



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

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

In Re: 17479619

Date: NOV. 28, 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 that the Petitioner did not establish that her petition for SIJ classification is bona fide and that U.S. Citizenship and Immigration Services (USCIS) consent is warranted. The matter is now before us on appeal. 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 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)(i) of the Act; 8 C.F.R. § 204.11(b).<sup>1</sup> 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. Section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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 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. Section 101(a)(27)(J)(i)–

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<sup>1</sup> 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).

(iii) of the Act; 8 C.F.R. § 204.11(b)(5). USCIS may also 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. 8 C.F.R. § 204.11(b)(5). 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

In [ ] 2018, when the Petitioner was 19 years old, the California Superior Court for [ ] (juvenile court) issued *Letters of Guardianship* (guardianship order), appointing guardianship of the Petitioner to W-D,<sup>2</sup> pursuant to California Probate Code sections 2310-2311 and 2890-2893. On the same day, the Family Court issued a separate order titled *SPECIAL IMMIGRANT JUVENILE FINDINGS* (SIJ order), determining, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner's reunification with both her father and mother was not viable due to abandonment under California law, and that it was not in her best interest to be returned to China, her country of nationality. The SIJ order also includes factual findings by the juvenile court in support of its SIJ related determinations. Based on these orders, the Petitioner filed the instant SIJ petition in March 2018.

The Director denied the SIJ petition, concluding that USCIS' consent to the Petitioner's request for SIJ classification is not warranted because the record contains material inconsistencies with the juvenile court's factual findings in support of the parental reunification determination, including that the Petitioner's parents abandoned her, have had no communication with her for over three years (since approximately 2015), and did not support her in China due to their debts and expenses. Specifically, the Director noted that inconsistent with the court's findings and the Petitioner's assertions to the court: 1) the Petitioner's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student, dated May 2013, indicated that her parents were funding her schooling in the United States; 2) according to government records, the Petitioner's parents have listed the Petitioner's previous U.S. address from 2013 to August 2018 as their destination address during multiple visits to the United States during that same period; and 3) the Petitioner's mother signed a school document in August 2015, pertaining to the Petitioner (and her younger brother), in which she listed the Petitioner's residence at that time as her address.

On appeal, the Petitioner submits the same brief from counsel previously submitted in response to the Director's Notice of Intent to Deny (NOID) and references her statement also previously submitted in response to the NOID. In her statement, the Petitioner indicated that her parents gave her a sum of money for her college education after leaving China, which she stated was their "so-called 'cost'" to push her away from them forever. The Petitioner claimed that after she entered the United States in 2013, her parents cut all connections with her because they thought she brought them too much trouble and misery. She stated that after she entered the United States, she did not contact her parents. She stated that she heard her parents traveled to the United States while she was living with her grandmother because her younger brother told her and that she tried to contact them, but they refused to meet with her. The Petitioner stated that she learned of her parents' use of her grandmother's address as their destination in the United States from the USCIS documentation she received and that

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<sup>2</sup> We use initials to protect the privacy of individuals.

her uncle also told her that her parents knew her grandmother's address, but that she "had never seen them as [she] was living with [her] grandmother at this address."

A request for SIJ classification must be bona fide for USCIS to grant consent to SIJ classification. 8 C.F.R. § 204.11(b)(5). To demonstrate a bona fide request, a petitioner must establish a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). If the evidence contains a material conflict related to SIJ eligibility requirements so that the record reflects a request is not bona fide, USCIS may withhold consent. *Id.* USCIS recognizes that there may be some immigration-related motive for seeking a juvenile court order. To establish that their request for SIJ classification warrants USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence includes the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). In addition, these documents must include relief, granted or recognized by the juvenile court, from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(d)(5)(ii). The regulations specify that such relief may include a court-ordered custodial placement, court-ordered dependency on the court for the provision of child welfare services, or court-ordered or recognized protective or remedial relief. *Id.*

In this case, the evidence in the record materially conflicts with the information in the SIJ order forming the factual bases for the parental reunification determination made by the juvenile court. The Petitioner's SIJ order states that her reunification with her parents is not viable because they abandoned her upon her entry to the United States in 2013, she has not seen or heard from them since, their inability to provide adequate care and support for her has continued in the United States, and they lacked the resources to provide the basic necessities for her. However, visa records indicate that her parents came to the United States multiple times since the Petitioner's arrival in 2013, and they listed her residence as the destination address they would be visiting on several occasions. Specifically, government records indicate that the Petitioner's mother visited the United States at least five times, and her father visited at least two times, from 2015 to 2017, and on each occasion, they listed the Petitioner's residence at that time as their destination address. The Petitioner's unsupported statement before the Director asserting that she was not aware of their visits to the United States and did not see them at any time during any of those visits is not sufficient to overcome the evidence in the record indicating that she continued to have contact with her parents after her entry into the United States. Additionally, the [redacted] Property Information Management System Internet Site, which provides public records of property ownership in [redacted] California, indicates that the Petitioner's mother was the sole owner from 2012 to 2018 of the property where the Petitioner resided with her grandmother from 2013 to 2018 - the same residence that the Petitioner's parents listed as their destination on multiple visits to the United States during that same period.<sup>3</sup> On appeal, the Petitioner does not provide any additional evidence or affidavits from others residing in the home, such as her guardian/grandmother, or others who may have knowledge of her parents' visits, such as her younger brother, her uncle, other family and friends, or even neighbors who would have witnessed them at the home, to corroborate her claims. Furthermore, as indicated by the Director, the Petitioner's Form I-20 from May 2013, indicated that her parents were funding her schooling in the United States,

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<sup>3</sup> See [redacted] Property Information Management System Internet Site at [http://\[redacted\]/assessor/pims/PIMSINTERFACE.ASPX](http://[redacted]/assessor/pims/PIMSINTERFACE.ASPX) (last visited Nov. 14, 2022).

and in 2015, the Petitioner's mother signed a document from the Petitioner and her younger brother's California school district indicating that she was living with them at the Petitioner's residence in California at that time. However, the Petitioner did not address this information at any time in her response to the NOID or on appeal.

The Petitioner bears the burden to establish eligibility in these proceedings by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Here, she has not satisfied this burden where she has not overcome the evidence in the record that materially conflicts with the juvenile court's determination that the Petitioner's parents abandoned her after her 2013 entry into the United States and since then, have not communicated with her or provided her with adequate care and support. Accordingly, the Petitioner has not established by a preponderance of the evidence that the request for SIJ classification was bona fide, and USCIS' consent to a grant of SIJ classification is warranted. *See* 8 C.F.R. § 204.11(b)(5).

### III. CONCLUSION

As discussed above, the Petitioner has not demonstrated that she warrants USCIS' consent to a grant of SIJ classification. Therefore, the Petitioner has not met her burden to establish that she is eligible for SIJ classification.

**ORDER:** The appeal is dismissed.