



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

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

In Re: 20968687

Date: NOV. 09, 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 (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the record did not establish that it would not be in the Petitioner's best interest to be returned to her country of nationality or last habitual residence 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 sustain the appeal.

I. LAW

To establish eligibility for SIJ classification, a petitioner 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 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). The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner in the custody of a state agency or an individual or entity appointed by the state or 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 petitioner's best interest to return to their or their parents' country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act; 8 C.F.R. § 204.11(c)(2).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when a 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. 8 C.F.R. § 204.11(b)(5). USCIS may withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona

fide. *Id.* The petitioner bears 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

The Petitioner, a native and citizen of Guatemala, entered the United States without inspection, admission, or parole in September 2017. In [REDACTED] 2020, when the Petitioner was 14 years of age, the Circuit Court of the [REDACTED] Judicial Circuit in and for [REDACTED] Florida (Circuit Court) issued a Final Judgment on a Petition for Custody by Extended Family (custody order). The Circuit Court found the Petitioner subject to its jurisdiction and ultimately granted the petition, placing the Petitioner in her grandmother's custody. As part of that determination, the Circuit Court found it not in the Petitioner's best interest to be reunified with either parent, including her father who "a [REDACTED] is extorting . . . in Guatemala." The Circuit Court found the Petitioner's parents failed to protect her from harm, as "[t]he [REDACTED] threatened to physically harm the [Petitioner]."

Based on the Circuit Court's custody order, the Petitioner filed her SIJ petition. The Director issued a request for evidence (RFE), and the Petitioner responded with a brief and copies of: the petition for custody filed with the Circuit Court, the custody order, and portions of the controlling Florida statutes. The Director subsequently denied the SIJ petition, concluding that the Petitioner did not meet her burden of establishing that the Circuit Court made a qualifying determination that it was not in the Petitioner's best interest to be returned the country of her or her parents' nationality or last habitual residence, as required by section 101(a)(27)(J)(ii) of the Act.

B. Qualifying Best Interest Determination

On appeal, the Petitioner correctly contends that, contrary to the Director's conclusion, the record supports a finding that the Circuit Court made a qualifying best interest determination. SIJ classification requires an administrative or judicial determination "that it would not be in the [juvenile's] best interest to be returned to the [juvenile's] or parent's previous country of nationality or country of last habitual residence". Section 101(a)(27)(J)(ii) of the Act. A petitioner must submit evidence of a best interest determination made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions. 8 C.F.R. § 204.11(c)(2)(i). While the standards may vary among states, the best interest determination generally refers to the deliberation undertaken by a juvenile court (or in administrative proceedings recognized by the juvenile court) when deciding what types of services and orders are best for a child, as well as who is best suited to care for the child. *See* U.S. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway (2016), *Determining the Best Interests of the Child*. As we have explained in policy guidance, in making its best interest determination, the court must "make an individualized assessment and consider the factors that it normally takes into account when making best interest determinations." *See* 6 USCIS Policy Manual J.2(C)(3), <http://www.uscis.gov/policy-manual> (explaining that "[t]he child's safety and well-being are typically the paramount concern" and that "USCIS defers to the juvenile court in making this determination . . .").

Here, the Circuit Court considered the custody petition prior to issuing the order placing the Petitioner in her grandmother's custody. The custody petition listed multiple factual bases underlying the petition and the assertion that reunification with either parent would not be in the Petitioner's best interest. Specifically, the Petitioner's father is in Guatemala and "is being extorted by a [redacted]". The Petitioner's father "is living in hiding due to the extortion" and "[t]he [redacted] is threatening physical harm to the [Petitioner]." The Circuit Court referenced the extortion and threats against the Petitioner within the findings in the custody order and determined that it would not be in the Petitioner's best interest to be reunified with her father, who is in Guatemala—the country of her nationality and last habitual residence—due to the threats and danger faced by both her father and the Petitioner herself. In totality, a preponderance of the evidence establishes that the Circuit Court considered the facts relating to the threats directed at the Petitioner in Guatemala and her circumstances in the United States before determining that it was in the Petitioner's best interest to be placed in the sole custody of her grandmother, thus constituting a qualifying best interest determination for purposes of SIJ eligibility.

For these reasons, the Petitioner has overcome the Director's grounds for denying her petition. The custody order from the Circuit Court contains a qualifying custody placement and parental reunification and best interest determinations, and it was sought in proceedings granting relief from parental abandonment. Accordingly, the Petitioner has established that her request for SIJ classification warrants USCIS' consent.

III. CONCLUSION

The Petitioner has met her burden to establish that she is eligible for and merits USCIS' consent to her SIJ classification. The Director's decision is withdrawn, and the appeal is sustained.

ORDER: The appeal is sustained.