



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 26211860

Date: JUNE 9, 2023

Appeal of National Benefits Center 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 Petitioner did not establish that a juvenile court made a qualifying parental reunification determination under state law, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that he has established eligibility for the benefit sought.

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 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) 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. 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).

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).

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).

II. ANALYSIS

In 2016, the Family Court of the State of Rhode Island (Family Court) issued an order (SIJ order), determining, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner was dependent upon his father and committed to his care, reunification with his mother was not viable due to neglect and abandonment, and it would not be in his best interest to be removed to Guatemala. Based on the SIJ order, the Petitioner filed his SIJ petition in 2017.

The Director denied the petition, concluding that the record did not establish that the Family Court made a qualifying parental reunification determination. In a subsequent appeal, we determined that while the record establishes that the Family Court made the requisite parental reunification determination and that USCIS's consent is warranted, the SIJ order did not contain the state law basis under which the Family Court's parental reunification determination was made. Therefore, we remanded the matter to the Director for additional consideration.

The Director issued a notice of intent to deny (NOID) to the Petitioner, providing him with the opportunity to submit evidence demonstrating that the Family Court relied on Rhode Island state law in its parental reunification determination. In response to the NOID, the Petitioner submitted a brief wherein he argued that the Family Court exercises jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, and USCIS does not have the authority to second-guess the lawfully followed court procedure, findings, and orders of a state court. The Director denied the petition, determining that the Petitioner did not provide evidence establishing that a juvenile court made a qualifying parental reunification determination pursuant to state law. On appeal, the Petitioner reiterates his arguments contained in the NOID.

As noted above, to be eligible for SIJ classification, the Act requires a juvenile court determination that a juvenile's reunification with one or both parents "is not viable due to abuse, neglect, abandonment, or a similar basis found under State law." Section 101(a)(27)(J)(i) of the Act. Because the Act references this finding as made under state law, the record must contain evidence of a judicial determination that the juvenile was subjected to such maltreatment by one or both parents under state law. 8 C.F.R. § 204.11(c)(1)(ii). Although USCIS generally defers to juvenile courts on matters of state law, the determination of whether a state court order submitted to USCIS establishes a Petitioner's eligibility for SIJ classification is a question of federal law within the sole jurisdiction of USCIS. 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 authority to examine the orders for that purpose."). The Petitioner bears the burden of proof to establish eligibility, which

includes demonstrating the state law the juvenile court applied in its reunification determination. 8 C.F.R. § 204.11(c)(3). Accordingly, state court orders that only cite or paraphrase immigration law and regulations will not suffice if the petitioner does not otherwise establish the basis in state law for the juvenile court's reunification finding.

Here, the submitted SIJ order does not specify a Rhode Island state child welfare law or cite to any other laws as the basis for the Family Court's determinations. As a result, the Petitioner has not established by a preponderance of the evidence that the Family Court determined that reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law, as required by section 101(a)(27)(J)(i) of the Act. Accordingly, the Petitioner has not established his eligibility for SIJ classification.

ORDER: The appeal is dismissed.