



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

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

In Re: 27312871

Date: JUL. 20, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the juvenile court order lacked a qualifying determination that parental reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law, as section 101(a)(27)(J)(i) of the Act requires. We dismissed a subsequent appeal. The matter is now before us on motion to reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

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 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

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).

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).

On motion, the Petitioner submits a brief and copies of the previous juvenile court orders issued in the State of Connecticut – Court of Probate, [REDACTED] Probate Court (Probate Court). Our previous decision, incorporated here by reference, concurred with the Director's determination that the juvenile court orders lacked a qualifying parental reunification determination as section 101(a)(27)(J)(i) of the Act requires. In the brief, the Petitioner again contends that the Probate Court's statements that her father abandoned her in 2008 and then died in 2010, which resulted in her having to work to support herself, constitutes the Probate Court's judicial determination regarding the nonviability of parental reunification. As noted in our previous decision, the juvenile court orders submitted by the Petitioner did not include a qualifying parental reunification determination because they lacked a determination that reunification is not viable due to a qualifying basis under State law. The orders do note that the Petitioner's father abandoned her, that he died, and the Petitioner and her mother left Guatemala to avoid poverty and gangs; however, the orders do not determine that reunification is not viable with either or both of her parents.

The Petitioner's brief additionally includes language from the USCIS Policy Manual regarding the requirement for the juvenile court order's determination, stating that she is "requesting that USCIS reconsider as per the USCIS manual where it indicates that a juvenile court makes the determination based upon a state law similar to abuse, neglect, or abandonment, the petitioner must provide evidence of how the basis is legally similar to abuse, neglect, or abandonment under State law. Such evidence must include the juvenile courts determination that the legal basis is similar to abuse, neglect, or abandonment under State law." While she does not provide a specific citation, the language to which she refers is located at 6 *USCIS Policy Manual* J.3(A)(1), <https://www.uscis.gov/policy-manual>.

The Petitioner further states that the juvenile court order "specifically stated that her father abandoned her in 2008" and it was clear her father abandoned her. However, as the guidance in the USCIS Policy Manual indicates, the determination by the juvenile court must "[d]eclare[], under state law, that the petitioner cannot reunify with one or both of the petitioner's parents due to abuse, neglect, abandonment, or a similar basis under state law." *See generally*, 6 *USCIS Policy Manual* J.2(C), <https://www.uscis.gov/policy-manual>; *see also* section 101(a)(27)(J)(i) of the Act; 8 CFR § 204.11(c)(1)(ii). While the Petitioner contends that her father "did suffer from death after a heart attack and that death is considered abandonment under Connecticut law," the Petitioner has not established that the Probate Court made a qualifying determination as to the viability of reunification with one or both of her parents and on motion to reconsider, she has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.