



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

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

In Re: 16673489

Date: MAR. 8, 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 petition, concluding the Petitioner had not demonstrated a qualifying parental reunification and best interest determination had been made for her, or that she merits USCIS' consent to SIJ classification. 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).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [REDACTED] 2014, when the Petitioner was 16 years old, the Florida Circuit Court for [REDACTED] (Circuit Court) issued a *Final Judgment Terminating Parental Rights* (custody order). The circuit court granted temporary custody of the Petitioner to A-A-R- as the Petitioner's mother "has signed an Authorization and Consent to the termination of her parental rights and granting legal custody of the minor children to their first cousin [A-A-R] . . . ." The custody order stated the Petitioner's father passed away in December 2010 and terminated the parental rights of the Petitioner's mother. The record contains an [REDACTED] 2014 *Consent of Natural Mother for Termination of Parental Rights and Adoption* signed by the Petitioner's mother.

In [REDACTED] 2014, when the Petitioner was 17 years old, the Circuit Court issued a *Final Judgment of Adoption* (adoption order) indicating the best interest of the Petitioner "would be served and promoted by this adoption . . . ." The Circuit Court stated that A-A-R- wanted to formalize her relationship with the Petitioner through adoption and was deemed a "fit and proper person to adopt" the Petitioner. The Circuit Court granted A-A-R-'s petition for adoption of the Petitioner.

The Petitioner filed her SIJ petition in October 2018. The Director denied the petition concluding the Circuit Court had not made a qualifying parental reunification or best interest determination for her. The Director also determined the record did not include reasonable factual bases for these determinations.

### B. Qualifying Parental Reunification Determination

The Director determined the Circuit Court's orders lacked a qualifying determination that parental reunification is not viable due to abuse, neglect, abandonment, or a similar basis under state law, as required by the Act.

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. *Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 5-6. 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. *Id.* at 6; *see also 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. *See Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 2.

On appeal, the Petitioner claims the Circuit Court's orders contain a qualifying parental reunification determination for her. The Petitioner contends that under section 39.806 of the Florida Statutes, grounds for termination of parental rights may be established by a parent or parents engaging in egregious conduct including abuse, abandonment, and neglect. The Petitioner argues that her parents engaged in egregious conduct when her father committed suicide and did not make provisions for her care, and her mother disregarded her well-being and did not provide emotional and psychological support after the death of the Petitioner's father.

Despite the Petitioner's assertions, the Circuit Court orders on their face, do not contain a finding that the Petitioner cannot reunify with her mother or father or the basis of such a determination. Though Petitioner asserts before USCIS that she was neglected and abandoned by her parents, the Act requires a *juvenile court determination* that the Petitioner's reunification with her parent(s) is not viable due to abuse, neglect, abandonment, or a similar basis under Florida law. In addition, section 39.806 of the Florida Statutes allows for the termination of parental rights based upon several grounds, including the voluntary execution of a written surrender and consent by a parent. *See* Florida Statutes § 39.806 (West 2014). While the Circuit Court orders do not contain any determination of abuse, abandonment, or neglect by the Petitioner's parent(s), they do indicate the Petitioner's mother "has signed an Authorization and Consent to the termination of her parental rights and granting legal custody of the minor children to their first cousin [A-A-R] . . ." And the record contains an [REDACTED] 2014 *Consent of Natural Mother for Termination of Parental Rights and Adoption* signed by the Petitioner's mother.

The Petitioner further asserts that since adoption proceedings under Florida law are confidential the disclosure of any abuse, abandonment, or neglect on the Circuit Court's adoption order would be prohibited. However, in accordance with the statute, the confidentiality of adoptions in Florida do not prohibit the Circuit Court from making abuse, abandonment, and neglect findings on its adoption order. *See* Florida Statutes § 63.162 (West 2014). Rather, papers and records pertaining to the adoption, including adoption orders, are deemed confidential and subject to inspection only upon court order or upon written release of affected parties. *Id.* We note the Petitioner does not make assertions that the Circuit Court actually made findings of abuse, abandonment, or neglect in her adoption proceedings.

The Petitioner claims that had USCIS adjudicated her SIJ petition within 180 days as required, she may have been able to modify the Circuit Court orders to comply with the factual basis requirement or would not have been impacted by *Matter of D-Y-S-C-*. *See* section 235(d)(2) of the Trafficking Victims Protection and Reauthorization Act (TVPA 2008), Pub. L. 110-457, 122 Stat. 5044 (Dec. 23, 2008) (requiring adjudication within 180 days). But while we acknowledge the procedural requirement that such requests be adjudicated within 180 days, we cannot ignore the Petitioner's statutory and regulatory ineligibility and grant her SIJ petition as we lack the authority to waive the requirements of the statute, as implemented by the regulations. *United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (as long as regulations remain in force, they are binding on government officials). As stated, 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. Here, the Petitioner has not satisfied her burden of demonstrating the Circuit Court made a determination that she cannot reunify with her parent(s) due to parental maltreatment. Accordingly, the record does not contain a qualifying parental reunification determination for the Petitioner.

### C. Additional Grounds of Eligibility

The Petitioner argues on appeal that her parents engaged in egregious conduct when her father committed suicide and did not make provisions for her care, and her mother disregarded her well-being and did not provide emotional and psychological support after the death of the Petitioner's father. The Petitioner also contends her adoption order contains an implied determination that it would be in her best interest to remain in the United States. The Petitioner asserts through counsel that she has established a life in the United States she would be unable to achieve in the Dominican Republic without parental care and support. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether a best interest determination was made for her and whether the record contains reasonable factual bases for the Circuit Court's requisite determinations. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

The Petitioner has not overcome the basis of the Director's denial on appeal and has not demonstrated her eligibility for SIJ classification.

**ORDER:** The appeal is dismissed.