



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

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

In Re: 26423149

Date: JUN. 30, 2023

Appeal of National Benefits Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner, a native and citizen of Guatemala, 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.

The matter is now before us on appeal. On appeal, the Petitioner asserts that he has demonstrated 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, a petitioner 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). A petitioner 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 petitioner's 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).

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). 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

### A. Relevant Evidence and Procedural History

In [REDACTED] 2021, when the Petitioner was 15 years old, the Superior Court of [REDACTED] State of Georgia (Superior Court) issued a *Final Order on Legitimation, Child Custody, and Child Support* (SIJ order) finding the Petitioner under its jurisdiction under Georgia Code section 19-7-22. The SIJ order stated the Petitioner was a minor child under the state laws of Georgia and under the jurisdiction of the Superior Court, determining both that it was in the Petitioner's best interest to remain in the United States in the custody of his father and that reunification with his mother was not viable because she was deceased as of 2007. Based on the SIJ order, the Petitioner filed an SIJ petition in December 2021. The Director issued a request for evidence, advising the Petitioner that he had failed to establish the Superior Court made a judicial determination that reunification with his mother was not viable due to abuse, neglect, abandonment, or a similar basis under state law. In response, the Petitioner submitted a copy of the SIJ order, the Petition to Legitimize Child that was filed to obtain the SIJ order, and a copy of a relevant section of Georgia law. O.C.G.A. § 15-11-2(22)(A). The Director denied the SIJ petition in November 2022, determining the SIJ order did not contain a legal conclusion that parental death constitutes abuse, neglect, or a similar basis under Georgia state law.

### B. Parental Reunification Determination

An SIJ petitioner must be declared dependent upon a juvenile court, or be legally committed to, or placed under the custody of a state agency or department, or of an individual or entity appointed by a state or juvenile court, and that declaration must be made in accordance with state law governing such declarations. Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b). The declaration must include a determination that the SIJ petitioner cannot reunify with one or both of their 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).

On appeal, the Petitioner argues he submitted a court order containing a qualifying determination that reunification with his mother was not viable due to her "abandonment and neglect," which he argues was constituted by her death. He states that the SIJ order indicates he was dependent on the court due to the death of his mother. Further, he argues the Director improperly went behind the SIJ order in concluding the reunification finding was not pursuant to state law, as the Superior Court found he could not reunify with his mother, and it was not an error to fail to cite the specific state law section under which that determination was made. Based on the findings and reunification determination in the SIJ order, the Petitioner asserts he is eligible for SIJ classification.

Here, the Superior Court made a qualifying parental reunification determination that reunification is not viable due to a qualifying basis under state law. The SIJ order indicates the Petitioner's mother died in 2007 and that reunification with her is not viable. *See* Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(b). The petition to the Superior Court underlying the SIJ order references the state law governing the parental reunification findings in the order, specifically the definitions of "abandonment" and "neglect" under Georgia law 8 C.F.R. § 204.11(c)(3) (requiring the juvenile court have "made the requisite judicial determinations in this paragraph under applicable State law"); *see*

*generally 6 USCIS Policy Manual J(3)(A)(1), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual) (providing guidance that the evidence of the state law that was applied “may include the petition for dependency, complaint for custody, or other documents that initiated the juvenile court proceedings.”). The petition also asked the Superior Court to find the Petitioner was a minor child who was “dependent and in need of this Court’s protection” under Georgia law section 15-11-2(22)(A). The SIJ order indicates the Superior Court made that finding and determined the Petitioner’s father to be the “only fit, willing and capable parent.” Based on the evidence that the Superior Court considered the definitions of “neglect,” and “abandonment” in its findings that the Petitioner was a “dependent child” and reunification with his mother was not viable, the Superior Court did make a qualifying reunification determination under state law. Thus, the Petitioner established the Superior Court made a qualifying determination as to the viability of reunification with one or both of his parents.*

The Petitioner has overcome the Director’s ground for denying the SIJ petition and is otherwise eligible for and merits USCIS’ consent to his SIJ classification. The Director’s decision is therefore withdrawn, and the appeal is sustained.

**ORDER:** The appeal is sustained.