



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 21106047

Date: OCT. 18, 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 did not establish that a dependency/custody order was issued by a court pursuant to its jurisdiction over the Petitioner as a juvenile, as required. 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).<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. 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 [ ] 2021, when the Petitioner was 19 years old, the District Court of [ ] Oklahoma (District Court) issued an order, entitled Order Appointing Guardian (guardianship order), appointing the Petitioner's father as her guardian in proceedings pursuant to title 30, section 1-112 of

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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).

the Oklahoma Guardianship and Conservatorship Act<sup>2</sup> and article 7, section 7 of the Oklahoma Constitution. The District Court determined that the Petitioner was a “vulnerable adult” as defined under section 10-103(5) of the Oklahoma Statutes Annotated (Okla. Stat. Ann.),<sup>3</sup> reunification with her mother was not viable because her mother is deceased, and it was not in her best interest to be returned Guatemala, her country of nationality.

Based on the guardianship order, the Petitioner filed her SIJ petition in February 2021. The Director denied the petition, determining that because the Petitioner was over the age of 18 at the time the District Court issued the guardianship order, the District Court did not have jurisdiction over her as a juvenile under state law as required by the Act.

On appeal, the Petitioner argues that pursuant to Article 7, section 7 of the Oklahoma Constitution, the District Court has “unlimited original jurisdiction of all justiciable matters, except as otherwise provided by Oklahoma state law,” and therefore, the District Court had jurisdiction over her as a juvenile under state law.

To be eligible for SIJ classification, petitioners must have been subject to a dependency or custody order issued by a “juvenile court.” Section 101(a)(27)(J)(i) of the Act. A juvenile court is defined as a court “in the United States having jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.” 8 C.F.R. § 204.11(a). While the specific title and type of court may vary, SIJ petitioners must establish that the court had jurisdiction under state law to make judicial determinations about their dependency or custody as a juvenile in order to meet the definition of a juvenile court at 8 C.F.R. § 204.11(a). 8 C.F.R. § 204.11(c)(1), (3). Further, not all courts having jurisdiction over juveniles under state law may be acting as juvenile courts for the purposes of SIJ classification; for example, a court of general jurisdiction that issues an order with SIJ-related findings outside of any juvenile custody or dependency proceeding would generally not be acting as a juvenile court for SIJ purposes, and the burden is on the petitioner to establish that the court is acting as a juvenile court at the time that the order is issued. 8 C.F.R. § 204.11(c)(3); see generally 6 USCIS Policy Manual J.2, <https://www.uscis.gov/policy-manual> (explaining, as guidance, the jurisdictional issues involving juvenile courts and courts of general jurisdiction).

We acknowledge that an Oklahoma District Court, with limited exceptions, has unlimited original jurisdiction of all justiciable matters, which includes the authority to make judicial determinations about the care and custody of juveniles. However, Oklahoma law specifies that juveniles or minors are persons under 18 years old. See Okla. Stat. Ann. 43, § 1-1-105 (defining “child” as “any unmarried person under eighteen (18) years of age”) and (defining “minor” as “same as the term “child” as defined in this section”); Okla. Stat. Ann. 10, § 7501-1.3 (defining “minor” as “any person who has

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<sup>2</sup> The Oklahoma Guardianship and Conservatorship Act was enacted to establish a system of general and limited guardianships for minors, incapacitated persons, and partially incapacitated persons, and provides for the protection of their rights and the management of their financial resources.

<sup>3</sup> Title 43A, section 10-103(5) of the Okla. Stat. Ann. provides that a “vulnerable adult” is “an individual who is an incapacitated person or who, because of physical or mental disability, including persons with Alzheimer’s disease or other dementias, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others.”

not attained the age of eighteen (18) years” under the Oklahoma Adoption Code); Okla. Stat. Ann. 43, § 551-102 (providing that “child” means “an individual who has not attained eighteen (18) years of age”); Okla. Stat. Ann. 10A, § 2-1-103 (defining “child” or “juvenile” as “any person under eighteen (18) years of age, except for any person charged and convicted for any offense specified in the Youthful Offender Act”); see also *Arganbright v. State*, 328 P.3d 1212, 1219 (Okla. Crim. App. 2014) (“In Oklahoma, the age of majority has been set at the age of 18 years by the Constitution.”). In this case, the District Court found that “[the] [Petitioner] is a female ward, age 19 years old . . . and falls under the Vulnerable Adult statute,” and the guardianship order consistently refers to the Petitioner as a vulnerable adult, indicating that the District Court did not issue its guardianship order pursuant to its jurisdiction over the Petitioner as a juvenile.

In further support of her argument that the District Court had jurisdiction over her as a juvenile, the Petitioner cites title 30, section 1-103(A) of the Okla. Stat. Ann. which provides:

Except as otherwise specifically provided by law, the Oklahoma Guardianship and Conservatorship Act applies to: 1. Minors in this state. Guardianships for minors established pursuant to Section 3 of this act shall only be subject to provisions of the Oklahoma Guardianship and Conservatorship Act as provided in subsection B of this section; 2. Incapacitated and partially incapacitated persons in this state; and 3. Property located in this state of nondomiciliaries who are minors or incapacitated or partially incapacitated persons, or property coming into the control of a guardian who is subject to the laws of this state.

This section of Oklahoma law provides the court with two options for appointing a guardian. The first option is for a minor, a person under the age of 18 years, and the second is for an incapacitated person. In this case, the District Court’s order specifically determined that the Petitioner to be a vulnerable adult, i.e., an incapacitated person, rather than a minor, as defined by Oklahoma law. As such, the evidence reflects that the District Court exercised jurisdiction over the Petitioner and entered an order in guardianship proceedings based on her status as a vulnerable adult or incapacitated person as opposed to her status as a minor or juvenile.

Upon de novo review, because she was over the age of 18 when the order was issued and therefore no longer a juvenile under Oklahoma law, the Petitioner has not established by a preponderance of the evidence that the District Court was operating as a “juvenile court,” as that term is referenced in section 101(a)(27)(J) of the Act and defined at 8 C.F.R. § 204.11(a), when it issued the guardianship order. Accordingly, she has not established her eligibility for SIJ classification.

ORDER: The appeal is dismissed.