



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

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

In Re: 16999546

Date: SEP. 30, 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), concluding the Petitioner does not warrant USCIS' consent to SIJ classification. On appeal, the Petitioner asserts his eligibility for SIJ classification. 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>

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). The petitioner bears 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).

---

<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).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [ ] 2019, when the Petitioner was 17 years old, the Probate and Family Court of the Commonwealth of Massachusetts (family court) issued a *Decree and Order of Appointment of Guardian of a Minor* (guardianship order) placing the Petitioner in the custody of A-C-I-<sup>2</sup> and finding the Petitioner's parents abandoned and neglected him as they failed to provide him with continuing education in Guatemala, failed to provide him financial support since his arrival in the United States, and allowed him to embark on a dangerous and illegal journey to the United States. On the same date, the family court issued a *Special Findings of Fact and Rulings of Law* (SIJ order) with further SIJ-related determinations for the Petitioner. The family court declared the Petitioner dependent upon the court for his health, safety, and welfare under "M.G.L. c. 190B §§ 5-201 – 5-204 and M.G.L. c. 215 § 6." The family court determined the Petitioner's reunification with his parents is not viable due to neglect under state law as they failed "to provide him with a place to live, a nutritious diet, and continuing education" since he came to the United States in January 2019. The family court further determined it was not in the Petitioner's best interest to return to Guatemala as he faced hardship and limited opportunities while residing there.

Later in December 2019, the Petitioner filed his SIJ petition. The Director denied the SIJ petition, concluding the Petitioner had not demonstrated his SIJ petition is *bona fide* and that USCIS' consent is warranted. The Director specified the record contains material inconsistencies between the family court's orders and immigration records indicating the Petitioner was released into his father's custody in January 2019, to an address that the Petitioner claims as his current residence on his SIJ petition. The Director noted the Petitioner submitted documents to the family court indicating the Petitioner continues to reside with his father and his father helped him come to the United States because while in Guatemala, the Petitioner's life was threatened, and he could not find a job or attend school. The Director determined that as the Petitioner's residence with his father is contrary to the family court's finding that he cannot reunify with his father, the record evidences the Petitioner's primary purpose in seeking a juvenile court order was to file an SIJ petition rather than seek relief from parental maltreatment.

To warrant USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence include the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). A request for SIJ classification must be *bona fide* for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). 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).

---

<sup>2</sup> Initials are used to protect the privacy of this individual.

On appeal, the Petitioner asserts the family court's determination that he cannot reunify with his mother and father is supported by its finding that his mother and father did not provide him continuing education in Guatemala, did not provide him financial support since he arrived in the United States, and allowed him to embark on a dangerous and illegal journey into the United States. The Petitioner contends the family court found, individually and jointly, that his parents' maltreatment of him was sufficient to find they abandoned and neglected him. The Petitioner also asserts the family court was well-aware of his residence with his father, as he informed them himself. The record contains an underlying memorandum and affidavit to the family court in which the Petitioner states he is presently residing with his father, the uncle who was appointed his guardian, and a friend of his father. The Petitioner further asserts that though his parents both did not provide for his basic needs in Guatemala and neglected him upon his arrival to the United States, only his mother abandoned him once he arrived in the United States. The Petitioner acknowledged his father helped him come to the United States as the Petitioner felt like his life was over in Guatemala when he felt threatened and was unable to go to school or work.

Here, the family court placed the Petitioner in the custody of his uncle and made a qualifying parental reunification for the Petitioner, finding the Petitioner could not reunify with his mother due to neglect under state law. The Director does not identify inconsistencies in the record related to the family court's determination that the Petitioner cannot reunify with his mother. To establish eligibility for SIJ classification under the Act, a petitioner must be 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. Overall, the record establishes by a preponderance of the evidence that the nature and purpose of the family court proceedings were to protect the Petitioner from parental maltreatment, his mother's neglect. As such, we need not consider whether the nature and purpose of the family court proceedings were also to protect the Petitioner from his father's maltreatment.

Accordingly, the Petitioner has overcome the Director's finding on appeal, establishing that he sought the juvenile court order to obtain relief from his mother's neglect and not primarily to obtain an immigration benefit. Consequently, USCIS' consent to a grant of SIJ classification is warranted.

### III. CONCLUSION

The Petitioner has overcome the basis of the Director's denial on appeal and established his eligibility for SIJ classification.

**ORDER:** The appeal is sustained.