made determinations regarding her guardianship and ability to reunify with her father as a result of his death, which is a similar basis under New York law. We will not look behind the Family Court's 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."); *see also* 6 USCIS Policy Manual J.2(A), <https://www.uscis.gov/policy-manual> (providing guidance to officers

on deference to juvenile court determinations made under state law and explaining that we do not go behind a juvenile court order to make independent determinations about abuse, neglect, abandonment, or a similar basis under state law). The Director erred by not providing an analysis of the evidence the Petitioner submitted in response to the NOID to explain the discrepancies in her case, and the record as supplemented on appeal provides further support for the Petitioner's claims.

The inconsistencies in the record about the Petitioner's identity, her parents' identities, and her father's death have been resolved by a preponderance of the evidence. Therefore, this information does not "materially conflict[]" with her SIJ petition assertions and the Family Court's findings such that consent may be withheld. *See* 8 C.F.R. § 204.11(d) ("USCIS may withhold consent if evidence materially conflicts with the eligibility requirements . . . such that the record reflects that the SIJ classification was not bona fide."). Accordingly, the Petitioner has met her burden to establish that she is eligible for and merits USCIS' consent to her SIJ classification. The Director's decision is withdrawn and the appeal is sustained.

ORDER: The appeal is sustained.