



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

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

In Re: 19032303

Date: OCT. 13, 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). 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, the appeal will be sustained.

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).

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 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)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5). Petitioners bear the burden of proof

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).

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

On [REDACTED] 2016, when the Petitioner was 17 years old, the [REDACTED] Probate and Family Court (juvenile court) in Massachusetts issued a *Findings of Fact and Rulings of Law*, declaring the court's jurisdiction over the Petitioner, that she will remain under the court's jurisdiction until she attains the age of 21, and she is dependent upon the juvenile court "under [section 6, chapter 215 of the Massachusetts General Law (MGL).]" The order also contained the court's declaration that the Petitioner's mother, K-H-,² has "sole and legal custody" of the Petitioner; reunification with her father was not viable due to abandonment; and it was not in her best interest to return to Cambodia, her country of nationality, or Mexico, her country of last habitual residence. Based on the juvenile court order, the Petitioner filed this SIJ petition in March 2017.

Following the Director's October 2017 Request for Evidence (RFE), the juvenile court issued a *Declaratory Judgment* in [REDACTED] 2017 *nunc pro tunc* to [REDACTED] 2016, clarifying that the Petitioner was "ordered and adjudged" to be placed under the sole and legal custody of her mother, K-H-, "pursuant to [section 10(c), chapter 209C of the MGL.]" On the same day, the court separately issued an *Amended Order for Special Findings of Fact and Rulings of Law* "after hearing, and based on supporting evidence[.]" The court declared that the Petitioner's reunification with her father was not viable "due to abandonment through death[.]" that the Petitioner was three years old when her father died in 2002, as a result of his death the Petitioner "was plunged into chronic displacement and poverty[.]" and therefore the Petitioner was "abandoned by her father pursuant to Massachusetts state law." The order also declared that it was not in her best interest to return to Cambodia, her country of nationality, or Mexico, her country of last habitual residence, because the Petitioner is under the care and protection of her mother, attending school, and receiving medical care in Massachusetts, and she has "no meaningful family connections in either Cambodia or Mexico, no way to support herself, no opportunity to attend school, and no ability to access complex medical care."

The Director subsequently issued a Notice of Intent to Deny (NOID), notifying the Petitioner that USCIS' consent was not warranted because the record contained material inconsistencies. The Director indicated that the death certificate for S-S-, her father, that was submitted in response to the RFE reflected a registration date of June 2, 2007; whereas the death certificate that was provided with a Form I-130, Petition for Alien Relative, filed on her behalf by her stepfather, had a registration date of June 2, 2006, and a different name for her father's father. The Director also noted that the Form I-130 was denied in 2009 because USCIS could not verify that K-H- is her mother. The Director denied the SIJ petition, concluding that USCIS' consent was not warranted because the Petitioner did not meet her evidentiary burden, and due to the material inconsistencies in the record USCIS was unable to determine whether her primary purpose in seeking the juvenile court order was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law.

² Initials are used to protect individuals' identities.

On appeal, the Petitioner submits additional evidence and asserts she has fully addressed the Director's concerns regarding any perceived inconsistencies in the record. She provides DNA test results that establish K-H- is the biological mother of the Petitioner with a greater than 99.99 percent probability, a copy of S-S-'s death certificate with translation issued in April 2021, and a declaration from counsel regarding the origin of the scanned extract death certificate of S-S-. The Petitioner's counsel attests in the declaration that she contacted the U.S. Embassy in Cambodia in 2021 to address any doubt USCIS had about the registration of the Petitioner's father's death, the Embassy referred her to local lawyers to assist in obtaining records from the local authorities in [redacted] province, and one of the recommended law firms informed her that these authorities located the registration of S-S-'s death in their 2006 registration book. The authorities confirmed that the death was registered on June 2, 2006, and the certificate transcribed from the registry in 2007 contained a typographical error in the registration date and listed June 2, 2007, instead of 2006. The [redacted] Registrar prepared a certificate of the death registration on April 8, 2021, and transmitted it to the law firm who then sent the scanned copy of the certificate to counsel. Concerning the alleged differences in the names of the Petitioner's father's father, counsel notes that the April 2021 death certificate submitted on appeal was professionally translated by the UMass Amherst Translation Center and explains that the Khmer script is the same on both certificates but the English transliteration differs on the two translations.

B. USCIS' Consent Is Warranted

To warrant USCIS' consent, petitioners must establish the juvenile court order or supplemental evidence include 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.*

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. However, to warrant USCIS' consent, the requisite SIJ determinations must be made under state law in connection with proceedings in which a petitioner seeks and is granted some form of relief or remedy from parental abuse, neglect, abandonment, or a similar basis that the court has authority to provide under state law. 8 C.F.R. § 204.11(d)(5)(ii).

Here, the Petitioner has resolved the inconsistencies noted by the Director and has established by a preponderance of the evidence that USCIS' consent is warranted. The DNA test results establish that K-H- is the biological mother of the Petitioner and the copy of S-S-'s death certificate, in conjunction with the declaration from counsel, address the Director's concerns regarding the validity of the submitted evidence. As the Petitioner has overcome the grounds for denial of her SIJ petition, and

otherwise established that she is eligible and warrants USCIS' consent to her request for SIJ classification, the appeal is sustained.

ORDER: The appeal is sustained.