



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

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

In Re: 32587590

Date: MAY. 08, 2024

Appeal of National Benefits Center Decision

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

The Petitioner, a native and citizen of Guatemala, 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). 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 Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the Petitioner did not establish that a juvenile court made a qualifying parental reunification determination under state law, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that he has established eligibility for the benefit sought.

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) of the Act; 8 C.F.R. § 204.11(b). 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. 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).

## II. ANALYSIS

In [redacted] 2023, when the Petitioner was 17 years old, the Iowa Juvenile Court in and for [redacted] (juvenile court) issued an Order Appointing Guardian (guardianship order). The juvenile court made the following determinations: it has jurisdiction over the Petitioner, the Petitioner is legally committed to the care of his aunt, the Petitioner’s father has demonstrated a persistent lack of participation in the minor’s life under Iowa Code 232D.204(1), the Petitioner’s mother abandoned him within the meaning of Iowa law, and it is not in the Petitioner’s best interest to return to Guatemala. Based on the guardianship order, the Petitioner filed his SIJ petition in May 2023.

The Director issued a request for additional evidence (RFE), to allow the Petitioner to submit evidence demonstrating that the juvenile court relied on Iowa state law in its parental reunification determination. In response to the RFE, the Petitioner submitted a brief wherein he asserted that the determination in the juvenile court that “his mother abandoned him within the meaning of Iowa law” and that his father “demonstrated a persistent lack of parental participation” are the parental reunification determinations necessary under Iowa state law to evidence the abuse, abandonment, neglect or a similar basis under state law as required by section 101(a)(27)(J)(i) of the Act. The Director denied the petition, determining that the guardianship order lacked the requisite parental reunification determination pursuant to state law.

On appeal, the Petitioner reiterates his arguments contained in the RFE and asserts that there is no requirement that the state juvenile courts use the precise language of the Act to establish the non-viability of parental reunification. Included in the record on appeal is a copy of the guardianship order, the Petitioner’s affidavit, the guardian’s affidavit, and copies of relevant portions of the Iowa code. Based on the guardianship order and the evidence submitted to the juvenile court, the Petitioner asserts he is eligible for SIJ classification.

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, and that declaration must be made in accordance with state law governing such declarations. Section 101(a)(27)(J) of the Act; 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 guardianship order from the juvenile court does not include a qualifying parental reunification determination for the Petitioner’s father because it lacks a finding that reunification is not viable due to abuse, abandonment, or neglect or a similar basis under state law. The guardianship order indicates the Petitioner’s father “demonstrated a persistent lack of participation in the minor’s

life under Iowa Code 232D.204(1). Section 232D.102(4) of the Iowa Code defines persistent lack of parental participation as, “The refusal of a parent to comply with the duties and responsibilities imposed upon a parent...including but not limited to providing the minor with necessary food, clothing, shelter, health care, education and other care and supervision necessary for the minor’s physical, mental, and emotional health and development.” See section 232D.102(4) Iowa Code. However, the Court did not make a determination that the persistent lack of parental participation is similar to abuse, abandonment, or neglect or that the maltreatment is the reason the Petitioner cannot reunify with his father as required by section 101(a)(27)(J)(i) of the Act.

In contrast to the statement regarding the Petitioner’s father, the guardianship order does state that the Petitioner’s mother “abandoned the child within the meaning of Iowa law, insofar as she allowed the child to embark on a dangerous journey to the United States without adequate provision for his safety and well-being.” The Petitioner’s affidavit also provides a factual basis for this determination as he explains that “his mother cannot take care of his needs.” Regarding reunification, the guardianship order states, “If returned to Guatemala, the minor would face economic and social hardships, and would be unable to complete his education. It is therefore in the minor’s best interest to pursue the academic, social, and economic opportunities available in the United States, with the support of his legal guardian.” The juvenile court also explained that it examined the affidavits from the Petitioner and guardian prior to making this determination.

Although the reunification determination in the guardianship order does not include the precise language regarding non-viability based on abuse, abandonment, neglect, or a similar basis, when viewing the order, the affidavits, and the entirety of the record before the juvenile court, it is evident that the court intended that the Petitioner not reunify with his mother as the Petitioner asserts on appeal. See 6 USCIS Policy Manual C.2(B), <https://www.uscis.gov/policymanual> (providing that that a lack of viable reunification generally means that the court intends its finding that the child cannot reunify with his or her parent.) The juvenile court determined that his mother had abandoned him, that it would not be in his best interests to return to Guatemala, and placed him in the care and custody of his aunt as the legal guardian. These findings indicate that reunification with the Petitioner’s mother is not viable. Relying on the evidence that the juvenile court considered the definition of abandonment under Iowa state law and that the Petitioner was committed to the care of his aunt because it would not be in his best interest to return to Guatemala, the juvenile court did make a qualifying reunification determination under state law as required by section 101(a)(27)(J)(i) of the Act.

USCIS generally defers to juvenile courts on matters of state law, and the determination of whether a state court order submitted to USCIS establishes a Petitioner’s eligibility for SIJ classification is a question of federal law within the sole jurisdiction of USCIS. 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 authority to examine the orders for that purpose.”). The Petitioner bears the burden of proof to establish eligibility, which includes demonstrating the state law the juvenile court applied in its reunification determination. 8 C.F.R. § 204.11(c)(3). To establish eligibility for SIJ classification under the Act, a petitioner must be 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. Here, the Petitioner has established the juvenile court made a qualifying determination as to the non-viability of reunification with his mother.

The Petitioner has overcome the Director's ground for denying the SIJ petition and is otherwise eligible for and merits USCIS' consent to his SIJ classification. The Director's decision is therefore withdrawn, and the appeal is sustained.

**ORDER:** The appeal is sustained.