



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

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

In Re: 18665924

Date: SEP. 22, 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, a petitioner 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 of their 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 The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner in the custody of a state agency or an individual or entity appointed by the state or 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 petitioner's 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; 8 C.F.R. § 204.11(c)(2).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when a 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. 8 C.F.R. § 204.11(b)(5). USCIS may withhold consent if evidence materially conflicts with the eligibility requirements such that the record reflects that the request for SIJ classification was not bona

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).

fide. *Id.* The petitioner bears 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 [] 2018, when the Petitioner was 17 years old, the District Court (District Court) for the [] Judicial District in [] Texas, issued an *Order of Declaratory Judgment and Findings* (declaratory judgment) in which it found that the Petitioner is “dependent upon this juvenile court in accordance with the law of the State of Texas.” The District Court also determined that the Petitioner’s reunification with her parents is not viable due to abuse and neglect as those terms are defined under Texas Family Code sections 261.001(1)(C) and (D), and 261.001(4)(A)(ii)(c), respectively. Finally, the District Court found that it would not be in the Petitioner’s best interest to return to Honduras, her country of nationality, due to the history of abuse and neglect. The Petitioner filed her SIJ petition in September 2018 based on the District Court’s declaratory judgment.

The Director denied the SIJ petition, concluding that the Petitioner had not met her burden of establishing that the District Court made a qualifying declaration of dependency or custodial placement, as required by section 101(a)(27)(J)(i) of the Act. Specifically, the Director concluded that the record did not establish that the District Court declared the Petitioner dependent under any enforceable provision of Texas state law governing juvenile dependency; the declaratory judgment did not indicate the court provided some form of relief from parental abuse, abandonment, neglect, or a similar basis under state law; and the Petitioner did not submit evidence to show the factual basis for the court’s determination that it would not be in her best interest to return to Honduras. The Director found that the Petitioner therefore had not established that she sought the declaratory judgment for the purpose of receiving relief from parental maltreatment rather than primarily for an immigration benefit.

On appeal, the Petitioner asserts that the District Court’s declaratory judgment is enforceable and contains the requisite declaration of dependency, and that she merits USCIS’ consent to her SIJ classification. The Petitioner also contends that the Director failed to fully address the evidence she submitted in response to the Director’s Notice of Intent to Deny (NOID), such as the Petition for Findings and Declaratory Judgment and her personal declaration that she filed with the District Court.

B. The District Court Made a Qualifying Declaration of Dependency

SIJ petitioners 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; 8 C.F.R. § 204.11(c)(1). As part of their burden to establish eligibility for SIJ classification, petitioners must establish the state law that the juvenile court applied in its dependency declaration. *See 6 USCIS Policy Manual J.3(A)(1)*, <https://www.uscis.gov/policy-manual> (indicating, as guidance, that the juvenile court order should use language establishing that the specific judicial determinations were made under state law).

In its declaratory judgment, the District Court declared that the Petitioner was “dependent upon this juvenile court in accordance with the law of the State of Texas” and specified that the Petitioner was abused and neglected as those terms are defined in the Texas Family Code. Considering this evidence, the Petitioner has established, by a preponderance of the evidence, that the District Court declared her dependent on the court in accordance with Texas state law. *See 6 USCIS Policy Manual J.2*, (providing, as guidance, that USCIS generally defers to the court on matters of state law and does not go behind the relevant order to make independent determinations regarding the requisite SIJ determinations). Accordingly, the record contains a qualifying dependency declaration, as section 101(a)(27)(J)(i) of the Act requires.

C. USCIS’ Consent is Warranted

The Petitioner has also demonstrated that USCIS’ consent to her SIJ classification is warranted. As stated above, SIJ classification may only be granted upon the consent of the DHS, through USCIS, when a petitioner meets all other eligibility criteria and establishes that the juvenile court or administrative determinations were sought primarily to gain relief from parental maltreatment. Section 101(a)(27)(J)(i)-(iii) of the Act. 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.* An example of court-recognized remedial relief includes the recognition of a petitioner’s placement in the custody of the Department of Health and Human Services, Office of Refugee Resettlement. *Id.*

Here, the record reflects that the Petitioner was in Federal custody with the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), Division of Unaccompanied Children’s Services, when the declaratory judgment was issued. This placement afforded her protection as an unaccompanied child pursuant to Federal law and obviated the District Court’s need to provide her with additional relief from parental maltreatment under Texas state law. *See generally* Homeland Security Act of 2002, Pub. L. 107-296, § 462(b)(1), 116 Stat. 2135, 2203 (2002) (providing that ORR shall be responsible for “coordinating and implementing the placement and care of unaccompanied alien children in Federal custody by reason of their immigration status. . . .”). Further, the record contains supporting evidence that provides the factual basis for the juvenile court’s determinations, specifically, the Petition for Findings and Declaratory Judgment and the Petitioner’s personal declaration that she filed with the District Court. 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.