



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

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

In Re: 18236405

Date: SEPT. 16, 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 dismissed.

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).

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. The

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).

burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *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, an Illinois State Circuit Court (state juvenile court) issued a *Judgment for Allocation of Parental Responsibilities* (guardianship order), appointing the Petitioner's mother as her sole guardian in the United States. In addition to the guardianship order, the Petitioner submitted the following documents related to the state juvenile court proceedings: her mother's *Petition for Sole Allocation of Parental Responsibilities*, affidavits provided by family members, and a report of proceedings (transcript). Based on the guardianship order, the Petitioner filed her SIJ petition in March 2020. The Director denied the SIJ petition, determining that the guardianship order 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 order does not contain a parental reunification determination by the state juvenile court required for approval of an SIJ petition.² Moreover, the order reflects the court deliberately struck out proposed language for this determination, as well as language relating to a finding of parental abandonment by the Petitioner's father, before signing and issuing the guardianship order. (*See Judgment for Allocation of Parental Responsibilities*, sections L and M, Feb. 27, 2020). In addition, the accompanying court transcript relating to the guardianship order confirms that the state court judge declined to make the determination, as he stated the following: "I am not making any findings as to any abandonment." The court transcript also indicates that the state court judge explicitly stated that the Petitioner's mother was being awarded sole parental responsibility "primarily based upon the fact that [the Petitioner's] [f]ather" had already consented to it. As a result, the record, including the guardianship order and the related transcript, does not reflect that the state court determined that the Petitioner's reunification with her father is not viable, and that she was abused, neglected, abandoned, or subjected to any similar mistreatment by her father as defined in Illinois law, as she asserts.

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).

The Petitioner discusses on appeal the underlying evidence in the record of her father's abandonment of her that was provided to the court in her guardianship proceedings, including her mother's *Petition for Sole Allocation of Parental Responsibilities* and affidavits provided by family members. While such evidence is relevant in assessing whether there is a factual basis for a juvenile court's SIJ related determinations to warrant USCIS' consent to the Petitioner's request for SIJ classification, we must first consider whether the record establishes the court made the requisite determinations, including a qualifying parental reunification determination. Section 101(a)(27)(J)(i) of the Act; *see* 8 C.F.R. § 204.11(d)(5)(i) (requiring a factual basis for the requisite SIJ related determinations). In this case, the guardianship order did not include the required parental reunification determination, and the state court specifically declined to make it after reviewing the referenced evidence.

The Petitioner also states on appeal that although the court did not make the required SIJ-related determination, despite being authorized under state law to do so, it is clear from the record that she cannot reunite with her father because he abandoned her while they were both in the United States. However, we do not have the authority to make the juvenile court determinations and instead defer to the state juvenile court to do so under applicable state law. 6 *USCIS Policy Manual J.2*, <https://www.uscis.gov/policy-manual> (explaining that "USCIS generally defers to the court on matters of state law and does not go behind the juvenile court order to reweigh evidence and make independent determinations about the best interest of the juvenile and abuse, neglect, abandonment, or a similar basis under state law.")).

Here, the Petitioner has not met her burden of establishing that the Illinois state juvenile court made a qualifying determination that her reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under Illinois law as section 101(a)(27)(J)(i) of the Act requires.

Consequently, the Petitioner has not overcome this basis of the Director's denial on appeal and has not demonstrated her eligibility for SIJ classification.

ORDER: The appeal is dismissed.