



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 22064622

Date: NOV. 22, 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 Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the Petitioner had not demonstrated that a juvenile court made a qualifying parental reunification. On appeal, the Petitioner asserts her eligibility for SIJ classification. The Administrative Appeals Office 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, 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(b).¹ 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); 8 C.F.R. § 204.11(c)(2). 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).

¹ The Department of Homeland Security issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for petitioners who seek SIJ classification. See Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (revising 8 C.F.R. §§ 204, 205, 245).

II. ANALYSIS

A. Relevant Facts and Procedural History

In [] 2013, the Petitioner, at age 15, entered the United States without inspection. Soon after entering the United States, the Petitioner was apprehended by immigration officials and placed into the custody of the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR), Division of Unaccompanied Children's Services. In [] 2013, ORR released the Petitioner into the custody of her mother, a resident of Pennsylvania. In [] 2016, the Family Court in [] Pennsylvania (Family Court) issued an order, determining that the Petitioner's mother "shall have sole physical and legal custody of the minor child," and it was in the Petitioner's best interest to remain with her mother. The Family Court also determined that reunification of the Petitioner with her father was not viable due to her father's death. The Petitioner filed her SIJ petition in January 2018.

The Director denied the petition, concluding the Petitioner did not establish that the Family Court made a judicial determination regarding whether reunification with both of the Petitioner's parents is not viable due to abuse, neglect, or abandonment, or a similar basis found under State law, as required under section 101(a)(27)(J)(i) of the Act. On appeal, citing to the Pennsylvania Juvenile Act² and its definition of a "dependent child," the Petitioner contends that death is a similar basis to abandonment under Pennsylvania state law.

B. Qualifying Parental Reunification Determination

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. 8 C.F.R. § 204.11(c)(1)(ii). 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. 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 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. 8 C.F.R. § 204.11(c)(3).

Where a juvenile court finds that parental reunification is not viable due to a similar basis, such as the death of a parent, the petitioner must establish that the nature and elements of the state law are indeed similar to the nature and elements of laws on abuse, neglect, or abandonment. 8 C.F.R. § 204.11(d)(4). Here, while the Family Court determined that reunification of the Petitioner with her father was not viable due to the father's death, the Family Court did not indicate or determine how death is a similar

² Pennsylvania Consolidated Statutes, sections 6301 to 6365.

basis to abuse, neglect, or abandonment under Pennsylvania child welfare law by identifying a statutory provision whose nature and elements are similar to the nature and elements of abuse, neglect, or abandonment under Pennsylvania law. As a result, the Petitioner has not established by a preponderance of the evidence that the Family Court determined that reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law, as required by section 101(a)(27)(J)(i) of the Act. Accordingly, the Petitioner has not established her eligibility for SIJ classification.

ORDER: The appeal is dismissed.