



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

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

In Re: 28965045

Date: NOV. 15, 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). *See* Immigration and Nationality Act (the Act) sections 101(a)(27)(J) and 204(a)(1)(G), 8 U.S.C. §§ 1101(a)(27)(J) and 1154(a)(1)(G). SIJ classification protects foreign-born children in the United States who cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law.

The Director of the National Benefits Center denied the petition, concluding that the record did not establish that the consent of U.S. Citizenship and Immigration Services (USCIS) for approval of the SIJ petition was warranted. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 sustain the appeal.

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). Petitioners must have been declared dependent upon the juvenile court; alternatively, 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 juvenile'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).

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.

In [ ] 2021, when the petitioner was 20 years old, the [ ] Division, Massachusetts Trial Court, Probate and Family Court (family court) issued a “Judgment of Dependency Pursuant to G.L. c. 119, § 39M” (dependency judgment). The family court noted that it was acting as a juvenile court and made the following determinations: the Petitioner was an unmarried child under the age of 21; the Petitioner was dependent on the family court and was referred for educational, medical, and counseling with the probation service; the Petitioner’s biological father had neglected and abandoned her as the Petitioner had never met or spoken with him; reunification with the biological father was not viable due to this abuse and neglect; and it was not in the Petitioner’s best interest to return to Guatemala.

The Petitioner submitted the SIJ petition to USCIS, relying on the dependency judgment and the underlying affidavit that had been filed before the family court. The Director denied the petition, concluding that the Petitioner had not established that the record included a factual basis for the determination that it was not in the Petitioner’s best interest to return to Guatemala.

On appeal, the Petitioner submits a brief and reattaches copies of the dependency judgment and underlying affidavit that were already included in the record. After de novo review of the record, the dependency judgment and underlying affidavit provide a factual basis for the court’s best interest finding. The Petitioner’s affidavit to the family court indicated that she had never met her biological father, as he abandoned her mother upon learning that she was pregnant. The Petitioner further recounted the emotional toll of her father’s absence, her difficulties in completing her education, and the dangerousness of returning to Guatemala as a single mother with a young child.

The family court incorporated the information from the Petitioner’s affidavit into the dependency judgment. The dependency judgment notes “[t]he following facts in support of this Judgment,” namely that Parent One (the Petitioner’s biological father) abandoned and neglected her prior to her birth, made no attempt “to build a father-child relationship or provide any sort of support” to the Petitioner, and has neither met nor spoken to the Petitioner. As such, the documentation provided by the Petitioner establishes the factual basis that the family court relied upon in making its determination. Consequently, the Petitioner has demonstrated that she is eligible for and merits USCIS’ consent to her request for SIJ classification.

**ORDER:** The appeal is sustained.