



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

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

In Re: 20902805

Date: NOV. 17, 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 denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition). The matter is now before us on appeal. 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, a petitioner 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 of their parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b).<sup>1</sup> The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner in the custody of a state agency or an individual or entity appointed by the state or 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 petitioner's best interest to return to their or their parents' country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act; 8 C.F.R. § 204.11(c)(2).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when a 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. 8 C.F.R. § 204.11(b)(5). USCIS may withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona

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<sup>1</sup> 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).

vide. *Id.* The petitioner bears 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. Relevant Factual and Procedural History

In [redacted] 2020, when the Petitioner was 17 years old, the [redacted] Chancery Court (Chancery Court) in Mississippi issued an order titled *Order Granting Custody [off] a Minor* and awarded custody of the Petitioner to her mother, N-M-A-.<sup>2</sup> The Chancery Court stated that “reunification with the [Petitioner’s] father is not viable because the father is deceased”, “it is in the best interest of [the Petitioner] to remain in the State of Mississippi in the long term care, custody, and control of [N-M-A-]”, and “it is not in the best interest of [the Petitioner] to return to her home country.”

Based on the Chancery Court’s order, the Petitioner filed her SIJ petition in November 2020. The Director denied the SIJ petition, concluding that the Petitioner did not submit sufficient evidence, to include documentation provided with the initial filing and her response to the Request for Evidence (RFE), to show that the Chancery Court’s order included the requisite parental reunification determination pursuant to Mississippi state law.

### B. No Qualifying Parental Reunification Determination

To be eligible for SIJ classification, the Act requires a juvenile court determination that a petitioner’s reunification with one or both parents “is not viable due to abuse, neglect, abandonment, or a similar basis found under State law.” Section 101(a)(27)(J)(i) of the Act. 8 C.F.R. § 204.11(c)(1). Because the Act references this finding as made under state law, the record must contain evidence that the juvenile court made a determination based on relevant state law. *See id.*; *see also* 6 *USCIS Policy Manual* J.3(A)(1), <https://www.uscis.gov/policy-manual> (indicating, as guidance, that the SIJ order should use language establishing that the specific judicial determinations were made under state law.)

On appeal, the Petitioner submits copies of previously submitted evidence and asserts that the Director erred by questioning the Chancery Court determinations set forth in the *Order Granting Custody [off] a Minor*. The Petitioner argues that the *Petition for Custody* was based on abandonment by her father, the subsequent court order granting the petition states that reunification with the Petitioner’s father is not viable because he is deceased, and death is a ground for a finding of abandonment under Mississippi state law. She contends that the order satisfies the requirements under section 101(a)(27)(J) of the Act that the Petitioner be placed in the custody of an individual because reunification is not viable due to abandonment or a similar basis under Mississippi law.

Upon *de novo* review, the record supports the Director’s determination that the submitted evidence does not include a qualifying parental reunification determination and the Petitioner has not provided any new evidence on appeal to overcome this deficiency. The Chancery Court order does not specify a Mississippi state law in determining that the Petitioner could not reunify with her father. Though on

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<sup>2</sup> We use initials to protect identities.

appeal the Petitioner refers to Mississippi state law provisions that address whether death constitutes a finding of abandonment under state law, the record does not establish that the Chancery Court's parental reunification determination was issued pursuant to state law. In addition, while the *Petition for Custody* and the affidavits from the Petitioner and her mother discuss the abandonment of the Petitioner by her father, they do not demonstrate that the Chancery Court made a parental reunification determination based on relevant state law. Accordingly, the Petitioner has not met her burden in establishing by a preponderance of the evidence that the Chancery Court determined that parental reunification was not viable due to abuse, neglect, abandonment, and/or a similar basis under state law, as section 101(a)(27)(J)(i) of the Act requires.

**ORDER:** The appeal is dismissed.