



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

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

In Re: 21124686

Date: NOV. 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 sustained.

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)(i) of the Act; 8 C.F.R. § 204.11(b).¹ 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).

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 parental abuse, neglect, abandonment, or a similar basis under State law. The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

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).

II. ANALYSIS

A. Relevant Facts and Procedural History

In [] 2021, when the Petitioner was 19 years old, the [] Children's Probate Court (probate court) issued a *Decree/Appointment of Voluntary Guardianship* (guardianship order) and *Decree/Special Immigrant Juvenile Findings* (SIJ order). The probate court appointed guardianship of the Petitioner to his sister pursuant to sections 45a-608n and 45a-616 of the Connecticut General Statutes, ordering that the guardianship would terminate when the Petitioner turns 21 years of age. The probate court declared the Petitioner dependent on the court pursuant to section 45a-608n(a) of the Connecticut General Statutes and found that it would not be in the Petitioner's best interest to return to his or his parents' country of nationality or last habitual residence. Based on the guardianship and SIJ orders, the Petitioner filed his SIJ petition in March 2021.

While the SIJ petition was pending, the Director issued a notice of intent to deny (NOID), seeking evidence that the probate court determined reunification with one or both of the Petitioner's parents was not viable due to abandonment, neglect or abuse, and that it would not be in his best interest to be returned to Guatemala. In response to the NOID, the Petitioner resubmitted copies of the guardianship and SIJ orders, *Petition for Appointment of Voluntary Guardianship* (guardianship petition), *Confidential Information Petition for Appointment of Voluntary Guardianship*, *Petition for Special Immigrant Juvenile Findings* (SIJ petition), Petitioner's affidavit, and an excerpt of the Connecticut General Statute. The Director subsequently denied the SIJ petition, concluding that the court orders lacked qualifying parental reunification and best interest determinations.

B. Lack of Qualifying Parental Reunification Determination

The Act requires a juvenile court's determination that SIJ petitioners 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. The plain language of the Act requires this reunification determination to be made under state law. *See id.*; 8 C.F.R. § 204.11(c)(1). In this case, the Petitioner's guardianship and SIJ orders do not contain a parental reunification determination by the state juvenile court as required for approval of an SIJ petition.

On appeal, the Petitioner submits a brief and copies of previously submitted documents. He contends that he has established eligibility for SIJ classification according to all requirements at section 101(a)(27)(J). The Petitioner maintains that the probate court found both that reunification with one or both of his parents is not viable due to neglect or abandonment and found that it is not in his best interest to be returned to his previous country of Guatemala, as required by statute. Contrary to the Petitioner's assertions, while the guardianship order stated that the guardianship appointment was in the best interest of the Petitioner, the probate court did not make any specific finding regarding any past maltreatment the Petitioner experienced. The probate court orders indicate only that the Petitioner's mother did not participate in the hearing and that the Petitioner is dependent on his sister to address all his needs as there are no other viable care takers. Although the Petitioner argues that his mother neglected and abandoned him when she failed to protect him from his father's abuse, the probate court orders do not reference the Petitioner's mother or contain a finding that reunification with either of his parents is not viable due to abuse, neglect, or abandonment, as required by the Act.

The Petitioner discusses on appeal the underlying evidence in the record of his parents' neglect and abandonment of him that was provided to the court in his guardianship proceedings, including his sister's SIJ petition and an affidavit provided by the Petitioner. Assertions in an underlying petition to the juvenile court claiming that parental reunification is not viable or requesting that a parental reunification determination be made may not be sufficient where the court did not make a corresponding finding. 6 *USCIS Policy Manual* J.3(A)(1), <https://www.uscis.gov/policymanual>. The petitioner bears the burden of establishing that the juvenile court made a parental reunification determination. While a petitioner could meet their burden if the record contained supplemental evidence the court considered like the petition for special findings, the record should show that the court considered and incorporated the supplemental evidence. In this case, the guardianship and SIJ orders do not include the required parental reunification determination, and the Petitioner has not satisfied his burden of demonstrating that the probate court made such a determination by incorporation of the referenced evidence.²

The Petitioner has not met his burden of establishing that the probate court made a qualifying determination that his reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under Connecticut law as section 101(a)(27)(J)(i) of the Act and the regulation require. The Petitioner has not overcome this basis of the Director's denial on appeal and has not demonstrated his eligibility for SIJ classification.

ORDER: The appeal is dismissed.

² Since the identified basis for denial with respect to the lack of qualifying parental reunification determination from the state juvenile court is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the issue of whether the state court made a qualifying best interest determination. *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).