



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

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

In Re: 17143347

Date: MAR. 30, 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 dismissed.

**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 [ ] 2017, when the Petitioner was 18 years old, the District Court of the [ ] Judicial District in [ ] Texas (District Court) issued an *ORDER OF DEPENDENCY AND FINDINGS* (dependency order). In the dependency order, the District Court found that it has jurisdiction “under Texas law ‘to make judicial determinations about the custody and care of juveniles’ with the meaning of § 101(a)(27)(j) of the Immigration and Nationality Act (‘INA’), 8 U.S.C. §101(a)(27)(j).” Further, the District Court declared the Petitioner dependent on the court and determined that she “is a ‘juvenile’ pursuant to the INA inasmuch as she is under twenty-one years of age. 8 C.F.R. § 204.11(c)(1).” The District Court also concluded that the Petitioner’s father abandoned and neglected her and her mother was deceased, and therefore concluded that reunification with her parents is not viable. Additionally, the District Court found that it is not in the Petitioner’s best interest to be returned to Honduras, her country of nationality, “within the meaning of INA §101(a)(27)(j), 8 U.S.C. §101(a)(27)(j)(ii) because of the danger she poses to herself and her child because of the gang troubles that were brought upon her because of her child’s father.”

Based upon the dependency order, the Petitioner filed her SIJ petition in January 2019. The Director denied the petition, concluding that the Petitioner had not met her burden of establishing that the District Court took jurisdiction over her as a juvenile under state law because she was 18 years old when the dependency order was issued. Further, the Director concluded that the Petitioner did not establish that USCIS’ consent to her SIJ classification is warranted because the District Court did not order any relief from parental maltreatment. On appeal, the Petitioner submits a brief nearly identical to that which she submitted in response to a request for evidence (RFE) from the Director. She argues, as she did before the Director, that the dependency order was issued “pursuant to the Texas Uniform Declaratory Judgment Act and not pursuant to the Texas Family Code,” and that under the Texas Uniform Declaratory Judgment Act the court had “wide discretion to declare rights and status because there are no limits regarding age or types of declarations made . . . .” She further argues that Texas District Courts “are courts of general jurisdiction as outlined by Section 24.601 of the Texas Government Code,” and that such courts “often act as ‘juvenile courts’ when making determinations affecting juveniles in Texas.” Additionally, she contends that “if we were to apply the Texas Family Code to this case,” she would be considered a child under Texas Family Code section 154.001 because she was unmarried, 18 years old, and enrolled in high school, and therefore entitled to child support.

With regard to consent, the Petitioner argues that “[t]he purpose of the order is to protect [the Petitioner] from further abandonment, neglect, and mortal danger” and that the District Court “retains jurisdiction and issues orders for [her] to provide relief to which she is entitled.” She contends that because the District Court made a qualifying dependency finding and the record contains a reasonable factual basis for the court’s determinations, her request for SIJ classification is *bona fide* and USCIS’ consent is warranted.

### B. Not a Juvenile Court

The Petitioner has not established that the District Court took jurisdiction over her as a juvenile under state law, as required. An SIJ petitioner must establish that the court exercised jurisdiction over them

as a juvenile for purposes of court-ordered juvenile dependency or custody to protect the petitioner from parental abuse, neglect, abandonment, or a similar basis under state 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>.

On appeal, the Petitioner argues that the District Court is a court of general jurisdiction and that, “[b]y issuing an order declaring that [she] is dependent in accordance with the laws of the State of Texas as a juvenile under the jurisdiction of the Court, pursuant to the district court’s authority, [she] was dependent under a juvenile court in accordance with Texas law.” However, the District Court did not indicate in its dependency order that it took jurisdiction over the Petitioner as a juvenile over the age of 18 under Texas law, but instead cited only federal immigration law to indicate that it has jurisdiction “to make judicial determinations about the custody and care of juveniles” within the meaning of the Act, and that she is a juvenile pursuant to the Act in that she is under the age of 21. The Petitioner also contends that if the Texas Family Code were to apply in her case, she would have been considered a child under section 154.001. However, as noted above, the Petitioner states in her brief that the dependency order was not issued pursuant to the Texas Family Code, and there is no evidence in the record to indicate that the District Court found that provision to apply. Accordingly, the Petitioner has not demonstrated that the District Court took jurisdiction over her as a juvenile under Texas law when the dependency order was issued, as section 101(a)(27)(J) of the Act and 8 C.F.R. § 204.11(a) require.

