



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

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

In Re: 14453046

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).¹

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).

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).

II. ANALYSIS

A. Relevant Facts and Procedural History

In [redacted] 2019, when the Petitioner was 20 years old, the Superior Court of California, [redacted] (superior court) issued a *Special Immigrant Juvenile Findings* order (SIJ order) placing the Petitioner in the custody of E-J-A-² and finding the Petitioner cannot reunify with his parents as they abandoned him under California law. The superior court specified the Petitioner's parents failed to provide him with food, clothing, medical care, and safe and peaceful living conditions as he was forced to quit school at a young age and work in dangerous conditions. The superior court found the Petitioner had to fend for himself at a young age, that his father left him when he was two years old, and he was further abandoned when forced to take a treacherous journey to the United States. The superior court also determined it is not in the Petitioner's best interest to return to Guatemala where he did not receive education, sufficient food, or housing, and had to work in inappropriate and dangerous jobs. The superior court found there would be no one to care for the Petitioner upon return to Guatemala and he would be subject to violence upon his return.

In March 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 determined that inconsistencies exist between what was presented to the superior court, governmental records, and what was submitted with the SIJ petition. Specifically, the Director noted the SIJ order finds the Petitioner was abandoned by his parents as his father left when the Petitioner was two years old, the Petitioner was forced to quit school and work in dangerous conditions, and the Petitioner was forced to take a dangerous journey to the United States. The Director also noted the Petitioner told a border patrol agent in 2014 that he was traveling to the United States to work and indicated in his asylum application that he started to work when he was 15 years old to help his family and came to the United States for the same reason. The Petitioner was released to his father's custody in May 2014 by the Office of Refugee Resettlement, at the same address where the Petitioner continued to reside in February 2019. 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, this material inconsistency casts doubt on whether the Petitioner's SIJ order request was *bona fide*, to protect him from abandonment from either of his parents.

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).

² Initials are used to protect the privacy of this individual.

On appeal, the Petitioner asserts the family court awarded guardianship of the Petitioner to his uncle after a hearing on the merits, evidencing the Petitioner primarily seeks relief from parental maltreatment. The Petitioner asserts, through counsel, that his father abandoned him in Guatemala when he was two to start a new family in the United States. The Petitioner also asserts he was forced to abandon school for dangerous work in Guatemala to obtain food, clothing, and medical care for himself; then left Guatemala to reunite with his father when he had no recourse. The Petitioner claims that upon reunification with his father, he was still told to fend for himself and was unsupported through his immigration removal proceedings, resulting in his uncle's guardianship.

The Petitioner's assertion to immigration officials that he came to the United States to work does not necessarily conflict with or contradict the family court's findings of parental abandonment. We note the record does not contain the Petitioner's underlying petition to the family court or related documentation, so the record is unclear as to the contents of the Petitioner's own assertions to the family court. The record does contain the family court's SIJ order finding that the Petitioner cannot reunify with his mother due to abandonment under state law.

Here, the family court made a qualifying parental reunification for the Petitioner, including finding the Petitioner could not reunify with his mother due to abandonment under state law. Based in part on this determination, custody of the Petitioner was granted to his uncle. 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. 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 abandonment. 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 abandonment 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.