



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

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

In Re: 17100020

Date: APR. 18, 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) approved the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition). The Director subsequently revoked approval of the SIJ petition based on the Petitioner's marriage and denied a motion to reopen. On appeal, the Petitioner asserts her eligibility for SIJ classification. 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(c). 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).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when the petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)–(iii) of the Act; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019), at 5-6. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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).

USCIS may revoke the approval of an SIJ petition upon notice to the petitioner for "good and sufficient cause" when the necessity for the revocation comes to the attention of USCIS. Section 205 of the Act,

8 U.S.C. § 1155; 8 C.F.R. § 205.2(a). We review appeals from revocation proceedings *de novo*. *Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542, 542 n.1 (AAO 2015).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

The Petitioner's SIJ petition was approved in April 2016. In April 2018, the Petitioner filed her adjustment application, which indicated she had married O-R-M-P-<sup>1</sup> in [ ] 2016. In April 2019, the Director issued a notice of intent to revoke the SIJ petition because the Petitioner was married six months after approval of her SIJ petition, and before a decision had been rendered on the related adjustment application. The Director revoked approval of the SIJ petition and denied the adjustment application in March 2020.

The Petitioner sought annulment of her marriage to O-R-M-P- in May 2019, which was granted by the Florida Circuit Court [ ] (circuit court) in [ ] 2020. The circuit court issued a *Final Judgment of Annulment* (annulment order) declaring the marriage between the Petitioner and O-R-M-P- null and void. In April 2020, the Petitioner filed a motion to reopen her SIJ petition. The Director concluded the submitted evidence of the Petitioner's annulment was insufficient to overcome the basis of revocation. The matter is now before us on appeal.

### B. Marriage Before Adjustment

The Director revoked approval of the Petitioner's SIJ petition based on her marriage to O-R-M-P- before adjudication of her adjustment application.

Certain circumstances, if they occur before the final decision on an adjustment application, will result in automatic revocation of an SIJ petition as of the date of approval. 8 C.F.R. § 205.1(a)(3). For SIJ petitioners, such circumstances include turning 21 years of age, marriage, termination of the petitioner's dependency upon the juvenile court, termination of the petitioner's eligibility for long-term foster care, or an administrative or judicial determination that it is in the petitioner's best interest to return to their country of nationality or the last habitual residence of the petitioner or their parents. 8 C.F.R. § 205.1(a)(3)(iv).

On appeal, the Petitioner asserts that her SIJ petition should be approved because even though she married O-R-M-P- in [ ] 2016, their marriage was annulled in [ ] 2020. The Petitioner contends that since under Florida law the annulment of her marriage rendered her marriage void, it is as the marriage never legally existed. The Petitioner cites to Florida case law in support of her claim that her marriage is void and nonexistent in Florida.

Despite the Petitioner's assertion that her marriage does not currently exist under Florida law, she acknowledges that her marriage to O-R-M-P- took place on [ ] 2016. The Petitioner's adjustment application, filed in April 2018, had not received a final decision at the time of the Petitioner's marriage. In accordance with the SIJ regulations, *automatic* revocation of the Petitioner's SIJ petition

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<sup>1</sup> Initials are used to protect the privacy of this individual.

was triggered upon her marriage in [ ] 2016. Though we acknowledge the Petitioner subsequently sought and was granted annulment of her marriage,<sup>2</sup> the Petitioner has not demonstrated the Director's automatic revocation of her visa petition upon marriage was improper under the regulations. Rather, after the automatic revocation of the Petitioner's SIJ petition was triggered by her marriage in [ ] 2016, it was incumbent upon the Director to send notice of revocation to the Petitioner. *See* 8 C.F.R. § 205.1(b) (the Director *shall* send notice of revocation to the petitioner when it appears to the Director that petition approval has been automatically revoked).

Upon review of the record, the Petitioner has not overcome the basis of the Director's denial and has not established approval of her SIJ petition was improperly revoked. Consequently, the Director had good and sufficient cause to revoke approval of the Petitioner's SIJ petition.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> We note that in obtaining her annulment order from the circuit court, the Petitioner swore under oath that the claims she made in her *Verified Petition for Annulment of Marriage* were true. The Petitioner's aunt similarly swore under oath that the claims in her supporting affidavit were true. Both the Petitioner and her aunt stated the Petitioner married O-R-M-P- on [ ] 2016, when the Petitioner was 17 years old and O-R-M-P- was 30 years old. In its annulment order, the circuit court declared the Petitioner's marriage null and void after finding the Petitioner was a minor at the time of her marriage. As the Petitioner's date of birth is [ ] 1998, and she was married to O-R-M-P- on [ ] 2016, she was 18 years old and no longer a minor at the time of her marriage. *See* Florida Statutes § 743.07 (stating that persons 18 years and older "enjoy and suffer" the rights of all persons 21 years age or older except as specifically excluded by the state constitution).