



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

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

In Re: 27816396

Date: SEP. 15, 2023

Appeal of National Benefits Center Decision

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

The Petitioner, a native and citizen of Guatemala, 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 the Petitioner was ineligible for SIJ classification as he was over the age of 21 when he filed his SIJ petition. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner asserts that he has demonstrated his eligibility for SIJ classification.

To establish eligibility for SIJ classification, petitioners must show, in part, 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 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.

In [ ] 2021, when the Petitioner was 20 years old, the [ ] County Superior Court (Superior Court) issued an order containing findings related to the Petitioner's eligibility for SIJ classification (SIJ order). The SIJ order placed the Petitioner under the custody of his sister and concluded that reunification was not viable with either of the Petitioner's parents due to neglect. Based on that SIJ order, the Petitioner filed his SIJ petition. USCIS received the SIJ petition on [ ] [ ] 2021 – two days after the Petitioner's 21st birthday. The Director issued a notice of intent to deny (NOID) in September 2022, indicating the SIJ petition would be denied on the basis the Petitioner was not under 21 years of age at the time of filing and inviting the Petitioner to submit any additional evidence supporting his eligibility for SIJ classification. The Petitioner responded to the NOID in December 2022, submitting a copy of the receipt and tracking information for the SIJ petition package, a letter from his attorney, and a news article about holiday shipping delays. The Director subsequently denied the SIJ petition in January 2023, finding the Petitioner failed to establish he was under 21 years of age at the time of filing his SIJ petition.

On appeal, the Petitioner asserts his SIJ petition should be granted an exception by USCIS and received as timely filed. He acknowledges he was over 21 years old when USCIS received his SIJ petition, but he requests the SIJ petition be treated as timely filed due to the delay in delivery on the part of the mail carrier.

During the pendency of the Petitioner's appeal, USCIS issued policy guidance clarifying the definition of "day" at 8 C.F.R. § 1.2 and associated paper-based filing periods ending on Saturdays, Sundays, or federal holidays. *See* 1 *USCIS Policy Manual* B.6, <https://www.uscis.gov/policy-manual>; *see also* Policy Alert PA-2023-10 *Filing Periods and Response Timeframes Ending on Saturdays, Sundays, or Federal Holidays* (March 29, 2023), <https://www.uscis.gov/policy-manual/updates>. The policy guidance clarifies that, when the last day of a filing period for a paper-based benefit request, such as the last day before the requestor's birthday, ends on a Saturday, Sunday, or a federal holiday, 8 C.F.R. § 1.2 extends the filing period until the end of the next business day. *See* 1 *USCIS Policy Manual*, *supra*, at B.6(D). Here, the Petitioner's 21st birthday was Sunday, [REDACTED] 2021, and the day prior to the Petitioner's birthday was a Saturday and a federal holiday. Therefore, the Petitioner's SIJ petition must have been received by USCIS on the following business day, [REDACTED] 2021, to be timely filed. However, the Petitioner's SIJ petition was received on Tuesday, [REDACTED] 2021. Thus, it was not timely filed, even under the clarifying policy guidance. As such, the Petitioner was 21 years old at the time of filing and ineligible for SIJ classification. His SIJ petition remains denied, and we dismiss his appeal.

**ORDER:** The appeal is dismissed.