



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

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

In Re: 18783056

Date: OCT. 13, 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 sustain 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).

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). USCIS may also withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the

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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).

request for SIJ classification was not bona fide. 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).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [ ] 2018, when the Petitioner was 19 years old, the Family Court in [ ] New York (Family Court), issued an *Order – Special Immigrant Juvenile Status* (SIJ order), which included findings that the Petitioner was dependent upon the Family Court; placed in the guardianship of an individual appointed by the Family Court; that the Petitioner’s reunification with his father was not viable due to his father’s death; and that it was not in the Petitioner’s interest to be returned to Guatemala, his country of nationality.

The Petitioner filed his SIJ petition based on this order. The Director denied the petition, concluding that the guardianship order did not contain a qualifying determination that the Petitioner’s reunification with one or both parents 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 Director explained that although the Family Court found that the Petitioner’s reunification with his father was not possible due to his death, the record did not contain evidence that the court made a judicial determination that the Petitioner was subjected to abuse, abandonment, neglect, or a legally equivalent basis under state law.

On appeal, the Petitioner argues his eligibility for SIJ status in a brief and submits an *Order Clarifying an Order* (second order) dated [ ] 2020, indicating findings by the Family Court that Petitioner’s reunification with his father was “not viable due to death, which is a similar basis to abandonment, neglect, or abuse under New York state law” and cites *Matter of Guardianship of Jose YY.*, 69 N.Y.S.3d 733 (App. Div. 3d Dept. 2018), *Carlos A.M. v. Maria T.M.*, 35 N.Y.S.3d 406 (App. Div. 2d Dept. 2016); and *Luis R. v. Maria Elena G.*, 990 N.Y.S.2d 851 (App. Div. 2d Dept. 2014).

### B. Parental Reunification Determination

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). Here, the record reflects that the Family Court’s SIJ order contains a qualifying dependency declaration, as the court cited case law governing such determinations in New York in determining that death of the Petitioner’s father represented a similar basis to abuse, abandonment, or neglect under state law such that the Petitioner’s reunification with him was not viable. As the SIJ order indicates the basis for the Petitioner’s inability to reunify with his father and identifies relevant state law, the juvenile court made the requisite parental reunification determination, and we will not go behind that finding. Accordingly, we withdraw the Director’s determination to the contrary. See 6 USCIS Policy Manual J.2, <https://www.uscis.gov/policy-manual> (providing guidance to USCIS officers on deference to juvenile court determinations made under state law and explaining that USCIS does not go behind a juvenile court order to make independent determinations about abuse, neglect, abandonment, or a similar basis

under state law). Accordingly, the Petitioner has established by a preponderance of the evidence that the juvenile court made a qualifying parental reunification determination, as section 101(a)(27)(J)(i) of the Act requires.

### III. CONCLUSION

The Petitioner has overcome the Director's reasons for denying his petition. The record otherwise demonstrates that the Petitioner meets the remaining eligibility criteria and his request for SIJ classification warrants USCIS' consent under section 101(a)(27)(J). Consequently, the Petitioner has established that he is eligible for and warrants USCIS' consent to his SIJ classification.

**ORDER:** The appeal is sustained.