



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

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

In Re: 17580003

Date: AUG. 30, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner 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 (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and the matter is now before us on appeal. Upon *de novo* review, we will sustain the appeal.

I. LAW

To establish eligibility for SIJ classification, petitioners must establish that they are unmarried, under 21 years of age, and have been subject to a state juvenile court order determining that they cannot reunify with one or both of their 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).¹ Petitioners must have been declared dependent upon a juvenile court, or the juvenile court must have placed them in the custody of a state agency or an individual appointed by the state agency or the juvenile court. Section 101(a)(27)(J)(i) of the Act. The record must also contain a judicial or administrative determination that it is not in the petitioner's best interest to return to their or their parent's country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act.

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). 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).

¹ The Department of Homeland Security issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for petitioners who seek SIJ classification. *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (revising 8 C.F.R. §§ 204, 205, 245).

II. ANALYSIS

In [] 2020, when the Petitioner was 18 years old, a county court in [] Nebraska (juvenile court) entered an *Order Appointing Guardian for a Minor* ordering that a third-party, J-O-, would be appointed as the Petitioner's guardian.² The order also contained findings that the "father of the [Petitioner] abandoned him at a young age. That the mother of the [Petitioner] neglected him and could no longer care for him and was left to be raised by his grandparents. [T]hat the grandparents became ill and could no longer care for him. That [because] the father abandoned him and mother neglected him reunification is no [sic] possible." Based on that finding, the juvenile court determined that J-O- should be appointed the Petitioner's guardian.

In July 2020, the Petitioner filed his SIJ petition based on the court's order. After reviewing the record, which included the order, the *Application for Appointment of Permanent Guardian of Minor Child*, and a copy of the complete transcript from the proceedings, the Director denied the petition, concluding that the record lacked a qualifying judicial or administrative determination that it would not be in the Petitioner's best interest to return to his or his parent's country of nationality or last habitual residence.

On appeal, the Petitioner's submits a brief asserting his SIJ eligibility. After reviewing all the evidence, we conclude that the Petitioner has shown a qualifying judicial determination that it would not be in his best interest to return to El Salvador, his country of nationality, and we withdraw the Director's determination to the contrary.

SIJ classification requires an administrative or judicial determination "that it would not be in the [juvenile's] best interest to be returned to the [juvenile's] or parent's previous country of nationality or country of last habitual residence[.]" Section 101(a)(27)(J)(ii) of the Act. A petitioner must submit evidence of a best-interest determination made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions. 8 C.F.R. § 204.11(c)(2)(i). While the standards may vary among states, the best-interest determination generally refers to the deliberation undertaken by a juvenile court (or in administrative proceedings recognized by the juvenile court) when deciding what types of services and orders are best for a child, as well as who is best suited to care for the child. See U.S. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway (2016), *Determining the Best Interests of the Child*. See also 6 USCIS Policy Manual, J.2(C)(3), <https://www.uscis.gov/policy-manual/>.

While the order itself does not specifically include the exact language from the Act regarding the Petitioner's best interest, here, we determine that the complete transcript of the guardianship proceedings provided in response to the Director's request for evidence (RFE) includes evidence illustrating that the Court made the necessary judicial determination that it would not be in the Petitioner's best interest to return to El Salvador. During the proceedings, the presiding judge questioned the Petitioner regarding the location of his father and mother and asked if he knew where his mother was in El Salvador. The Petitioner indicated to the court that he did not. Following that, the judge specifically asked the Petitioner, "[i]f [he was] forced to return to [his] country, would [he]

² We use initials to protect the identity of individuals.

have any place to go?” To which the Petitioner responded that he “really wouldn’t – wouldn’t know how to – what to tell [the judge].” The judge then asked the Petitioner if he believed it was in his best interest to remain with J-O- as his guardian, to which the Petitioner responded, “[y]es, that would be so.” Following the judge’s questioning of the Petitioner, he then questioned J-O-, and asked, “[f]rom what [J-O- knew] is it possible that [the Petitioner] goes back to his country?” J-O- answered, “[f]rom what [the Petitioner] has told [him], no.” Finally, the judge asked J-O- if he believed that it was in the Petitioner’s best interest to remain with him as guardian, and J-O- responded “yes.”

In totality, a preponderance of the evidence establishes that the court considered the facts relating to the Petitioner’s circumstances in El Salvador and his circumstances in the United States, conducting an individualized assessment, before determining that it was in the Petitioner’s best interest to be placed in the guardianship of J-O-, thus constituting a qualifying best interest determination for purposes of SIJ eligibility. *See 6 USCIS Policy Manual, J.2(C)(3)*, <https://www.uscis.gov/policy-manual/>, stating that the juvenile court is required to “make an individualized assessment and consider the factors that it normally takes into account when making best interest determinations, and the record should reflect the factual basis for the juvenile court’s determination.”

For these reasons, the Petitioner has overcome the Director’s grounds for denying his petition. The juvenile court order contains a qualifying custody placement and parental reunification and best interest determinations, and it was sought in proceedings granting relief from parental abandonment. Accordingly, the Petitioner has established that his request for SIJ classification warrants USCIS’ consent.

III. CONCLUSION

The Petitioner has met his burden to establish that he is eligible for and merits USCIS’ consent to his SIJ classification. The Director’s decision is withdrawn, and the appeal is sustained.

ORDER: The appeal is sustained.