



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

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

In Re: 18930659

Date: SEP. 23, 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), concluding that the record did not contain the factual basis for the juvenile court's best interest determination and therefore that the Petitioner had not established his eligibility for SIJ classification.

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 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)(i) 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; 8 C.F.R. § 204.11(c)(1). The record must 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

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).

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 request for SIJ classification was not bona fide. 8 C.F.R. § 204.11(b)(5).

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. 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

In [redacted] 2017, when the Petitioner was 17 years old, the Family Court of New York [redacted] (Family Court), issued an *ORDER APPOINTING GUARDIAN OF THE PERSON* (guardianship order) appointing B-S-² as the Petitioner’s guardian under section 661 of the N.Y. Fam. Ct. Act and section 1707 of the N.Y. Surr. Ct. Proc. Act. The Family Court also issued an *ORDER- Special Immigrant Juvenile Status* (SIJ order) in which it made determinations necessary for SIJ eligibility under section 101(a)(27)(J) of the Act. The Family Court found that the Petitioner was dependent upon it or had been committed to or placed in the custody of a state agency or department or, an individual or entity appointed by the state or Family Court. The Family Court also found that reunification with his father was not viable due to abuse and neglect under state law and that reunification with his mother was not viable due to neglect and abandonment under state law. The SIJ order set forth the facts that formed the basis for these parental reunification determinations. In addition, the Family Court found that it was not in the Petitioner’s best interest to be removed from the United States and be returned to India, his country of nationality.

The Petitioner filed his SIJ petition based upon this SIJ order in March 2017, when he was 17 years old. The Director issued a request for evidence (RFE) to establish the factual basis for the best interest determination in the SIJ order. In his timely RFE response, the Petitioner provided, in relevant part, a transcript of the guardianship proceedings. After reviewing the Petitioner’s timely response to this RFE, the Director acknowledged the evidence submitted with the RFE response, but denied the SIJ petition, concluding that the record contained insufficient evidence to establish the factual basis for the Family Court’s best interest determination.

On appeal, the Petitioner correctly contends that, contrary to the Director’s conclusion, the record contains a factual basis for the best interest determination made by the Family Court in the SIJ petition. With the Petitioner’s RFE response, he submitted the transcript of the guardianship proceedings, which were not addressed in the Director’s decision. The transcript reflects that the Family Court identified the Petitioner’s father’s alcohol abuse and his parents’ failure to provide support to him in determining that it was not in the best interest of the Petitioner to return to India. The transcript further demonstrates that the Family Court found that it was in the Petitioner’s best interest to remain in the United States with B-S- where he is “already going to school” and wants to become a doctor in the future. In this transcript, the Family Court stated that it would issue a final order of guardianship as well as a special immigrant juvenile status order based upon its findings. This is reflected in the SIJ order, where the Family Court stated that it had examined “all the pleadings and prior proceedings in this matter, and/or testimony” in

² Initials are used to protect the privacy of the individual.

finding that it is not in the Petitioner's best interest to be removed from the United States and returned to India. Accordingly, when considering the SIJ order with the guardianship proceedings transcript, a preponderance of the evidence establishes that the record includes the factual basis for the Family Court's best interest determination, as required at 8 C.F.R. § 204.11(d)(5)(i). In addition, the record demonstrates that the Petitioner satisfies the remaining eligibility requirements for SIJ classification. The Petitioner has therefore shown established, by a preponderance of the evidence, that he is eligible for and warrants USCIS' consent to SIJ classification, as section 101(a)(27)(J)(i)-(iii) of the Act requires.

ORDER: The appeal is sustained.