



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 20356130

Date: NOV. 09, 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 denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the Petitioner is ineligible for SIJ classification because she did not establish that U.S. Citizenship and Immigration Services' (USCIS) consent was warranted. The matter is now before us on appeal. On appeal, the Petitioner asserts that she has demonstrated her eligibility for SIJ classification. 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.

I. LAW

To establish eligibility for SIJ classification, a petitioner 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 of their 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(b).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through USCIS, when a 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. 8 C.F.R. § 204.11(b)(5). USCIS may withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona fide. *Id.* 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 Factual and Procedural History

In [] 2020, when the Petitioner was 20 years old, the [] Massachusetts Probate and Family Court (Family Court) issued an order entitled Order of and Special Findings of Fact and Ruling of Law (SIJ order) in which it declared the Petitioner to be dependent on the Court and determined that reunification with the Petitioner's father was not viable due to abuse, abandonment, and neglect. The Court further determined that it would be in the best interests of the Petitioner to remain in the United States in the care of her mother and not be removed to Brazil, her country of nationality. Based on the SIJ order, the Petitioner filed her SIJ petition in January 2020.

In February 2021, prior to issuing a decision, the Director issued a notice of intent to deny advising the Petitioner that the record contained insufficient evidence to establish eligibility for SIJ status and providing her an opportunity to submit additional evidence. Upon review of the Petitioner's additional evidence, the Director denied the petition, finding that USCIS' consent was not warranted because the record contained material inconsistencies regarding the factual basis for the SIJ petition which prevented the Director from determining whether a primary reason the Petitioner sought the juvenile court order was to obtain relief from parental maltreatment or to obtain an order for immigration purposes.

B. USCIS' Consent is Warranted

SIJ classification may only be granted upon the consent of DHS, through USCIS, when petitioners meet all the other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act. To warrant USCIS' consent, juveniles must 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. *Id.*; 8 C.F.R. § 204.11(b)(5).

As stated above, the Director noted that the record contained material inconsistencies regarding the factual basis for the SIJ petition. Specifically, the Director found that the Petitioner's and her mother's statements, regarding their relationship with the Petitioner's father and reason for their travel to the United States, were in conflict with government records. On appeal, the Petitioner submits a [] 2021 nunc pro tunc order entitled Special Findings of Fact and Rulings of Law (amended SIJ order), effective retroactively to the date of the original SIJ order. The Petitioner asserts that in support of the motion to amend the SIJ order, she submitted affidavits containing "a sufficient explanation for the material inconsistencies between government records and documents provided initially to USCIS." The amended SIJ order contains more detail regarding the Petitioner's life in Brazil and the alleged abusive relationship with her father. Further, in the amended SIJ order, the Family Court refers the Petitioner for "resources for domestic violence, occupational, educational, counseling and social services as treatment for the abuse and neglect she endured from her father." As the record reflects that the Family Court was made aware of the conflicting information in government records, and the amended SIJ order indicates the basis for the Petitioner's inability to reunify with her father, the Petitioner has established both a factual basis for the Court's determinations and that a primary reason she sought SIJ classification to obtain relief from parental maltreatment.

Based upon the evidence submitted on appeal, the Petitioner has overcome the Director's determination and established, by a preponderance of the evidence, that she sought the juvenile court orders to obtain relief from parental abandonment and neglect and that the Court, in fact, granted such relief. Consequently, the Petitioner's request for SIJ classification merits USCIS' consent under section 101(a)(27)(J)(iii) of the Act.

ORDER: The appeal is sustained.