



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 31767493

Date: APR. 25, 2024

Appeal of National Benefits Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner seeks classification as a special immigrant juvenile (SIJ). See 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). SIJ classification protects foreign-born children in the United States who cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law.

The Director of the National Benefits Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile) (SIJ petition), concluding that the Petitioner did not establish the juvenile court made a determination whether it would be in the Petitioner's best interest to be returned to his or his parent's country of nationality or last habitual residence and the record did not provide the factual basis for a best interest determination to establish the Petitioner's request for SIJ classification was bona fide. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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, 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>

The juvenile court must have made a judicial determination related to the petitioner's custodial placement or dependency by declaring the petitioner dependent upon the juvenile court; or legally

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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).

committing or placing the petitioner under the custody of an agency or department of a state, or an individual or entity appointed by a state or juvenile court. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(c)(1)(i)(A). In addition, the record must 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. Section 101(a)(27)(J)(ii) of the Act; 8 C.F.R. § 204.11(c)(2). The juvenile court must have made the requisite judicial determinations under applicable state law to establish eligibility. 8 C.F.R. § 204.11(c)(3).

SIJ classification may only be granted upon the consent of U.S. Citizenship and Immigration Services (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 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).

## II. ANALYSIS

In [ ] 2022, when the Petitioner was 17 years old, the Family Division of the Fifteenth Judicial Circuit Court, [ ] Florida (court) issued a custody order (SIJ order), awarding legal and physical custody of the Petitioner to his uncle. The court found that the Petitioner was within the jurisdiction of the court. The court also found that reunification with the Petitioner's parents was not viable due to neglect under Florida law because the Petitioner had to work from the age of ten so that he could eat, his parents were unable to provide all the necessary care for his development and education, his father brought the Petitioner to the United States at the age of 12 and abandoned him nine months later, and his parents failed to provide the Petitioner with proper food. The court further determined it was in the Petitioner's best interest for his uncle to have custody. The Petitioner filed his SIJ petition in November 2022, using the SIJ order as the basis for his request for SIJ classification. In support of his request for SIJ classification, the Petitioner submitted the petition for custody filed with the court, which adds that the Petitioner was living with his uncle for four years at the time of filing of the custody petition, and the uncle was caring full time for the Petitioner. The Director denied the SIJ petition, determining that the order did not provide the court's determination for why it would not be in the Petitioner's best interest to return to Guatemala and the record did not contain the factual basis for a best interest determination to establish the Petitioner's request for SIJ status was bona fide. On appeal, the Petitioner's submits a brief asserting his eligibility for SIJ status.

Upon de novo review, we conclude that the Petitioner has demonstrated that the court made a qualifying best interest determination and the record contains the factual basis for the court's determination for purposes of determining whether USCIS' consent is warranted. We withdraw the Director's determination to the contrary.

SIJ classification requires an administrative or judicial determination "that it would not be in the [juvenile's] best interest to be returned to the [juvenile's] or parent's previous country of nationality or country of last habitual residence[.]" Section 101(a)(27)(J)(ii) of the Act. A petitioner must submit evidence of a best-interest determination made in judicial or administrative proceedings by a court or

agency recognized by the juvenile court and authorized by law to make such decisions. 8 C.F.R. § 204.11(c)(2)(i). While the standards may vary among states, the best-interest determination generally refers to the deliberation undertaken by a juvenile court (or in administrative proceedings recognized by the juvenile court) when deciding what types of services and orders are best for a child, as well as who is best suited to care for the child. See U.S. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway (2016), Determining the Best Interests of the Child. The juvenile court, or other judicial or administrative bodies authorized or recognized by a juvenile court, is required to make an individualized assessment and considered the factors that it normally takes into account when making best interest determinations, and the record should reflect the factual basis for the juvenile court's determination. See generally 6 USCIS Policy Manual J.2(C)(3), <https://www.uscis.gov/policymanual> (explaining, as guidance, the requirements of a qualifying best interest determination).

The court entered a finding that it was in the Petitioner's best interest for his uncle to have custody. In making its neglect finding, the court assessed the Petitioner's life in Guatemala, considering that he began working at the age of ten so he could eat, and determining that his parents were unable to provide all the necessary care for his development and education and failed to provide him with proper food. A preponderance of the evidence establishes that the court considered the facts relating to the Petitioner's circumstances in Guatemala before determining that it was in the Petitioner's best interest to be placed in the custody of his uncle, thus constituting a qualifying best interest determination for purposes of SIJ eligibility.

As stated above, SIJ classification may only be granted upon the consent of USCIS, when a petitioner meets all the other eligibility criteria, section 101(a)(27)(J)(i)-(iii) of the Act, and the request for SIJ classification is bona fide. 8 C.F.R. § 204.11(b)(5). Here, the Petitioner met the remaining threshold eligibility requirements for SIJ classification. The Petitioner was under 21 years of age at the time he filed his SIJ petition and is unmarried. The SIJ order contains the other required SIJ related determinations by the court, including qualifying child custody placement and parental reunification determinations, made under Florida state law.

To demonstrate a bona fide request, a petitioner must establish a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). For USCIS to consent, petitioners must establish the juvenile court order or supplemental evidence includes the factual bases for the parental reunification and best interest determinations as well as the relief from parental maltreatment that the court ordered or recognized. 8 C.F.R. § 204.11(d)(5)(i). Here, the Petitioner has demonstrated that the SIJ order and supplemental evidence includes the factual bases for the courts best interest determination, as well as the court's parental reunification determination. The court described the Petitioner's parent's inability to provide food and the necessary care for the Petitioner's development and education in Guatemala. Further, the petition for custody described how the Petitioner was living with his uncle for four years at the time of filing of the custody petition, and that the uncle is caring full time for the Petitioner. The SIJ order also reflects that the court granted relief from parental maltreatment by awarding custody of the Petitioner to his uncle. The Petitioner has therefore established that a primary reason the required determinations were sought was to obtain relief from parental neglect. Moreover, the record does not

disclose any material conflicts with the court's findings. The Petitioner therefore has established that his request for SIJ classification is bona fide and merits USCIS' consent.

### III. CONCLUSION

The Petitioner has established his eligibility for SIJ classification. The Director's decision is withdrawn.

ORDER: The appeal is sustained.