U.S. Citizenship and Immigration Services

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

In Re: 10749969

Date: JUN. 16, 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) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and the matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews 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, the appeal will be sustained.

## 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)(i) of the Act; 8 C.F.R. § 204.11(b). 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 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).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [redacted] 2017, when the Petitioner was 17 years old, the District Court for the [redacted] Judicial District in [redacted] Texas, issued an *ORDER OF DECLARATORY JUDGMENT AND FINDINGS* (declaratory judgment) in which it found that the Petitioner is "dependent upon this juvenile court in accordance with the law of the State of Texas." The District Court also determined that the Petitioner's reunification with his parents is not viable due to abuse and neglect as those terms are defined under Texas Family Code sections 261.001(1)(C) and 261.001(4)(A)(ii)(a)-(b), respectively. Finally, the District Court found that it would not be in the Petitioner's best interest to return to Guatemala, his

country of nationality, because the Petitioner "does not have sufficient support, care, and protection in Guatemala." The Petitioner filed his SIJ petition in October 2017 based on the declaratory judgment.

The Director denied the SIJ petition, concluding that the Petitioner had not met his burden of establishing that the District Court made a qualifying declaration of dependency or custodial placement, as required by section 101(a)(27)(J)(i) of the Act. Specifically, the Director concluded that "there is no indication that the court declared [the Petitioner] dependent or made any determination regarding your custody under any provision of Texas law governing juvenile dependency or child custody." Finally, the Director held that the Petitioner did not establish his age because he only submitted the first page of his birth certificate, and not the second, and did not provide an adequate explanation as to why he was unable to obtain the complete birth certificate.

On appeal, the Petitioner submits a brief, a copy of a letter from the U.S. Department of State (DOS) regarding how to obtain birth certificates from Guatemala, and previously submitted documents. The Petitioner asserts that the declaratory judgment is enforceable and contains the requisite declaration of dependency, and that he merits USCIS' consent to his SIJ classification. Further the Petitioner contends that he has established his date of birth by a preponderance of the evidence.

B. The Petitioner Established His Date of Birth

The Director determined that the Petitioner was ineligible for SIJ classification because he had provided insufficient evidence of his date of birth. Pursuant to applicable regulations, an SIJ petitioner must provide "[d]ocumentary evidence of the petitioner's age, in the form of a valid birth certificate, official government-issued identification, or other document that in USCIS' discretion establishes the petitioner's age." 8 C.F.R. § 204.11(d)(2). Petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Petitioners must show that their claims are "more likely than not" or "probably" true. *See id.* To determine whether a petitioner has met his or her burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

Here, although the Petitioner's birth the birth certificate only contained the first of two pages, the page that was submitted clearly states that his birthday is [redacted] 2000. Further, the Petitioner explained that the first page is the only portion of his birth certificate he has in his possession and states that he cannot request a new copy of his birth certificate because the request must be done in Guatemala. The letter from DOS corroborates the Petitioner's contention that he cannot request a new birth certificate from the United States. In addition to his incomplete birth certificate, the Petitioner has also submitted a U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR) verification of release form with his photograph, listing his name and date of birth and a record of vaccination listing his name and date of birth from the [redacted] Immunization Repository. In consideration of the evidence in the record, the Petitioner has established his date of birth by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375. As such, the Director's determination that the Petitioner provided insufficient evidence of his date of birth is withdrawn.

C. The District Court Made a Qualifying Declaration of Dependency

SIJ petitioners 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. Section 101(a)(27)(J)(i) of the Act. The juvenile court's dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(1)(i). As part of their burden to establish eligibility for SIJ classification, petitioners must establish the state law that the juvenile court applied in its dependency declaration. *Id.* Determining whether petitioners have met this requirement is required for USCIS to adjudicate their eligibility for SIJ classification under federal law. *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 the authority to examine the orders for that purpose").

In its declaratory judgment, the District Court declared that the Petitioner was "dependent upon this Court in accordance with the law of the State of Texas" and specified that the Petitioner was neglected as those terms are defined in the Texas Family Code. Considering this evidence, the Petitioner has established, by a preponderance of the evidence, that the declaratory judgment contained a qualifying custody or dependency determination. *See* 8 C.F.R. § 204.11(c)(1)(i)(A). As such, the Director's determination to the contrary is withdrawn.

## III. CONCLUSION

The Petitioner has overcome the grounds for denial of his SIJ petition. As the record otherwise demonstrates that the Petitioner meets the remaining eligibility criteria and his request for SIJ classification warrants USCIS' consent, he has established eligibility under section 101(a)(27)(J) of the Act.

**ORDER:** The appeal is sustained.