



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

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

In Re: 29183398

Date: DEC. 01, 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). *See* Immigration and Nationality Act (the Act) sections 101(a)(27)(J) and 204(a)(1)(G), 8 U.S.C. §§ 1101(a)(27)(J) and 1154(a)(1)(G). SIJ classification protects foreign-born children in the United States who cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law.

The Director of the National Benefits Center denied the petition, concluding that the record did not establish that the Petitioner was under 21 at the time of filing. 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 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). U.S. Citizenship and Immigration Services (USCIS) has sole authority to implement the SIJ provisions of the Act and regulation. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 471(a), 451(b), 462(c), 116 Stat. 2135 (2002).

On appeal, the Petitioner indicates that she was diligent in completing and submitting the Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), as she submitted the required forms the day after the case was heard in state court. She includes a mailing confirmation indicating that the SIJ petition was shipped on October 20, 2021, before her 21st birthday; it was scheduled to be delivered on October 21, 2021, also before her 21st birthday. The Petitioner argues that the postal service's failure to timely deliver the parcel is out of her control and should not be held against her. She asks USCIS to exercise its discretion and not allow a technical mailing error to jeopardize her future.

The documentation provided indicates that the Petitioner was born [] 2000, and the Petitioner does not contest this fact on appeal. The Petitioner also does not contest that her SIJ petition was ultimately not received until May 9, 2022, several months after she turned 21. The requirement that an SIJ petition be filed when a petitioner is under the age of 21 is outlined by regulation. 8 C.F.R. § 204.11(b)(1). We do not have the authority to waive the initial eligibility requirements for particular benefits classifications. While we are sympathetic to the hardship this may cause the Petitioner, we are unable to provide the requested relief.

ORDER: The appeal is dismissed.