



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

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

In Re: 28768208

Date: NOV. 01, 2023

Motion on Administrative Appeals Office 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 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). 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 Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile) (SIJ petition), finding that the Petitioner was not under the age of 21 at the time of filing. We dismissed the subsequent appeal and combined motion to reopen and to reconsider. The matter is now before us on a second motion to reopen. 8 C.F.R. § 103.5(a)(2).

On motion, the Petitioner submits a brief, a copy of pages from his passport, and printouts discussing the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005). The Petitioner asserts that these new facts establish his eligibility for SIJ classification. Upon review, we will dismiss the motion.

I. LAW

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).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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).

One of the requirements petitioners must show to establish eligibility for SIJ classification is that they were “under 21 years old” at the time of filing of their petition. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(b). Evidence of age can be in the form of a valid birth certificate, official

government-issued identification, or other document that in U.S. Citizenship and Immigration Services' (USCIS) discretion establishes the petitioner's age. 8 C.F.R. § 204.11(b).

II. ANALYSIS

We herein incorporate the relevant facts and procedural history discussed in the Director's January 2021 decision denying the SIJ petition and our decisions on appeal and on motion. We highlight or add the below facts for our analysis of the instant motion. The Petitioner filed his SIJ petition in June 2020 and included a birth certificate indicating his date of birth was in 2001. The Director denied the SIJ petition, determining the Petitioner had not established he was under the age of 21 at the time of filing because government records indicate that the Petitioner used a 1998 date of birth during four different immigration encounters outside the United States prior to entry. The Director found the evidence provided by the Petitioner in support of his age did not overcome this inconsistency, explaining, for example, that the birth certificate he submitted was registered in 2014, 13 years after the date of birth indicated on the birth certificate. On appeal we reviewed the record de novo and concluded that the documents submitted by the Petitioner had not established by a preponderance of the evidence that his actual birth date is in 2001. On combined motion, the Petitioner submitted additional documents and, in our dismissal, we concluded that the Petitioner had not identified any incorrect application of law or policy in our appeal decision or that we erred in our analysis of the evidence before us at the time of our decision. We also explained how the new evidence provided did not overcome the inconsistencies in the record with respect to the Petitioner's date of birth and detailed how they added additional discrepancies into the record.

In the instant motion to reopen, the Petitioner asserts we erred in concluding he had not established he was born in 2001 and includes black and white copies of a few pages of his passport. The passport pages are faint and barely readable, with no security features visible, and evidence that the passport was issued in September 2017, a few months prior to the Petitioner's entry into the United States. A copy of the passport was not previously provided to USCIS, despite being requested in the Director's notice of intent to deny. Under the preponderance of the evidence standard, we examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is "more likely than not" or "probably" true. See generally 1 USCIS Policy Manual E.6, <https://www.uscis.gov/policymanual> (explaining, as guidance, USCIS' policies on analyzing evidence submitted in connection with a benefit request). If the petitioner submits relevant, probative, and credible evidence that leads an officer to believe that a claim is "probably true" or "more likely than not," then the petitioner has satisfied the standard of proof. *Id.* at E.4(B). The prior inconsistencies raised in the record, along with a lack of explanation as to how the Petitioner obtained the passport, what documents the Petitioner used to verify his identity in order to obtain the passport, and why he did not provide this passport to U.S. immigration officials at entry or to other officials when traveling through other countries, weighs against the authenticity and probative value of the passport copies in establishing the Petitioner's age. We therefore conclude that this submission does not establish the Petitioner's age by a preponderance of the evidence, or that we erred in our analysis of the evidence in our prior decision.

The Petitioner also asserts that we failed to comply with the REAL ID Act by not accepting his passport.¹ According to the Petitioner, a foreign government-issued passport is recognized under the REAL ID Act and is accepted for boarding a U.S. Federal Aircraft and for issuance of a REAL ID driver's license in Virginia. The Petitioner argues that, based on the provisions of the REAL ID Act, his unexpired foreign passport should be deemed sufficient to establish his true identity and age in these proceedings. The Petitioner does not cite to any binding authority in support of his assertion. Rather, the Petitioner includes a printout from the U.S. Department of Homeland Security's website titled, "About REAL ID" which provides, in relevant part:

The REAL ID Act establishes minimum security standards for license issuance and production and prohibits certain federal agencies from accepting for certain purposes driver's licenses and identification cards from states not meeting the Act's minimum standards. The purposes covered by the Act are: accessing certain federal facilities, entering nuclear power plants, and, boarding federally regulated commercial aircraft.

The printout explains the purposes covered by the REAL ID Act, which do not include mandating USCIS to accept foreign passports as reliable, probative evidence in benefit applications. As such, the Petitioner's assertions regarding the REAL ID Act are unavailing.

III. CONCLUSION

Although the Petitioner has submitted additional evidence in support of the motion to reopen, he has not established we erred in dismissing the prior motion or that he is eligible for SIJ classification. Therefore, the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.

¹ To the extent the Petitioner is moving for us to reconsider our prior decision, he did not file a motion to reconsider. Further, to argue reconsideration, the passport would have had to be a part of the evidence in the record at the time of the decision, which it was not. See 8 C.F.R. § 103.5(a)(3) (providing a motion to reconsider must state the reasons for reconsideration; be supported by any pertinent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record at the time of the decision).