



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

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

In Re: 16856571

Date: MAR. 14, 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 establish that they are unmarried, under 21 years of age, and have been subject to a state juvenile court order determining that they 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)(i) of the Act; 8 C.F.R. § 204.11(c). Petitioners must have been declared dependent upon a juvenile court, or the juvenile court must have placed them in the custody of a state agency or an individual appointed by the state agency 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 petitioner's best interest to return to their or their parent's country of nationality or last habitual residence. Section 101(a)(27)(J)(ii) of the Act.

U.S. Citizenship and Immigration Services (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 juvenile court order was sought to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law and not primarily to obtain an immigration benefit. Section 101(a)(27)(J)(i)-(iii) of the Act; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019) (providing guidance on USCIS' consent authority as rooted in the legislative history of the SIJ classification and longstanding agency policy). 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 Facts and Procedural History

In [ ] 2018, when the Petitioner was 16 years old, the District Court for the [ ] Judicial District in [ ] Texas, issued a *Final Order for Declaratory Judgment* (declaratory judgment) in which it found that the Petitioner is “dependent upon this 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 “there is no one in Guatemala who is both willing and able to provide proper care” for him. The Petitioner filed his SIJ petition in December 2018 based on the District Court’s 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 the record did not establish that the District Court “declared [the Petitioner] dependent under any enforceable provision of Texas state law governing juvenile dependency.” Further, the Director determined that the declaratory judgment did “not indicate whether the court provided some form of relief to protect [the Petitioner] from parental abuse, abandonment, neglect, or a similar basis . . .” and the Petitioner therefore had not established that he sought the declaratory judgment for the purpose of receiving relief from parental maltreatment rather than primarily for an immigration benefit. On appeal, the Petitioner asserts that the District Court’s declaratory judgment is enforceable and contains the requisite declaration of dependency, and that he merits USCIS’ consent to his SIJ classification.

### B. 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)(3). 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. *See Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 5 (citing to 8 C.F.R. § 204.11(c)(3) and providing that, because “the dependency declaration or custodial placement must be entered in accordance with the state law that governs such determinations, the state law itself is a question of fact that must be proved by the Petitioner to establish eligibility”). 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 abused

and 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 District Court declared him dependent on the court in accordance with Texas state law. *See* 6 USCIS Policy Manual J.2, <https://www.uscis.gov/policy-manual> (providing, as guidance, that USCIS generally defers to the court on matters of state law and does not go behind the relevant order to make independent determinations regarding the requisite SIJ determinations). Accordingly, the record contains a qualifying dependency declaration, as section 101(a)(27)(J)(i) of the Act requires.

### C. USCIS' Consent is Warranted

The Petitioner has also demonstrated that USCIS' consent to his SIJ classification is warranted. As stated above, SIJ classification may only be granted upon the consent of the DHS, through USCIS, when a petitioner meets all other eligibility criteria and establishes that the juvenile court or administrative determinations were sought primarily to gain relief from parental maltreatment. Section 101(a)(27)(J)(i)-(iii) of the Act; *see also Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 2, 6-7. A declaration of dependency, absent any evidence that actual relief from parental maltreatment was granted, is generally not sufficient to warrant USCIS' consent. *See Matter of E-A-L-O-*, Adopted Decision 2019-04, at 7-8 (AAO Oct. 11, 2019) (concluding that USCIS' consent was not warranted, in part, because the Petitioner did not show that the relevant court order provided him with any protective or remedial relief pursuant to applicable child welfare provisions or any other relevant state law).

In the present case, the record reflects that the Petitioner was in Federal custody with the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), Division of Unaccompanied Children's Services, when the declaratory judgment was issued. This placement afforded him protection as an unaccompanied child pursuant to Federal law and obviated the District Court's need to provide him with additional relief from parental maltreatment under Texas state law. *See generally* Homeland Security Act of 2002, Pub. L. 107-296, § 462(b)(1), 116 Stat. 2135, 2203 (2002) (providing that ORR shall be responsible for "coordinating and implementing the placement and care of unaccompanied alien children in Federal custody by reason of their immigration status. . . ."). As the Petitioner has overcome the grounds for denial of his SIJ petition, and otherwise established that he is eligible and warrants USCIS' consent to his request for SIJ classification, the appeal is sustained.

**ORDER:** The appeal is sustained.