



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

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

In Re: 17589591

Date: SEP. 26, 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 petition. On appeal, the Petitioner asserts his eligibility for SIJ classification. We review the questions in this matter *de novo*. See *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)(i) of the Act; 8 C.F.R. § 204.11(b).<sup>1</sup> 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

---

<sup>1</sup> 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).

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

In [ ] 2017, when the Petitioner was 18 years old, the Family Court of the State of New York (Family Court) issued an order titled *ORDER APPOINTING GUARDIAN OF THE PERSON* (guardianship order). The Family Court granted guardianship of the Petitioner to his sister, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act. The Family Court also found that the Petitioner's reunification with his parents was not viable due to their abuse, abandonment, and neglect under New York law and that it was not in his best interest to be removed from the United States and returned to Bangladesh, his country of nationality.

Based on the SIJ order, the Petitioner filed this SIJ petition in February 2018. While the SIJ petition was pending, the Director issued a request for evidence (RFE) regarding the Petitioner's birth certificate he submitted as proof of age. In April 2020, the Director issued a notice of intent to deny (NOID), notifying the Petitioner that he had provided multiple dates of birth during previous encounters with immigration officials which were inconsistent with the date of birth on his birth certificate. In December 2020, the Director denied the SIJ petition. The Director noted that although the Applicant's response to the NOID overcame the issues regarding his age, the Director determined that Petitioner's petition was not bona fide and that he therefore did not warrant USCIS' consent.<sup>2</sup> The Director explained that government records indicated that the Petitioner's sister, the Petitioner's guardian, had filed an immigration petition for both of the Petitioner's parents, and that the address where the parents would live was the same residence as the Petitioner and his sister. Therefore, the Director concluded that the Petitioner's primary purpose in seeking the guardianship order was to enable him to file an SIJ petition, rather than to seek and gain relief from parental mistreatment.

As discussed above, the requisite SIJ-related determinations must be made under state law in connection with proceedings granting some form of relief or remedy from parental abuse, neglect, abandonment, or a similar basis that the court has authority to provide under state law. *See id*; 6 *USCIS Policy Manual* J.2(C)(2), <https://www.uscis.gov/policy-manual>.

On appeal, the Petitioner submits a brief, a new affidavit, copies of previously-submitted evidence. He argues that the Director erred in finding that USCIS's consent was not warranted because his sister's immigration petition for his parents should have no bearing on that determination. He contends that his sister's petition is not inconsistent with the guardianship order regarding the abuse, abandonment, and neglect he experienced from his parents because children can have different relationships with their parents than their siblings. The Petitioner claims that he did not know about his sister's petition for his parents and did not have an opportunity to address this information in the NOID.

---

<sup>2</sup> On March 8, 2022, the Department of Homeland Security (DHS) amended its regulations governing the requirements and procedures for juveniles seeking SIJ classification, effective April 22, 2022, and applying to all pending petitions before U.S. Citizenship and Immigration Services (USCIS). *See* Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (March 8, 2022) (*revising* 8 C.F.R. §§ 204, 205, 245). We note that the Director's decision was issued under the prior regulations, however, our decision will be in accordance with the amended regulations.

We agree with the Petitioner that contrary to the Director's findings, the petition filed by his sister on behalf of his parents does not reflect a material inconsistency with the record of the Family Court proceedings. The Petitioner's sister was granted guardianship of him in 2017 when the Petitioner was 18 years old based on a finding of abuse, abandonment, and neglect by both of his parents. Government records indicate that she later filed an immigration petition for the Petitioner's parents in August 2020, [ ] months before the Petitioner's 21st birthday. The sister's later petition for the Petitioner's parents does not conflict with the findings in the guardianship order such that the Petitioner's parents did not abuse, abandon, or neglect him. Likewise, the Petitioner's sister's later actions do not indicate that the Petitioner's SIJ petition, filed in February 2018 shortly after the guardianship order was issued, was not bona fide. We do not go behind a court order to reevaluate determinations of abuse, neglect, abandonment, or a similar basis properly made under state law. *See* 87 Fed. Reg. 13066, 13086 (March 8, 2022) ("USCIS does not go behind the juvenile court order to reweigh evidence and generally defers to the juvenile court on matters of State law."); *see also* 6 USCIS Policy Manual J.2(A), <https://www.uscis.gov/policy-manual> (providing guidance to officers on deference to juvenile court determinations made under state law and explaining that we do not go behind a juvenile court order to make independent determinations about abuse, neglect, abandonment, or a similar basis under state law). Accordingly, the Petitioner has established by a preponderance of the evidence that his primary purpose in seeking the Family Court's appointment of his sister as his guardian was to seek relief from parental maltreatment, as required by Section 101(a)(27)(J)(i)–(iii) of the Act and 8 C.F.R. § 204.11(b)(5). Since the Petitioner has met all eligibility requirements for SIJ classification, USCIS' consent is warranted, and we withdraw the Director's determination otherwise.

### III. CONCLUSION

The Petitioner has overcome the grounds for denial of his SIJ petition. As the record otherwise demonstrates that the Petitioner meets the remaining eligibility criteria and his request for SIJ classification warrants USCIS' consent, he has established eligibility under section 101(a)(27)(J) of the Act.

**ORDER:** The appeal is sustained.