



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

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

In Re: 22783938

Date: OCT. 5, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of the Dominican Republic, 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 petition, concluding the Petitioner had not demonstrated that qualifying parental reunification and best interest determinations had been made for her, or that she merited USCIS' consent to SIJ classification. On appeal, the Petitioner reasserts 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 dismiss 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)(i) of the Act; 8 C.F.R. § 204.11(b). 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).

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

The Petitioner entered the United States on a B-2 visitor visa in July 2013, when she was 14 years old. In [] 2014, the Petitioner's mother signed a *Consent of Natural Mother for Termination of Parental Rights and Adoption* (consent order). In [] 2014, when the Petitioner was 16 years old, the Circuit Court of the [] Judicial Circuit for [] Florida (Circuit Court) issued a *Final Judgment Terminating Parental Rights* (custody order). The Circuit Court granted temporary custody of the Petitioner to her cousin, A-R-,¹ noting that the Petitioner's mother "signed an Authorization and Consent to the termination of her parental rights and granting legal custody of the minor children to their first cousin [A-R-] . . ." The custody order acknowledged the Petitioner's mother's Authorization and Consent, "permanently depriving [her] of any right that she may have to the children, [the Petitioner and her sister]." In [] 2014, when the Petitioner was 17 years old, the Circuit Court issued a *Final Judgment of Adoption* (adoption order) stating that the best interest of the Petitioner "would be served and promoted by this adoption . . ." The Circuit Court further indicated that A-R- wanted to formalize her relationship with the Petitioner and was deemed a "fit and proper person" with adequate facilities and resources to adopt her. The Circuit Court granted the adoption and the Petitioner was declared the legal child of A-R-.

The Petitioner filed her SIJ petition in October 2018. While the SIJ petition was pending, the Director issued a request for evidence (RFE), seeking evidence that the Circuit 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 her best interest to be returned to the Dominican Republic. In response to the RFE, the Petitioner resubmitted copies of the consent, custody and adoption orders, death certificate for the Petitioner's father, excerpts of Florida statutes regarding best interests of the child determinations and termination of parental rights and custody, and a decision from the District Court of Appeal of Florida. The Director subsequently denied the petition, concluding that the court orders lacked qualifying determinations that parental reunification is not viable due to abuse, neglect or abandonment, or a similar basis under state law, or that it is not in the Petitioner's best interest to be returned to the Dominican Republic.

B. Qualifying Parental Reunification Determination

To be eligible for SIJ classification, the Act requires a juvenile court determination that a juvenile'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 juvenile was subjected to such maltreatment by one or both parents under state law. 8 C.F.R. § 204.11 (c)(1)(ii). Although USCIS generally defers to juvenile courts on matters of state law, the determination of whether a state court order submitted to USCIS establishes a Petitioner's eligibility

¹ Initials are used to protect the individual's privacy.

for SIJ classification is a question of federal law within the sole jurisdiction of USCIS. *See Budhathoki v. Nielsen*, 898 F.3d 504, 511 (5th Cir. 2018) (“Whether a state court order submitted to a federal agency for the purpose of gaining a federal benefit made the necessary rulings very much is a question of federal law, not state law, and the agency had authority to examine the orders for that purpose.”). The Petitioner bears the burden of proof to establish eligibility, which includes demonstrating the state law the juvenile court applied in its reunification determination. 8 C.F.R. § 204.11(c)(3).

On appeal, the Petitioner claims that the Circuit Court’s orders contain a qualifying parental reunification determination for her. Specifically, she argues that Florida allows for the termination of parental rights for “egregious conduct,” which is analogous to abuse, neglect and abandonment under the Act. She maintains that her father committed “egregious conduct” when he committed suicide without making arrangements for her care, and her mother did the same when she neglected her after her father’s suicide.

Contrary to the Petitioner’s assertions, the Circuit Court did not make a qualifying parental reunification determination in her case. The Petitioner must show that she was subject to a juvenile court determination that reunification with her parent(s) was not viable due to abuse, neglect, abandonment, or a similar basis under Florida law. Here, neither the Circuit Court’s custody or adoption orders state that the Petitioner’s reunification with her parents is not viable due to abuse, abandonment or neglect. The Petitioner cites section 39.806(f) of the Florida Statutes Annotated (Fl. Stat. Ann) and asserts it is a basis for a finding of abuse, neglect and abandonment under Florida law, but the record does not indicate that the Circuit Court based its findings on section 39.806(f).² We note that section 39.806 of the Florida Statutes does not require a finding of abuse, abandonment, or neglect, but allows for the termination of parental rights based upon several grounds, including the voluntary execution of a written surrender and consent by a parent. *See* Fl. Stat. Ann. § 39.806 (West 2014). The Circuit Court orders do not contain any determination of abuse, abandonment, or neglect by the Petitioner’s parents and indicate only that the Petitioner’s mother voluntarily executed a written surrender and consent to the Petitioner’s adoption. Although the Petitioner argues that her father neglected or abandoned her when he committed suicide without making arrangements for her care and her mother also neglected her, the Circuit Court’s order do not reference the Petitioner’s father or contain a finding that reunification with either of her parents is not viable due to abuse, neglect or abandonment, as required by the Act.

Additionally, the Petitioner asserts that since adoption proceedings under Florida law are confidential, the disclosure of any abuse, abandonment, or neglect in the Circuit Court’s adoption order would be prohibited. Furthermore, while papers and records pertaining to an adoption, including adoption orders, are deemed confidential, they are subject to inspection upon court order or upon written release of affected parties. *Id.* The Petitioner has not established that as an affected party, she was prohibited from providing USCIS with a copy of the petition A-R- submitted to the Circuit Court to obtain the custody and adoption orders, or any other documentation to establish that the Circuit Court made a

² Section 39.806 of the Fl. Stat. Ann. states, in pertinent part, that grounds for the termination of parental rights may be established, when: (f) The parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child’s sibling.

finding that the Petitioner's reunification with her parents was not viable due to abuse, abandonment or neglect.³

As stated, petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Here, the Petitioner has not satisfied her burden of demonstrating that the Circuit Court made a determination that she cannot reunify with her parent or parents due to parental maltreatment. Accordingly, the record does not contain a qualifying parental reunification determination for the Petitioner.⁴

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's denial on appeal. As a result, she has not established her eligibility for SIJ classification.

ORDER: The appeal is dismissed.

³ The Petitioner asserts that, had USCIS adjudicated her SIJ petition within 180 days as required, she may have been able to modify the Circuit Court orders to comply with the factual basis requirement. Generally, USCIS will adjudicate an SIJ petition within 180 days of receipt of a properly filed petition. However, if a petitioner does not submit the required initial evidence, USCIS will issue an RFE, and the 180-day timeframe starts over from the date of the receipt of the required initial evidence. See 8 C.F.R. § 204.11(g); 6 *USCIS Policy Manual* J.4(B), <https://www.uscis.gov/policymanual>. Here, the record indicates that the Petitioner did not submit all of the required initial evidence, as the juvenile court orders did not have the required judicial determinations outlined in 8 C.F.R. § 204.11(c) and (d). The Director issued an RFE informing the Petitioner that the court orders lacked a qualifying parental reunification determination and other required information and provided her with an opportunity to address the deficiencies.

⁴ Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether a best interest determination was made for her and whether the record contains reasonable factual bases for the Circuit Court's requisite determinations. 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).