



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

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

In Re: 22198276

Date: NOV. 18, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Mexico, 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), concluding the juvenile court order lacked a qualifying determination that parental reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law, as section 101(a)(27)(J)(i) of the Act requires.

The matter is now before us on appeal. On appeal, the Petitioner asserts that he has demonstrated his eligibility for SIJ classification. 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 sustain 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). 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). 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

In [redacted] 2020, when the Petitioner was 20 years old, the Superior Court of New Jersey, Chancery Division – Family Part [redacted] (Family Court) issued an order (custody order) granting sole custody of the Petitioner to P-A-C-<sup>1</sup>, a family friend. Additionally, in the custody order, the Family Court made determinations pursuant to section 9:6-1 of New Jersey Statutes Annotated, necessary for SIJ eligibility under section 101(a)(27)(J) of the Act. The Family Court determined that the Petitioner’s parents had abandoned him as defined under section 9:6-8.21 of New Jersey law and that it was not in his best interest to be removed from the United States and returned to Mexico, his country of nationality.

Based on the custody order, the Petitioner filed this SIJ petition in November 2020. The Director denied the SIJ petition in October 2021, determining the Petitioner failed to submit a qualifying juvenile court order that showed parental reunification was not viable at the time the SIJ petition was filed with USCIS.

An SIJ petitioner must be declared dependent upon a juvenile court, or be legally committed to, or placed under the custody of a state agency or department, or of an individual or entity appointed by a state or juvenile court. Section 101(a)(27)(J) of the Act. A juvenile court's dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(b). The declaration must include a determination that the SIJ petitioner 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).

Here, the Family Court order includes a qualifying parental reunification determination. The custody order indicates the Family Court determined, under New Jersey law, the Petitioner’s mother and father both separately abandoned him. The Family Court found that both of the Petitioner’s parents have returned to Mexico and are living there, that the Petitioner did not “have any family, career, or support in Mexico,” and it was therefore in his best interest to remain in the United States with his guardian, P-A-C-. In totality, the evidence establishes that the Family Court considered the documentary evidence and testimony presented by the Petitioner prior to making detailed factual findings<sup>2</sup> and issuing a custody order, which included a qualifying determination that reunification with the Petitioner’s parents was not viable due to abandonment, as his parents had returned to Mexico and he was not in contact with them and had no support in Mexico.

The Petitioner has met his burden to establish that he is eligible for SIJ classification and that USCIS’ consent to this classification is warranted, as he sought the juvenile court order to obtain relief from

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<sup>1</sup> Initials are used to protect the privacy of this individual.

<sup>2</sup> The custody order includes findings that the Petitioner’s father abandoned him by returning to Mexico to avoid punishment for sexual abuse allegations and leaving him in the United States with no one to care for him, his mother “was negligent of his basic needs,” and the Petitioner has had no contact with either of his parents since his father abandoned him.

parental abandonment and was granted such relief. The Director's decision is withdrawn, and the appeal is sustained.

**ORDER:** The appeal is sustained.