



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

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

In Re: 5604327

Date: MAR. 11, 2021

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. On appeal, the Petitioner submits a brief and new evidence. The Administrative Appeals Office (AAO) reviews 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, the appeal will be sustained.

## I. LAW

Petitioners bear the burden of proof of demonstrating their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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(c). 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 the petitioner's or the petitioner's parent's country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act.

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 the petitioner meets all other eligibility criteria and establishes that the juvenile court order was sought in proceedings granting relief from parental maltreatment. Section 101(a)(27)(J)(i)-(iii) of the Act. *See also Matter of D-Y-S-C-*, Adopted Decision 2019-02, at 2, 6-7 (AAO Oct. 11, 2019) (providing guidance on USCIS' consent authority as rooted in the legislative history of the SIJ classification and longstanding agency policy).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [ ] 2017, when the Petitioner was 16 years old, a District Court in [ ] Texas (District Court), issued a *Final Order, Findings of Fact, Conclusions of Law, and Declaration of Dependency* (SIJ order), in response to a Suit Affecting the Parent-Child Relationship petition (SAPCR petition) filed on the Petitioner’s behalf. In the SIJ order, the District Court determined that the Petitioner was “dependent on the juvenile court . . . pursuant to the Court’s authority under the Texas Family Code . . . .” The District Court also determined that the Petitioner’s reunification with his parents was “not viable due to abuse and neglect, under Texas Family Code Sections 261.001(1)(B), (4)(A)(ii)(a) and (b),” and it was not the Petitioner’s best interest to be removed to Guatemala, his country of birth, in part, because he “would continue to suffer abuse and neglect at the hands [of his] parents.” Shortly thereafter, and based upon the SIJ order, the Petitioner filed his SIJ petition.

The Director reviewed the evidence and determined the Petitioner did not establish his eligibility for SIJ classification. The Director concluded that the record did not contain a qualifying declaration of dependency or placement of custody because it did not include “information or the name of the individual identified as your managing or possessory conservator in connection with dependency in accordance with Texas State Laws.” On appeal, the Petitioner submits a brief and a copy of the SAPCR petition filed with the District Court.

### B. The District Court Made a Qualifying Declaration of Dependency

SIJ petitioners 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)(i) of the Act. The juvenile court’s dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(3). As part of their burden to establish eligibility for SIJ classification, petitioners must establish the state law that the juvenile court applied in its dependency declaration. *See Matter of D-Y-S-C-*, Adopted Decision 2019-02, at 5 (AAO Oct. 11, 2019) (citing to 8 C.F.R. § 204.11(c)(3) and providing that, because “the dependency declaration or custodial placement must be entered in accordance with the state law that governs such determinations, the state law itself is a question of fact that must be proved by the Petitioner to establish eligibility”). Determining whether petitioners have met this requirement does not exceed USCIS’ authority, as it is required for USCIS to adjudicate their eligibility for SIJ classification under federal law. *See Budhathoki v. Nielsen*, 898 F.3d 504, 511 (5th Cir. 2018) (“Whether a state court order submitted to a federal agency for the purpose of gaining a federal benefit made the necessary rulings very much is a question of federal law, not state law, and the agency had the authority to examine the orders for that purpose”).

At the time of issuance of the District Court’s SIJ order in this case, the Texas Family Code explained SAPCR as “a suit filed . . . in which the appointment of a managing . . . or a possessory conservator, access to or support of a child, or establishment or termination of the parent-child relationship is requested.” Tex. Fam. Code Ann. § 101.032(a) (West 2017). As the Petitioner argues on appeal, a declaration of dependency on the court for purposes of a SAPCR proceeding may include the appointment of a conservator; however, such appointment is not required. Further, in the SIJ order,

the District Court declared the Petitioner to be “dependent on the juvenile court . . . pursuant to the Court’s authority under the Texas Family Code” and specified that the Petitioner was abused and neglected by his parents as those terms are defined in the Texas Family Code. Considering this evidence, the Petitioner has established, by a preponderance of the evidence, that the District Court declared him dependent on the court in accordance with Texas state law. *See 6 USCIS Policy Manual J.2*, <https://www.uscis.gov/policy-manual> (providing, as guidance, that USCIS generally defers to the court on matters of state law and does not go behind the relevant order to make independent determinations regarding the requisite SIJ determinations). Accordingly, the record contains a qualifying dependency declaration, as section 101(a)(27)(J)(i) of the Act requires.

As the Petitioner has overcome the sole ground for denial of his SIJ petition, and otherwise established that he is eligible and warrants USCIS’ consent<sup>1</sup> to his request for SIJ classification, the appeal is sustained.

**ORDER:** The appeal is sustained.

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<sup>1</sup> As stated above, SIJ classification may only be granted upon the consent of the DHS, through USCIS, when a petitioner meets all other eligibility criteria and establishes that the juvenile court or administrative determinations were sought primarily to gain relief from parental maltreatment. Section 101(a)(27)(J)(i)-(iii) of the Act; *see also Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 2, 6-7. A declaration of dependency, absent any evidence that actual relief from parental maltreatment was granted, is generally not sufficient to warrant USCIS’ consent. *See Matter of E-A-L-O-*, Adopted Decision 2019-04, at 7-8 (AAO Oct. 11, 2019) (concluding that USCIS’ consent was not warranted, in part, because the Petitioner did not show that the relevant court order provided him with any protective or remedial relief pursuant to applicable child welfare provisions or any other relevant state law). In the present case, the record reflects that the Petitioner was in Federal custody with the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), Division of Unaccompanied Children’s Services, when the SIJ order was issued. We acknowledge that this placement afforded him protection as an unaccompanied child pursuant to Federal law and obviated the District Court’s need to provide him with additional relief from parental maltreatment under Texas state law. *See generally* Homeland Security Act of 2002, Pub. L. 107-296, § 462(b)(1), 116 Stat. 2135, 2203 (2002) (providing that ORR shall be responsible for “coordinating and implementing the placement and care of unaccompanied alien children in Federal custody by reason of their immigration status. . .”).