



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

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

In Re: 24949962

Date: DEC. 21, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for 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). The Director of the National Benefits Center denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the juvenile court order lacked a qualifying determination that parental reunification 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 matter is now before us on appeal. On appeal, the Petitioner asserts that she has demonstrated her eligibility for SIJ classification. 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 dismiss the appeal.

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). 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).

In [redacted] 2021, when the Petitioner was 19 years old, the State of Connecticut – Court of Probate, [redacted] Probate Court (Probate Court) issued an order (guardianship order) granting temporary sole custody of the Petitioner to J-C-P-<sup>2</sup>, the Petitioner's mother. The guardianship order, as well as an

<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).

<sup>2</sup> Initials are used to protect the privacy of this individual.

amended guardianship order, contains factual findings relating to the Petitioner's eligibility for SIJ classification. Specifically, the Probate Court found the Petitioner's father is deceased and that her "physical and emotional well-being cannot be assured if she is forced to return to Guatemala." The amended order states that the Petitioner's father died in 2010 and "was not able to provide support for the family and mother and minor were forced to go to the United States due to extreme poverty," and the Petitioner is dependent upon the court to intervene "to prevent future neglect and abandonment as well as to prevent a situation in which the minor has no support system."

Based on the guardianship order, the Petitioner filed this SIJ petition in October 2021. The Director later issued a request for evidence (RFE), asking the Petitioner to provide a copy of a juvenile court order including findings declaring reunification with one or both parents was not viable due to abuse, neglect, abandonment, or similar basis under state law. The Petitioner responded to the RFE, filing a copy of the original [REDACTED] 2021 guardianship order, as well as an amended order issued *nunc pro tunc*. In June 2022, the Director denied the SIJ petition, determining the Petitioner failed to submit a qualifying juvenile court order that showed the Petitioner was eligible for SIJ classification at the time the SIJ petition was filed with USCIS.

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).

On appeal, the Petitioner argues she submitted a court order containing a qualifying determination "that reunification with one parent was not viable due to neglect and abandonment." She states that the amended guardianship order indicates she was forced to work at a very young age to support her family, due to her father abandoning her. Further, she explains the court order also includes a finding that she is dependent on the Probate Court to prevent future neglect or abandonment. Based on the findings and reunification determination in the guardianship order, the Petitioner asserts she is eligible for SIJ classification.

Here, the guardianship order from the Probate Court does not include a qualifying parental reunification determination because it lacks a determination that reunification is not viable due to a qualifying basis under state law. The guardianship order indicates the Petitioner's father died in 2010 and her mother was not able to sufficiently support the Petitioner financially in Guatemala. However, the order includes no determination that the Petitioner cannot reunify with her father due to abandonment, neglect, or similar basis under state law. *See* Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b). The Form I-360 – through a box-check – indicates the Petitioner was abandoned by her father, but the guardianship order does not include such a finding by the Probate Court. The guardianship order also does not include any reference to the state law governing the parental reunification findings in the order. Thus, the Petitioner did not establish the Probate Court made a qualifying determination as to the viability of reunification with one or both of her parents.

The evidence in the record does not establish the Probate Court made a qualifying finding as to the viability of parental reunification. Therefore, the Petitioner has not met her burden to establish that she is eligible for SIJ classification.

**ORDER:** The appeal is dismissed.