### C. USCIS’ Consent is Not Warranted

The Petitioner has not met her burden of establishing that USCIS’ consent to her SIJ classification is warranted. As stated above, SIJ classification may only be granted upon the consent of DHS, through USCIS, when a petitioner meets all other eligibility criteria and establishes that the juvenile court or administrative determinations were sought primarily to gain relief from parental maltreatment. Section 101(a)(27)(J)(i)-(iii) of the Act; *see also Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 2, 6-7 (citing H.R. Rep. No. 105-405, 130 (1997) (reiterating the requirement “that neither the dependency order nor the administrative or judicial determination of the alien’s best interest was sought primarily for the purpose of obtaining the status of an alien lawfully admitted for permanent residence, rather than for the purpose of obtaining relief from abuse or neglect”)). 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 abuse, neglect, abandonment, or a similar basis under state law, beyond an order enabling an individual to file an SIJ petition with USCIS. *See* H.R. Rep. No. 105-405, at 130; *Budhathoki*, 898 F.3d at 511 n. 5 (recognizing that USCIS policy guidance directs the agency to determine the “primary purpose” of a request for SIJ findings); *Reyes v. Cissna*, 737 Fed. Appx. 140, 145 (4th Cir. 2018) (finding USCIS did not abuse its discretion and properly withheld consent from an SIJ petition unsupported by sufficient evidence that the juvenile sought the court order to obtain relief from parental maltreatment, and not primarily to obtain an immigration benefit, as the *USCIS*

*Policy Manual* explained). A declaration of dependency, absent any evidence that actual relief from parental maltreatment was granted, is generally not sufficient to warrant USCIS' consent. *See Matter of E-A-L-O-*, Adopted Decision 2019-04 at 7-8 (concluding that USCIS' consent was not warranted, in part, because the petitioner did not show that the relevant court order provided him with any protective or remedial relief pursuant to applicable child welfare provisions or any other relevant state law).

On appeal, the Petitioner argues that because the District Court made qualifying determinations regarding her dependency, ability to reunify with her parents, and best interest, and the record contains a reasonable factual basis for those conclusions, USCIS' consent to her SIJ classification is warranted. However, in this case, there is no evidence that the dependency order was sought to compel an action that provides "relief from abuse or neglect," or abandonment. H.R. Rep. No. 105-405, at 130; 6 *USCIS Policy Manual*, *supra*, at J.2(D)(5) (explaining that the court-ordered dependency or custodial placement of the child is the relief being sought from the juvenile court). Although USCIS generally consents to the grant of SIJ classification where the record contains a reasonable factual basis for all the required rulings, USCIS' consent is not warranted where the state court orders lack required rulings or the record indicates the order was sought primarily to obtain an immigration benefit. *See Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 6-7; 6 *USCIS Policy Manual*, *supra*, at J.2(D)(5).

Beyond the declaration of dependency, the District Court did not issue any orders or referrals to support the Petitioner's health, safety, or welfare as relief from parental maltreatment, apart from the special findings enabling her to seek SIJ classification before USCIS. *See* 6 *USCIS Policy Manual*, *supra*, at J.2(C)(1) n.12 (citing to U.S. Department of Health and Human Services documentation and *Budhathoki*, 898 F.3d at 513, and explaining that "[i]f the court is providing relief through child welfare services, the order or supplemental evidence should reference what type of services or supervision the child is receiving from the court[,]" such as "psychiatric, psychological, educational, occupational, medical or social services, services providing protection against trafficking or domestic violence, or other supervision by the court or a court appointed entity"). Likewise, the Petitioner did not submit any additional evidence indicating that the District Court took jurisdiction over her in any other prior or related proceeding providing her with any other type of relief from parental maltreatment under Texas law. Accordingly, the preponderance of the evidence does not establish that the District Court's orders were primarily sought to obtain relief from parental abuse, neglect, abandonment, or a similar basis to these grounds, and the Petitioner has not demonstrated that her request for SIJ classification merits USCIS' consent, as section 101(a)(27)(J)(iii) of the Act requires.

#### D. Additional Eligibility Grounds

In their RFE, the Director notified the Petitioner that the record did not establish that the District Court's determinations were based in state law, as required. Although the Director did not raise this issue again in the denial, the evidence does not show that the Petitioner has met this requirement. SIJ petitioners 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. Section 101(a)(27)(J)(i) of the Act. The juvenile court's dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(3). Similarly, the Act requires a juvenile court's determination that an SIJ petitioner's reunification with one or both parents "is not viable due to abuse, neglect, abandonment, or a similar basis found under

State law.” Section 101(a)(27)(J)(i) of the Act. Because the Act references this finding as made under state law, the record must contain evidence of a judicial determination that the petitioner was subjected to such maltreatment by one or both parents under state law. *Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 5-6. The Petitioner bears the burden of proof to demonstrate the state law upon which the juvenile court relied. *Id.* Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

The Petitioner has not met her burden of establishing by a preponderance of the evidence that the District Court took jurisdiction over her as a juvenile under Texas law and that USCIS’ consent to her SIJ classification is warranted, as required. Accordingly, she has not demonstrated her eligibility for SIJ classification.

**ORDER:** The appeal is dismissed.