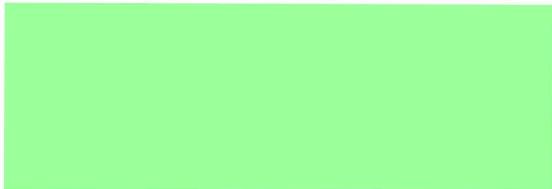




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **APR 02 2014** Office: NEW YORK, NY

IN RE: Self-Petitioner: 

PETITION: Petition for Special Immigrant Juvenile Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(J) of the Act, 8 U.S.C. § 1101(a)(27)(J)

ON BEHALF OF PETITIONER:

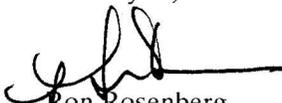


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The New York, New York Field Office Director (the director) denied the special immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed and the petition will remain denied.

The petitioner is a 21-year-old citizen of Ecuador who seeks classification as a special immigrant juvenile (SIJ) as defined at section 101(a)(27)(J) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(27)(J), and pursuant to section 203(b)(4) of the Act, 8 U.S.C. § 1153(b)(4).

Applicable Law

Section 203(b)(4) of the Act allocates immigrant visas to qualified special immigrant juveniles as described in section 101(a)(27)(J) of the Act. Section 101(a)(27)(J) of the Act defines a special immigrant juvenile as:

an immigrant who is present in the United States—

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act[.]

To be classified as an SIJ, an alien must be a child on the date the Form I-360 SIJ petition is filed. 8 C.F.R. § 204.11(c)(1)-(2). A child is defined as an unmarried person under the age of 21. Section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1). A birth certificate, passport, or official foreign identity document may establish the alien's age. 8 CFR § 204.11(d)(1).

Pertinent Facts and Procedural History

The record reflects that the petitioner claims she was born on March 5, 1992 in Ecuador. The petitioner further claims that she entered the United States on December 4, 2007 without inspection when she was 15 years old. On June 28, 2011, the County of [REDACTED] Family Court of the State of New York (juvenile court) awarded guardianship of the petitioner to [REDACTED] when the petitioner was 19 years old. The petitioner filed the instant Form I-360 on July 18, 2012, when she was 20 years old. The director subsequently issued a Request for Evidence (RFE) for, among other things, the petitioner's birth certificate which was not submitted with the Form I-360. The director subsequently denied the petition for failure to respond to the RFE and counsel timely appealed.

On appeal, counsel asserted that the petitioner timely requested an extension of the deadline for submission of her birth certificate and was granted an additional week. He stated that the petitioner submitted the requested documents before the new deadline and that her Form I-360 was erroneously denied. The petitioner submitted a brief statement explaining what occurred, establishing that she timely responded to the RFE. However, the administrative record did not contain the petitioner's birth certificate and no additional documents were submitted on appeal. Consequently, on December 24, 2013, the AAO issued another RFE to provide the petitioner with one last opportunity to cure the remaining deficiencies of record. In this RFE, the AAO afforded the petitioner eight weeks to submit a copy of her birth certificate or other evidence to establish the petitioner's age. 8 CFR § 204.11(d)(1). As of this date, the AAO has received no further correspondence from the petitioner.

Analysis

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." Neither counsel nor the petitioner identifies any specific erroneous conclusion of law or statement of fact in the director's decision and the AAO has received no further evidence in support of the appeal, despite providing the petitioner an additional opportunity to supplement the record. Accordingly, the appeal must be summarily dismissed.

Conclusion

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here that burden has not been met.

ORDER: The appeal is summarily dismissed. The petition remains denied.