



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

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

In Re: 29200282

Date: SEP. 13, 2024

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 Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (SIJ petition), concluding that the record did not establish that the consent of U.S. Citizenship and Immigration Services (USCIS) for approval of the SIJ petition was warranted because the state court lacked jurisdiction over the Petitioner. The matter is now before us on appeal pursuant to 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.

I. LAW

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). Petitioners must have been declared dependent upon the juvenile court; alternatively, the juvenile court must have placed them in the custody of a state agency or an individual or entity appointed by the state or the juvenile court. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(c)(1). The record must also contain a judicial or administrative determination that it is not in the juvenile's best interest to return to their or their parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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). SIJ

classification may only be granted upon the consent of the Secretary of the Department of Homeland Security (DHS), through USCIS, when the petitioner meets all other eligibility criteria and establishes that the request for SIJ classification is bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5). Petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

A. Petitioner's Signature

The appeal filed by the Petitioner does not contain a valid signature. Benefit requests must be signed by the applicant or petitioner. 8 C.F.R. § 103.2(a)(2). In the instant matter, the Petitioner's signature on the I-290B Notice of Appeal or Motion (appeal), G-28 Notice of Entry of Appearance as Attorney or Accredited Representative (notice of appearance), and the I-912 Request for Fee Waiver (fee waiver) appears to be a photocopy of the Petitioner's signature that was placed into the signature box on each form. The signature is precisely identical in each form and covers the signature box in the same manner on each form. While USCIS does not require an "original" or "wet ink" signature, USCIS will not accept "signatures created by a typewriter, word processor, stamp, auto-pen or similar device." ¹ *USCIS Policy Manual, supra*, at B.2(B) (explaining that these signatures simulate a handwritten signature and can be produced without the knowledge and assent of the petitioner). USCIS will accept the copy of a signed form when the original signature is on the completed immigration form as it serves to authenticate the truthfulness of that specific benefit request and the supporting evidence. *See Matter of Valdez*, 27 I&N Dec. at 499. Here, there is no original signature on the appeal. The appeal is therefore dismissed for lack of a valid signature.

B. Consent Requirement

Had we not dismissed this appeal due to the invalid signature, the Petitioner would still have been ineligible for SIJ classification. Determining that the Petitioner was over 18 at the time the juvenile court issued the order, the Director explained that the juvenile court did not have jurisdiction over the Petitioner under Virginia State law as required by section 101(a)(27)(J) of the Act. Because the juvenile court lacked jurisdiction, the Director reasoned that the SIJ classification was not bona fide and USCIS consent was not warranted. ¹

However, as the Petitioner explained, the record indicates the juvenile court did have jurisdiction over the Petitioner. Va. Code Ann. section 16.1-241(A)(1) allows for initial jurisdiction of a custody matter when, "the Commonwealth is the home state of the child on the date of the commencement of the proceeding" and, "the court may continue to exercise its jurisdiction until such person reaches 21 years of age, for the purpose of entering findings of fact... necessary for the person to petition the federal

¹ Petitioner asserts that in the Notice of Intent to Deny (NOID) the Director failed to raise the issue regarding Petitioner's motivation in seeking the juvenile court order, and therefore denied the Petitioner an opportunity to respond to this issue. Although 8 C.F.R. § 103.2(b)(8)(iii) gives USCIS the discretion to issue a Notice of Intent to Deny (NOID) neither the Act nor the regulations compel us to do so.

government for status as a special immigrant juvenile, as defined by 8 U.S.C. § 1101(a)(27)(J).” *See* Va. Code Ann. section 16.1-241(A)(1). The Petitioner was 17 when the custody proceedings began in the juvenile court and therefore, under Virginia law, the juvenile court properly exercised jurisdiction over the Petitioner as a juvenile under State law pursuant to INA 101(a)(27)(J).

However, in reviewing the record we note that the juvenile court did not make the requisite determinations regarding relief from abuse, abandonment, neglect or a similar basis under state law.² The Petitioner’s mother requested sole legal and primary physical custody, but the juvenile court did not make a custody determination and the order does not indicate that a custodial placement or any other placement was actually ordered. A request for SIJ classification must be bona fide for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). To demonstrate a bona fide request, a petitioner must establish a primary reason for seeking the requisite juvenile court determination was to obtain relief from parental maltreatment and not primarily to obtain an immigration benefit. USCIS recognizes that there may be some immigration-related motive for seeking a juvenile court order. *See* generally 6 USCIS Policy Manual J.2(C)(3), <https://www.uscis.gov/policymanual> (explaining, as guidance, the requirements for USCIS consent). For USCIS to consent, the juvenile court order and any supplemental evidence submitted by the petitioner must include relief from the claimed parental mistreatment. *See* 8 C.F.R. § 204.11(d)(5). In the instant matter, the record does not reflect that the juvenile court provided any protective or remedial relief to the Petitioner or ordered any relief from abandonment.

III. CONCLUSION

As the Petitioner’s signature on the appeal appears to be a photocopy and there is no original signature associated with the appeal, we are unable to determine by a preponderance of the evidence that the appeal was properly executed with a signature from the Petitioner.

ORDER: The appeal is dismissed.

² An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all grounds for denial. *See Spencer Enterprises Inc. v. United States*, 229 F. Supp. 2d 1025 (E.D. Cal, 2001), *aff’d.*, 345 F.3d 683 (9th Cir. 2003).