



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

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

In Re: 16291498

Date: SEP. 26, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Mexico, 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. On appeal, the Petitioner asserts that he has demonstrated his eligibility for SIJ classification. 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, we will dismiss the appeal.

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). 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 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

In [] 2019, when the Petitioner was 19 years old, the [] