



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

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

In Re: 29159156

Date: NOVEMBER 28, 2023

**Motion on Administrative Appeals Office Decision**

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

The Petitioner, a native and citizen of India, 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 USCIS' consent to a grant of SIJ classification was not warranted because the Petitioner did not establish that his request for SIJ classification was bona fide, and we dismissed a subsequent appeal and then later a motion to reconsider. The matter is now before us on a second motion to reconsider. 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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). In our prior decisions, we agreed with the Director's determination that the record contained material inconsistencies relating to the Family Court's parental reunification finding and consequently, the Petitioner did not demonstrate that his request for SIJ classification was bona fide and warranted USCIS' consent. On appeal and in his previous motion, the Petitioner argued, that the record contains no apparent inconsistencies; however apart from this general assertion, he did not explain or address the specific inconsistencies. He also argued that even assuming that there are material inconsistencies in the record, there is no evidence that materially conflicts with the Family Court's determination that he cannot reunify with his parents in part due to their use of excessive corporal punishment, which he noted constitutes "neglect" under New York law. We highlighted that the Family Court, in finding parental neglect, also specifically found that the Petitioner's parents tried to prevent him from attending school, but the Petitioner's own sworn testimony at his asylum interview directly contradicts this factual finding by the Family Court. We concluded that apart from generally asserting that there is no contradiction in his statements, the Petitioner did not address the material inconsistencies between his asylum testimony and the Family Court's findings arising from his assertions in his guardianship proceedings.

In the instant motion, the Petitioner submits an affidavit wherein he reasserts that the information he provided in support of his SIJ petition reflects the true account of his life in India. He also claims that the inconsistencies between information contained in the asylum interview notes and the account he provided in his SIJ petition are due to “misinterpreted evidence and a language barrier.” However, apart from these general assertions, the Petitioner does not clearly identify any incorrect application of law or policy in our previous decision or specify how we erred based on the evidence before us at the time of our decision. 8 C.F.R. § 103.5(a)(3). The Petitioner also does not allege any other error in our previous decisions that would warrant reconsideration.

As the Petitioner reasserts facts we have already considered, he has not established that our prior decision was based on an incorrect application of law or policy or that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision.<sup>1</sup> Thus, he has not met the requirements for a motion to reconsider and the underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.

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<sup>1</sup> See, e.g., *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (noting that “a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision”).