



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 22107498

Date: NOV. 29, 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 Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding that the Petitioner did not establish that she warrants U.S. Citizenship and Immigration Services' (USCIS) consent to a grant of SIJ classification. On appeal, the Petitioner asserts her eligibility for SIJ classification. The Administrative Appeals Office 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, 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).¹ 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.

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

¹ 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).

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

A. Relevant Facts and Procedural History

In [] 2020, the [] Division of the Probate and Family Court of Massachusetts (Family Court) issued an order entitled Judgment of Dependency (SIJ order). The SIJ order provided, in pertinent part, that the Petitioner was dependent upon the Family Court pursuant to chapter 119, section 39M of the Massachusetts General Laws (Mass. Gen. Laws Ann.); it was in her best interest to remain in the custody of her mother; reunification with her father was not viable due to abuse and neglect as defined in Title 110 of the Code of Massachusetts Regulations, chapter 2.00, and abandonment as defined in chapter 273, section 15A(2) of the Mass. Gen. Laws Ann.; and it was not in her best interest to be returned to Uganda, her country of nationality. In addition, the Family Court referred the Petitioner to probation services for the coordination of educational, occupational, medical, counseling, and social services. The Petitioner filed her SIJ petition in January 2021.

Prior to issuing a decision, the Director issued a request for evidence (RFE), advising the Petitioner that the record contained insufficient evidence regarding the factual basis for the court's determination that it would not be in her best interest to be returned to Uganda. In response to the RFE, the Petitioner submitted, *inter alia*, the complaint of dependency filed with the Family Court as well as her affidavit in support of the complaint. The Director denied the SIJ petition concluding that USCIS' consent to a grant of SIJ classification was not warranted because the record did not contain a reasonable factual basis for the Family Court's best interest determination.

B. USCIS' Consent is Warranted

SIJ classification may only be granted upon the consent of DHS, through USCIS, when petitioners meet all the other eligibility criteria. Section 101(a)(27)(J)(i)–(iii) of the Act. To warrant USCIS' consent, juveniles must 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. *Id.*; 8 C.F.R. § 204.11(b)(5); see also H.R. Rep. No. 105-405, 130 (1997) (reiterating the requirement that SIJ-related determinations not be sought “primarily for the purpose of obtaining [lawful permanent resident] status . . . , 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. See *Budhathoki v. Nielsen*, 898 F.3d 504, 511 n.5 (5th Cir. 2018) (recognizing that USCIS policy guidance directs the agency to determine the “primary purpose” of a request for SIJ findings); see also 6 USCIS Policy Manual J.2(D) <https://www.uscis.gov/policymanual> (explaining, as guidance, that in exercising consent, USCIS looks to the juvenile court's determinations, the factual bases supporting those determinations, and the relief provided or recognized by the juvenile court). In order to obtain consent, the burden is on the petitioner to provide the factual basis for the court's determinations. See *id.* at J.2(C)(3) (explaining, as guidance, that a best interest finding requires the juvenile court to make an individualized assessment under state law considering the factors that it normally takes into account when making best interest determinations and the record should reflect the factual basis for the juvenile court's determination).

In the present case, the Petitioner's affidavit submitted to the Family Court sets forth the basis for her complaint for dependency, and the SIJ order contains factual findings which establish that the court made an informed decision when it issued the SIJ order. Specifically, the SIJ order states, in pertinent part, that "the following facts [are] in support of this [j]udgment: The minor was verbally and physical abused by her father in Uganda and dealt with this abusive behavior as the result of an alcohol addiction. The Defendant failed to provide schools fees so that the Minor may continue her school in Uganda . . . The Minor and the Defendant fought often due to the Defendant's alcohol abuse, and the Minor was forced to live with her aunt. The Defendant has abused, neglected, and abandoned the Minor during different times of her life."

Upon de novo review, the SIJ order and underlying petition for dependency establish a reasonable factual basis for the court's determinations, including the court's best interest determination. Therefore, the Petitioner has established, by a preponderance of the evidence, that she sought the juvenile court order to obtain relief from parental abuse, neglect, abandonment and that the Court, in fact, granted such relief. Consequently, the Petitioner's request for SIJ classification merits USCIS' consent under section 101(a)(27)(J)(iii) of the Act.

ORDER: The appeal is sustained.