



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

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

In Re: 18159488

Date: SEP. 27, 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 Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding that the Petitioner did not establish that the juvenile court made a qualifying dependency or custody determination, and that the primary purpose of seeking the juvenile court order was to obtain an immigration benefit, rather than relief from parental maltreatment. 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 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

---

<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).

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 Evidence and Procedural History

In [REDACTED] 2017, when the Petitioner was 19 years old, the District Court of [REDACTED] Texas (Court) issued an order awarding child support to S-K-C,<sup>2</sup> a cousin of the Petitioner who commenced a Suit Affecting Parent-Child Relationship (SAPCR) and sought an order of Declaratory Judgment. In the order, the Court determined that Petitioner was a child pursuant to section 101.003 of the Texas Family Code (Tex. Fam. Code) and ordered child support to be paid to S-K-C to provide relief to the Petitioner from parental abandonment or neglect. The Court determined that the Petitioner was dependent on the Court under sections 154.001(a) and 154.002 of the Tex. Fam. Code. In the SAPCR proceeding, the Court acquired continuing jurisdiction over Petitioner under sections 101.003(b), 155.001(a), 156.001 and 156.401(a) of the Tex. Fam. Code until all current child support and arrearages have been paid, including requests for modifications. The Court noted that the Order may be disclosed and used to support a SIJ petition with the Department of Homeland Security under 8 U.S.C § 1101(a)(27)(J). Lastly, the Court determined that reunification with the Petitioner's mother and father was not viable due to abandonment as defined under Texas law and that it was not in his best interest to be removed from the United States and returned to India, his country of nationality or last habitual residence.

Based on the SAPCR order, the Petitioner filed this SIJ petition in May 2018. While the SIJ petition was pending, the Director issued a notice of intent to deny (NOID). The Director noted that the Court issued a declaratory judgment and informed the Petitioner that the order must be subject to enforcement to meet federal and statutory requirements. The Director informed that Petitioner that the Court did not declare him dependent and made no determination on his custody. Moreover, the Director noted that it was unclear if the Court was providing some type of relief from parental abuse, abandonment, neglect, or similar basis under state law, or if the filing was simply to obtain immigration benefits. The Director further noted that the Petitioner received an order from the Court when he was over the age of majority, and therefore he did not show that the Court had jurisdiction over him as a juvenile. The Director lastly noted that the orders indicated that the Petitioner's place of birth was India, while he claimed to have been a native and citizen of Nepal.

In his responses to the NOID, the Petitioner submitted a letter from his counsel, copies of the motion for judgment *nunc pro tunc*, and an order granting the *nunc pro tunc* motion where the Court amended the Petitioner's country of nationality or last habitual residence to Nepal. The Petitioner also submitted copies of the original SAPCR order with a new date of [REDACTED] 2020, the biographic page of his Nepalese passport, an amended page 3 of the Form I-360, the Original Petition for Child Support in SAPCR

---

<sup>2</sup> We use initials to protect the privacy of individuals.

proceedings and a Motion for Declaration of Dependency to Support Application for Special Immigrant Juvenile Status, a copy of his birth certificate and an affidavit from S-K-C in Support of Original Petition.

After review, the Director denied the SIJ petition, determining that the Court's declaratory judgment did not contain a qualifying declaration of dependency or custody under state law. The Director also concluded that the Petitioner did not demonstrate that the Court was providing relief from parental maltreatment, but rather issued the order for immigration purposes. As such, the Director determined that USCIS' consent was not warranted.

#### B. The Court made a Qualifying Declaration of Dependency

SIJ petitioners must be declared dependent upon a juvenile court, or be legally committed to, or placed under the custody of, a state agency or department, or of an individual or entity appointed by a state or juvenile court. Section 101(a)(27)(J)(i) of the Act. The juvenile court's dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(1)(i). As part of their burden to establish eligibility for SIJ classification, petitioners must establish the state law that the juvenile court applied in its dependency declaration. *Id.* Determining whether petitioners have met this requirement is required for USCIS to adjudicate their eligibility for SIJ classification under federal law. *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 the authority to examine the orders for that purpose").

On appeal, the Petitioner correctly argues that the Court made a qualifying declaration of dependency. In this regard, the record reflects that the Court declared the Petitioner dependent upon it under sections 154.001(a) and 154.002 of the Tex. Fam. Code. In arriving at that decision, the Court reviewed the motion, the court file, and the arguments of counsel. The Court also recognized that Petitioner was a child within the meaning of section 101.003 of the Tex. Fam. Code and took and maintained continuing jurisdiction over the Petitioner. Further, the record reflects that the SAPCR order characterized the Petitioner as unmarried, under the age of 21, and noted that he was enrolled in a program leading towards a high school diploma. Moreover, the Court ordered the Petitioner's mother to pay child support in the amount of \$250.00 per month, thus providing relief to the Petitioner as protection from parental abandonment. Considering the foregoing, the Petitioner has established that the Court made a qualifying custody or dependency determination. 8 C.F.R. § 204.11(c)(1)(i)(A). Moreover, the Petitioner has established that the Court, by ordering child support, provided relief from parental abuse, abandonment, neglect, or a similar basis under state law, as section 101(a)(27)(J) of the Act and 8 C.F.R. § 204.11(a) require. We withdraw the Director's determination otherwise.

### III. CONCLUSION

Upon *de novo* review, the Petitioner has overcome the grounds for denial of his SIJ petition. As the Petitioner has established that he otherwise meets the remaining eligibility criteria and that 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.