



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

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

In Re: 17949417

Date: SEP. 20, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Ecuador, 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 petition), and we dismissed a subsequent appeal. The matter is now before us on a motion to reopen. With the motion, the Petitioner submits a brief and additional evidence and asserts that the record establishes his eligibility for SIJ classification. Upon review, we will grant the motion to reopen and sustain 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). 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. Section 101(a)(27)(J)(ii) of the Act.

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 juvenile court order was sought to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law and not primarily to obtain an immigration benefit. Section 101(a)(27)(J)(i)–(iii) of the Act.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(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).

II. ANALYSIS

In our prior decision, incorporated here by reference, we determined that the Petitioner established that the [REDACTED] Family Court in New York (Family Court) had jurisdiction over his custody as a juvenile under state law, when it issued the *ORDER- Special Immigrant Juvenile Status* and *AMENDED ORDER- Special Immigrant Juvenile Status*, contrary to the Director's finding below. However, we also determined that the Petitioner did not establish that the Family Court issued a qualifying parental reunification determination made under state law as section 101(a)(27)(J)(i) of the Act requires. Therefore, we dismissed his appeal in June 2020.

In July 2020, the Petitioner timely filed a motion to reopen. With the motion, the Petitioner submits a *SECOND AMENDED ORDER - Special Immigrant Juvenile Status* (second amended SIJ order) issued by the Family Court in [REDACTED] 2020. In the order, the Family Court determined, amongst other things, that the Petitioner's reunification with his parents was not viable due to abandonment under section 384-b(5)(a) of New York Social Services Law and New York state caselaw.

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. In the second amended SIJ order, the Family Court determined that the Petitioner's reunification with his parents was not viable due to abandonment as that term is defined under state law. The Family Court cited applicable New York caselaw and statutes in support of its decision. Based on the foregoing, the Petitioner has established by a preponderance of the evidence that the Family Court, in the second amended SIJ order, made a qualifying parental reunification determination pursuant to New York state law, as required by section 101(a)(27)(J)(i) of the Act. Consequently, the Petitioner has met his burden to establish that he is eligible for and merits USCIS' consent to his SIJ classification.

ORDER: The motion to reopen is granted and the appeal is sustained.