



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

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

In Re: 31650503

Date: MAR. 08, 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) 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 petition, concluding the record did not establish that USCIS' consent to SIJ classification was warranted. The matter is now before us on appeal pursuant to 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> 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 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). In addition, the juvenile court order or supplemental evidence must include the factual basis for these requisite determinations. 8 C.F.R. § 204.11(d)(5)(i).

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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).

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. See Section 101(a)(27)(J)(i)-(iii) of the Act; see also 8 C.F.R. § 204.11(b)(5).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [ ] 2021, when the Petitioner was 14 years old, the Alabama Juvenile Court, [ ] County (juvenile court) issued a *Termination of Parental Rights Hearing Order* (SIJ order), which awarded custody of the Petitioner to the [ ] County Department of Human Resources (DHR). The juvenile court granted DHR leave to immediately place the Petitioner up for adoption, found the Petitioner cannot reunify with her parents due to abandonment under Alabama law, and terminated the Petitioner's mother's and father's parental rights. The juvenile court further determined it would not be in the Petitioner's best interest to return to her home country. Based on this order, the Petitioner filed her SIJ petition in July 2022, when she was 16 years old.

### B. USCIS' Consent

The Director determined the Petitioner did not merit USCIS' consent to SIJ classification. Specifically, the Director found the submitted SIJ order and underlying documents did not demonstrate a factual basis for the juvenile court's best interest determination. On appeal, the Petitioner submits a document submitted to the juvenile court in support of the SIJ order, DHR's Petition to Terminate Parental Rights.

The petition to the juvenile court indicates DHR exercised custody over the Petitioner since [ ] 2020 due to reports the Petitioner's father and cousins had been physically and sexually abusing the Petitioner. The petition states the Petitioner's mother is believed to be in Guatemala but has not attempted to contact or provide the Petitioner with care since the Petitioner's entry into DHR custody. In addition, the petition specifies DHR has unsuccessfully attempted to locate possible relatives for the Petitioner. The petition states it would be in the Petitioner's best interest for permanent custody of the Petitioner to be granted to DHR, which was willing and able to assume such custody. Overall, the Petitioner has demonstrated the juvenile court considered a number of factors related to the Petitioner's circumstances, including the capacity of the Petitioner's potential caregivers. See 6 USCIS Policy Manual J.2(C)(3). Accordingly, the record is sufficient to demonstrate the factual basis for the juvenile court's best interest determination.

The Petitioner has overcome the Director's sole ground of denial on appeal. The Petitioner asserts she is a vulnerable child in need of protection, with parental rights terminated for both of her parents. Here, the record reflects the Petitioner was under the age of 21 at the time of SIJ petition filing; unmarried; and her juvenile court SIJ order contains a qualifying custody placement, parental

reunification, and best interest determinations. The Petitioner has established her eligibility for SIJ classification and that she merits USCIS' consent to such classification. As such, the Director's decision is withdrawn and the appeal is sustained.

**ORDER:** The appeal is sustained.