



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

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

In Re: 20570169

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 (Director) denied the petition. On appeal, the Petitioner asserts his eligibility for SIJ classification. We review the questions in this matter *de novo*. See *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).<sup>1</sup> Petitioners must have been declared dependent upon the juvenile court, or 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 petitioners' 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).

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). USCIS may also withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona fide. 8 C.F.R. § 204.11(b)(5). Petitioners bear the burden of proof to

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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).

demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

The record reflects that in [redacted] 2018, when the Petitioner was 16 years old, the Circuit Court of the [redacted] Judicial Circuit in [redacted], Florida (circuit court) entered an *Order Granting Petition for Custody by Extended Family* (custody order), granting legal and physical custody of the Petitioner to his uncle until the Petitioner attains 18 years of age, pursuant to chapter 751 of the Florida Statutes (2017), which governs temporary custody of minor children by extended family. The court also determined that it was in the Petitioner's best interest to remain in the United States where he could be protected from further abuse, abandonment, and neglect. The record also contains the *Petition for Temporary Custody by Extended Family* (custody petition) submitted to the circuit court by the Petitioner. The petition stated that the Petitioner's father abandoned him when he was four years old and that his mother had not made any financial arrangements to provide for him since the Petitioner arrived in the United States. Further, the petition cited, among other Florida laws, chapter 751.01(2) of the Florida statutes pertaining the Petitioner's request to have his uncle act as his custodian. The petition also noted the submission of two documents: first, a waiver from the Petitioner's mother and, additionally, a document regarding a diligent search of the Petitioner's father in order to show that he met criteria under chapter 751.03(9) of the Florida Statutes which required either the consent of the child's parents or the specific acts or omission of the parents which demonstrate that the parents have abused, abandoned, or neglected the Petitioner. The custody petition included a waiver from the Petitioner's mother indicating that she was no longer willing and able to care for him and that it was in the Petitioner's best interest to reside with his uncle "so he can be protected from further abuse, abandonment, and neglect." The waiver signed by the Petitioner's mother also characterized the custody arrangement with the Petitioner's uncle as temporary and that she "may, at any time, petition the court to return legal custody to me."

Based on the custody order, the Petitioner filed the instant SIJ petition in November 2018. The Director denied the petition, finding that the order lacked a qualifying determination regarding parental reunification and that USCIS' consent was not warranted under section 101(a)(27)(J)(iii) of the Act.

### B. Lack of Qualifying Parental Reunification Determination

The Act requires a juvenile court's determination that SIJ petitioners 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. The plain language of the Act requires this reunification determination to be made under state law. *See id.*; 8 C.F.R. § 204.11(c)(1). In this case, the Petitioner's custody order does not contain a parental reunification determination by the state juvenile court as required for approval of an SIJ petition.

On appeal, the Petitioner submits a brief and copies of previously-submitted documents. He contends that he has established eligibility for SIJ classification according to all requirements at section 101(a)(27)(J) and, among other arguments, claims that the circuit court made a qualifying parental

reunification determination in his case.<sup>2</sup> He maintains that the circuit court found both that that reunification with one or both of the child's parents is not viable due to abuse or abandonment and found that it is not in the child's best interest to be returned to his previous country of Guatemala, as required by statute. Contrary to the Petitioner's assertion, while the custody order stated that it was in the Petitioner's best interest to remain in the United States and be protected from further abuse, abandonment, and neglect, the circuit court did not make a specific finding regarding any past maltreatment the Petitioner had experienced, nor did the circuit court find that such maltreatment was committed against the Petitioner by his one of his parents. The custody order also did not state that it was not in the child's best interest to be returned to Guatemala, only that it was in his best interest to remain in the United States.

The Petitioner additionally argues on appeal that according to chapter 751.05(3)(b) of the Florida Statutes, a court can only grant a temporary custody petition, such as the one he received, upon a finding, by clear and convincing evidence, that the child's parent or parents are unable to provide for the care and control of the child. He therefore argues that it should be inferred that the granting of the temporary custody order indicates that the circuit court found that a parent had abused, abandoned, or neglected the Petitioner. However, section 751.05(3)(b) of the Florida Statute, as it was in effect when the instant custody order was issued, relates to petitions for temporary custody in the event one of the minor child's parents objects to the petition for temporary custody (West 2018). Here, the Petitioner's custody order does not indicate, and the record does not otherwise reflect, that one of the Petitioner's parents objected to the petition. Indeed, the custody order noted that the Petitioner's mother consented to the arrangement and the Petitioner's father's whereabouts were unknown. Moreover, we note that although chapter 751 of the Florida Statutes was cited in the custody order, chapter 751.05(3)(b) was not. We therefore conclude that this provision is inapplicable to the Petitioner.

Moreover, we note that both the custody order and the custody petition, including the waiver signed by the Petitioner's mother, characterize the custody arrangement between the Petitioner and his uncle as temporary, and cited pertinent Florida law regarding temporary custody arrangements. Although a temporary custody order would not preclude a finding that the Petitioner could not reunify with one or both parents due to maltreatment, the circuit court did not make such a determination here.

As a result, the record, including the custody order and the custody petition, does not reflect that a state court determined that the Petitioner's reunification with a parent is not viable due to abuse, neglect, abandonment, or any similar mistreatment by either of his parents as defined in Florida law, as he asserts. The relevant regulation at states that the "juvenile court must have made" the requisite-SIJ related determinations. 8 C.F.R. § 204.11(c)(1); *see* 6 *USCIS Policy Manual J.2*, <https://www.uscis.gov/policy-manual> (providing, as guidance, that USCIS generally defers to the

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<sup>2</sup> Since the identified basis for denial with respect to the lack of qualifying parental reunification determination from the state juvenile court is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the issue of whether the USCIS' consent is warranted under Section 101(a)(27)(J)(iii) of the Act, as well as the other eligibility requirements the Petitioner addresses on appeal. *See INS v. Bagambashad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

court on matters of state law and does not go behind the relevant order to make independent determinations regarding the requisite SIJ determinations).

The Petitioner therefore has not met his burden of establishing that the Florida state juvenile court made a qualifying determination that his reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under Florida law as section 101(a)(27)(J)(i) of the Act and the regulation require.

Consequently, the Petitioner has not overcome this basis of the Director's denial on appeal and has not demonstrated his eligibility for SIJ classification.

**ORDER:** The appeal is dismissed.