



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

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

In Re: 27668110

Date: SEP. 11, 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 the Petitioner was under 21 years of age at the time he filed his Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (SIJ petition). 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 dismiss the appeal.

To establish eligibility for SIJ classification, petitioners must establish that they are unmarried, under 21 years of age, 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)(i) of the Act; 8 C.F.R. § 204.11(b).¹ Petitioners must have been declared dependent upon a juvenile court, or the juvenile court must have placed them in the custody of a state agency or an individual appointed by the state agency or the juvenile court. Section 101(a)(27)(J)(i) of the Act. 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 parent's country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act.

The Petitioner was born on [REDACTED] 2000, in El Salvador. In [REDACTED] 2021, when the Petitioner was 20 years old, the Circuit Court of [REDACTED] County, Maryland, issued an *Order Granting Sole Legal and Physical Custody* to C-Y-M-², and an *Order Regarding Minor Child's Eligibility for*

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).

² We use initials to protect the identity of individuals.

Special Immigrant Juvenile Status Pursuant to MD FL Sec. 1-201(b)(10) (SIJ order). The SIJ order determined that reunification with the Petitioner's father was not viable due to past abandonment and neglect and that it was not in his best interest to return to El Salvador. On October 5, 2021, the Petitioner's SIJ petition was received by USCIS. In their decision, the Director noted that the United States Postal Service tracking number indicated that the package containing the SIJ petition was marked as delivered on October 6, 2021, but that the SIJ petition was receipted by USCIS on October 5, 2021; however, as the Petitioner's date of birth is [] 2000, he was over 21 years of age when his petition was received.

On appeal, the Petitioner submits copies of the same documents that were provided in response to a notice of intent to deny issued by the Director. The Petitioner does not provide any new evidence, nor does he contend that the Director's decision was based on any erroneous conclusion of law or statement of fact. In our de novo review of the record, we agree with the Director's determination that the Petitioner was over 21 years of age at the time his SIJ petition was received by USCIS as it was received the day after his 21st birthday. As such, he remains ineligible for SIJ classification. *See* 8 C.F.R. § 204.11(b)(1).

ORDER: The appeal is dismissed.