



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

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

In Re: 19005524

DATE: OCT. 4, 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 SIJ petition, concluding that the Petitioner was ineligible for SIJ classification. On appeal, the Petitioner asserts his 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 dismiss 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 the petitioner 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). 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 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 parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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 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. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5). USCIS may also 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. 8 C.F.R. § 204.11(b)(5). 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 [] 2020, when the Petitioner was 17 years old, the [] Judicial District Court, [] Louisiana (juvenile court) issued an order titled Amended Order (SIJ order), awarding custody of the Petitioner to K-S-.¹ The order also included the juvenile court's determinations that the Petitioner's parents were "negligent in the supervision and well-being of [the Petitioner] which caused him to suffer significant injury while in their care and custody," and that his reunification with his parents is not viable because if K-S- is not granted custody of the Petitioner and the Petitioner is forced to return to India, his country of nationality, "it is extremely likely that further injury to [the Petitioner] would occur."

Based on the juvenile court SIJ order, the Petitioner filed his SIJ petition in July 2020. The Director issued a request for evidence (RFE), and the Petitioner responded timely, submitting a copy of the motion to the juvenile court underlying the SIJ Order, a self-affidavit from the Petitioner, and an affidavit from K-S-. The Director denied his SIJ petition, concluding that the SIJ order the Petitioner submitted did not contain qualifying parental reunification and best interest determinations and that he did not warrant USCIS' consent to his request for SIJ classification.

On appeal, the Petitioner submits a brief, copies of relevant Louisiana law, articles from the U.S. Department of Health and Human Services, copies of additional third-party statements, a copy of a medical certification, copies of school documents, and previously submitted documents. The Petitioner argues that the Director erred in denying his SIJ petition and reasserts his eligibility for SIJ classification.

B. No Qualifying Parental Reunification Determination

To be eligible for SIJ classification, the Act requires a juvenile court determination that a 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; *see also* 8 C.F.R. § 204.11(c)(1). Because the Act references this finding as made under state law, the record must contain evidence that the juvenile court made a determination based on relevant state law. *See id.*; *see also* 6 USCIS Policy Manual J.3(A)(1), <https://www.uscis.gov/policy-manual> (indicating, as guidance, that SIJ order should use language establishing that the specific judicial determinations were made under state law.)

Here, the Director determined that the record did not establish that the juvenile court made a qualifying parental reunification determination, as it did not establish the specific child welfare basis (abuse, neglect, abandonment, or a similar basis under state law) on which the determination was made. The Petitioner has not overcome this determination on appeal. The SIJ order submitted before the Director includes the juvenile court's determination that the Petitioner's parents were "negligent in the

¹ Initials used to protect the privacy of individuals.

supervision and well being of [the Petitioner]” and that reunification is not viable, in part, because the Petitioner is likely to suffer further injury if custody of him is not given to the K-S- in the United States and the Petitioner has to return to India. However, the order does not specify whether his parents’ negligence constituted abuse, neglect, abandonment, or a similar basis as defined under applicable Louisiana law. Likewise, although not specifically raised by the Director, the SIJ order also does not identify any Louisiana law on which the court relied to clarify the child welfare basis for its determination that reunification with the Petitioner’s parents is not viable and establish that the determination was made under state law as required.

The Petitioner contends on appeal that negligence and neglect are synonymous under state law. The Petitioner insinuates that the juvenile court intended to cite article 603(18) of the Louisiana Children’s Code, defining “neglect,” for its reunification determination. However, the SIJ order does not cite to this or any other state law provision to support his assertion that his parents’ negligence in “the supervision and well-being” of the Petitioner in fact constituted neglect under Louisiana state law. We also note that the term “negligence” is defined differently from “neglect” under other provisions of Louisiana state law. *Compare* La. Child Code Ann. art. 603(18) (defining neglect) with La. Stat. Ann. § 14:12 (defining criminal negligence). Additionally, the motion underlying the juvenile court proceedings similarly does not contain any specific references to Louisiana law. Aside from the motion, the record does not contain any other underlying documentation before the court, such as the petition, hearing transcript, related memorandum of law, or any other relevant evidence demonstrating that the juvenile court determined the Petitioner could not be reunified with one or both of his parents due to abuse, abandonment, neglect, or a similar basis under Louisiana law. Accordingly, the Petitioner has not met his burden in establishing by a preponderance of the evidence that the juvenile court made a qualifying determination that parental reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law, as section 101(a)(27)(J)(i) of the Act requires.

B. Remaining Eligibility Requirements

As our finding here that the Petitioner did not establish by a preponderance of the evidence that the SIJ order contained a qualifying parental reunification is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments on the Director’s additional grounds for denial. *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 applicant is otherwise ineligible).

III. CONCLUSION

The SIJ order lacks a qualifying determination regarding parental reunification. Accordingly, the Petitioner is ineligible for SIJ classification.

ORDER: The appeal is dismissed.