



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

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

In Re: 17580557

Date: SEP. 30, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Pakistan, 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 that USCIS' consent was not warranted because the SIJ order indicated that the Petitioner was abused, neglected, or abandoned by one or both of his parents after his 18th birthday. On appeal, the Petitioner submits additional evidence and reasserts 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). 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

In [] 2020, when the Petitioner was 20 years old, the Circuit Court for [] Maryland (Circuit Court) granted custody of the Petitioner to his father, Z-K-,¹ pursuant to sections 9.5-101, 1-201(a) and (b) of the Maryland Code Annotated (Md. Code. Ann.). In a separate order issued on the same day and titled *Order Regarding Minor's Eligibility for Special Immigrant Juvenile Status* (SIJ order), the Circuit Court determined, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that Z-K- was awarded “the sole physical and legal custody and care of [the Petitioner].” The Circuit Court also determined that the Petitioner’s reunification with his mother was not viable due to abuse and/or abandonment, as defined in Md. Code. Ann. Fam Law sections 9.5-101, 1-201(a) and (b),² and 5-313. The Circuit Court further found that it was not in the Petitioner’s best interest to be removed from the United States and returned to Pakistan, his country of nationality or country of last habitual residence.

Based on the SIJ order, the Petitioner filed this SIJ petition in April 2020. While the SIJ petition was pending, the Director issued a notice of intent to deny (NOID), and the Petitioner timely responded. In response, the Petitioner submitted statements from himself and his father, and a 2019 human rights report for Pakistan. The Director subsequently denied the petition, concluding that the court order lacked a qualifying parental reunification determination because the Petitioner’s mother abandoned and neglected him after his 18th birthday.³

On appeal, the Petitioner contends that he is eligible for SIJ classification. He argues that, while his mother’s last act of abandonment and neglect occurred when he was 19 years old, her neglect and abandonment started shortly after his birth and was ongoing.

Upon *de novo* review, we find that the Petitioner has established, by a preponderance of the evidence, that the SIJ order contains a qualifying determination that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law. The Petitioner now submits a copy of a [] 2021 order titled *Revised Order Regarding Minor's Eligibility for Special Immigrant Juvenile Status* (revised SIJ order), which clarifies that the Petitioner’s “natural mother did not provide any financial support to Minor Child and did not provide adequate attention and care for him *since shortly after his birth*.” (emphasis added). The revised SIJ order also specifies that reunification with the Petitioner’s mother is not viable due to abandonment and neglect, as defined in Md. Code Ann. sections 9.5-101, 5-701 and 9-101, and that it was not in his best interest to be removed from the

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

² Section 1-201(b) of the Md. Code. Ann. Fam. Law states, in pertinent part, that an equity court has jurisdiction over: (10) “custody or guardianship of an immigrant child pursuant to a motion for Special Immigrant Juvenile factual findings requesting a determination that the child was abused, neglected, or abandoned before the age of 18 years for purposes of §101(a)(27)(J) of the federal Immigration and Nationality Act.”

³ Specifically, the Director noted that the Circuit Court stated in its order that, “[t]he biological mother abandoned and/or neglected the Minor Child once they were in the United States. They came to visit the country as tourists in 2019. They spent a couple of days in [] after they came to [] Maryland where they spent 10 more days in a hotel and then the mother abandoned him. He was supposed to attend the Community College of [] to study Digital Media Communication. The mother, the Defendant, just left him there without any money or resources.”

United States and returned to Pakistan, his country of nationality. The Circuit Court order provided the Petitioner with relief in the form of a custody order. Additionally, previously submitted statements from the Petitioner and his father confirm that the Petitioner's mother never supported or protected the Petitioner, and that she was only concerned with protecting the Petitioner's younger siblings. The revised SIJ order establishes that the Circuit Court had jurisdiction over the custody of the Petitioner and made a determination based on Maryland law that his mother abandoned or neglected him prior to his 18th birthday. 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 ground 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.