



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

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

In Re: 18370207

Date: SEP. 14, 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 Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ), and the matter is now before us on appeal. We review the questions in this matter *de novo*. See *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. *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). USCIS may also withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the

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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).

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

### A. Relevant Facts and Procedural History

In [REDACTED] 2018, when the Petitioner was 18 years old, the Iowa District Court “in and for” [REDACTED] Iowa (District Court) issued an *ORDER DECLARING LEGAL GUARDIANSHIP AND FINDINGS REGARDING ELIGIBILITY FOR SPECIAL IMMIGRANT JUVENILE STATUS* (court order). In the court order, the District Court found that it had jurisdiction under Iowa law to make judicial determinations about the custody and care of juveniles within the meaning of section 101(a)(27)(J)(i) of the Act. Further, the District Court noted that the Petitioner’s parents neglected and abandoned him, according to the definition of the latter term in section 232.2 of the Iowa Code Annotated (Iowa Code Ann.), and therefore concluded that reunification with his parents is not viable. The District Court also ordered legal guardianship of the Petitioner to [REDACTED] pursuant to section 633.562 of the Iowa Code Ann., who the Court authorized to provide care and assistance and moreover that the Petitioner was “legally committed to, or placed under the custody of, an individual or entity appointed by a State or juvenile court located in the United States.” Additionally, the District Court found that was is not in the Petitioner’s best interest to be returned to Guatemala, his country of nationality or last habitual residence.

Based upon the custody order, the Petitioner filed his SIJ petition in April 2018. The Director denied the petition, concluding that the Petitioner had not met his burden of establishing that the District Court took jurisdiction over him as a juvenile as required by section 101(a)(27)(J) of the Act. On appeal, the Petitioner submits a brief and argues that he has met his burden to demonstrate by a preponderance of the evidence that the District Court acted as a juvenile court in issuing the custody order in his case. Specifically, he argues that the court order was issued by a juvenile court because an Iowa district court “sitting in probate” is empowered by the Iowa Code “to make judicial determinations about the custody and care of children less than a year old to twenty-one years of age.” He also states that Iowa probate law lacks a definition of the term “juvenile” and that several courts have jurisdiction to make care, custody, or similar decisions over individuals ages 18 to 21. The Petitioner contends that, according to the Director’s basis for denial, no child of any age under an Iowa guardianship would be eligible for SIJ classification. He further contends that the District Court exercised this jurisdiction by designating guardianship for the Petitioner while he was a child according to federal immigration law at the time the court order was issued. Finally, the Petitioner claims that there is no requirement in published law, regulation, or policy that a state court exercise jurisdiction over the Petitioner as “a ‘juvenile’ as defined under state law.”

### B. Not a Juvenile Court

The record does not establish that the District Court’s guardianship order and SIJ findings were issued pursuant to the court’s jurisdiction over the Petitioner as a juvenile.

A petitioner for SIJ classification must be declared dependent upon a juvenile court, or be legally committed to, or placed under the custody of a state agency or department, or of an individual or entity appointed by a state or juvenile court. Section 101(a)(27)(J)(i) of the Act. A juvenile court's dependency declaration must be a judicial determination issued in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(3).

Here, the Petitioner was over 18 years old and no longer a child or juvenile under Iowa law when the court issued the order. Contrary to the Petitioner's argument on appeal, the regulation at 8 C.F.R. § 204.11(a) defines a juvenile court as "a court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles." Although the Petitioner met the definition of a "child" under the Act—an unmarried person under 21 years old—this definition relates to SIJ filing requirements and related age-out protections; it is not pertinent for determining the validity of a juvenile state court order under the applicable state law. Section 101(b)(1) of the Act; *see* 8 C.F.R. § 204.11(b) (stating that an SIJ petitioner must be under 21 years of age and unmarried); *and see* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, section 235(d)(6), Pub. L. 110-457, 122 Stat. 5044, 5080 (2008) (providing age-out protections for juveniles who are unmarried and under the age of 21 when their petitions are filed).

Turning to the applicable state law regarding the validity of a juvenile court in the instant case, in the context of guardianship proceedings under the Probate Code at Chapter 633, a "minor" was defined as "a person who is not of full age" at the time the court order was issued. Iowa Code Ann. § 633.3(28) (West 2018). In turn, "full age" was defined as "the state of legal majority attained through arriving at the age of eighteen years or through having married, even though such marriage is terminated by divorce." Iowa Code Ann. § 633.3(18) (West 2018). In the court order, the court found that the Petitioner was 18 years old when the petition was filed and therefore not a minor.

Further, a district court acting in probate has jurisdiction over the appointment of guardians for both adults and minors pursuant to section 633.10(3) of the Iowa Code Ann. at the time the instant court order was issued (West 2018).<sup>2</sup> We do not question the district court's finding here, as it stated that it has jurisdiction under Iowa law to make judicial determinations about the care and custody of juveniles. And we acknowledge that an Iowa District Court, with limited exceptions, "has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile. . . ." Iowa Code Ann. § 602.6101 (West 2018). But the record does not establish that the district court issued its orders pursuant to its jurisdiction over the Petitioner as a juvenile under Iowa law. As the Petitioner noted on appeal, a district court acting in probate could make the same guardianship determination for an individual over the age of 21. Indeed, the cited authority for the guardianship order, section 633.562 of the Iowa Code Ann., is not exclusive to children or minors. Iowa Code Ann. § 633.562 (West 2018).

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<sup>2</sup> In support of his assertion that asserts that the District Court in the instant case similarly had equitable power over children ages 18 to 21, the Petitioner cites *Recinos v. Escobar*, 473 Mass. 734, 46 N.E.3d 60 (2016) regarding a probate and family court having jurisdiction over youth between the ages of 18 and 21 for the purpose of making SIJ findings. The Petitioner has not cited any authority to support his assertion that this finding in Massachusetts is applicable to the court order issued by the Iowa District Court in the instant case.

We acknowledge the Petitioner's arguments on appeal regarding the lack of a definition for "juvenile" that applies in Iowa probate proceedings. However, we lack the authority to waive the requirements of the statute, as implemented by the regulations. *United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (as long as regulations remain in force, they are binding on government officials). As stated, petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. The Petitioner has not met his burden to demonstrate by a preponderance of the evidence that the court was acting in its capacity 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 appointment and SIJ-related findings.

Therefore, he has not established that he is eligible for SIJ classification. The petition remains denied.

**ORDER:** The appeal is dismissed.