



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

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

In Re: 16187687

Date: FEB. 25, 2022

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. 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

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 their or their parent's country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act.

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 juvenile court order was sought to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law and not primarily to obtain an immigration benefit. Section 101(a)(27)(J)(i)–(iii) of the Act; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019) (providing guidance on USCIS' consent authority as rooted in the legislative history of the SIJ classification and longstanding agency policy). 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).

II. ANALYSIS

A. Relevant Facts and Procedural History

In [] 2018, when the Petitioner was 19 years old, the [] Judicial District Court in [] Texas issued an *Order in Suit Affecting Parent-Child Relationship and Declaration of Dependency* (SAPCR order). In its order, the District Court determined, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner was “dependent on this Court pursuant to the Court’s authority under Texas Family Code 154.001(a)(1) and 154.002,” that his reunification with his parents was not viable due to abandonment and neglect as defined at Chapter 261.001(4) of the Texas Family Code, and that it was not in his best interest to be returned to Guatemala, his country of nationality or last habitual residence. Based on the SAPCR order, the Petitioner filed his SIJ petition in March 2018. The Director denied the petition, determining that the District Court did not make a qualifying declaration of juvenile dependency or custodial placement and the Petitioner did not establish that USCIS’ consent to his SIJ classification is warranted.

In response to a notice of intent to dismiss (NOID) we issued during adjudication of his appeal, the Petitioner submits an *Order on Motion to Clarify Order in Suit Affecting Parent-Child Relationship* (clarifying order), in which the District Court notes, in part, that it “asserted jurisdiction over [the Petitioner] as a ‘child’ as defined by Tex. Fam. Code § 101.003(b).”

B. Dependency Declaration

The District Court, in its SAPCR order, declared that the Petitioner was “dependent on this Court pursuant to the Court’s authority under Texas Family Code 154.001(a)(1) and 154.002.” Based on the SAPCR order, 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. We withdraw the Director’s determination to the contrary.

C. Juvenile Court

In our NOID, we notified the Petitioner that the record did not establish that the District Court exercised jurisdiction over him as a juvenile for purposes of court-ordered juvenile dependency or custody to protect the Petitioner from parental abuse, neglect, or abandonment under Texas law, as required of qualifying juvenile court orders under section 101(a)(27)(J)(i) of the Act and 8 C.F.R. § 204.11(a) (explaining that the term “juvenile court” is defined as a court “in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles.”) While the specific title and type of state court may vary, SIJ petitioners must establish that the court had jurisdiction to make judicial determinations about their dependency and/or custody and care as juveniles under state law. *See Matter of A-O-C-*, Adopted Decision 2019-03, at 4 (AAO Oct. 11, 2019); *Matter of E-A-L-O-*, Adopted Decision 2019-04, at 3-4 (AAO Oct. 11, 2019); 6 *USCIS Policy Manual* J.2(C), <https://www.uscis.gov/policy-manual>.

In the clarifying order the Petitioner submits in response to our NOID, the District Court notes that it “asserted jurisdiction over [the Petitioner] as a ‘child’ as defined by Tex. Fam. Code § 101.003(b).” Accordingly, a preponderance of the evidence establishes that the District Court issued the SAPCR

order pursuant to its jurisdiction over the Petitioner's dependency and care as a child under Texas law, and the order was issued by a juvenile court as section 101(a)(27)(J) of the Act and 8 C.F.R. § 204.11(a) require.

D. USCIS' Consent

On appeal, the Petitioner has established that USCIS' consent to his SIJ classification is warranted. Juveniles seeking SIJ classification must establish that USCIS' consent is warranted. Section 101(a)(27)(J)(iii) of the Act. To warrant USCIS' consent, SIJ petitioners must meet all other eligibility criteria and establish that the requisite juvenile court or administrative determinations were sought to gain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. *See Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 6-7 (citing section 101(a)(27)(J)(i)-(iii) of the Act and H.R. Rep. No. 105-405, 130 (1997) (reiterating the requirement that court determinations were not sought primarily for the purpose of obtaining lawful permanent resident status, rather than for the purpose of obtaining relief from parental maltreatment)). Consequently, the nature and purpose of the juvenile court proceedings is central to whether USCIS' consent is warranted and the agency must consider whether the court's determinations were sought in proceedings granting relief from parental maltreatment, beyond an order with factual findings to enable an individual to file an SIJ petition with USCIS. *Id.* at 7.

The District Court provided relief by ordering the Petitioner's mother to pay child support. The record also includes a copy of the underlying SAPCR petition, which indicates that the Petitioner's father was physically abusive and did not provide financially for the Petitioner. The Petitioner "was forced to quit school and began working when he was 14 years old to help support his siblings and mother." The SAPCR petition further alleged that "[b]y their actions and inactions, [the Petitioner's father and mother] have neglected [the Petitioner] by failing to provide [him] with food, clothing, or shelter necessary to sustain [his] life or health" Accordingly, the SAPCR petition requested that the Petitioner's parents be ordered to provide him support. Based on these declarations, the District Court found that the Petitioner's reunification with his parents was not viable and that it would not be in his best interest to return to Guatemala. These judicial determinations and findings show that the Court's SAPCR order was sought in proceedings granting relief from parental neglect and abandonment and demonstrate that the Court's findings were supported by a reasonable factual basis. Accordingly, the Petitioner has established that USCIS' consent to his SIJ classification is warranted.

ORDER: The appeal is sustained.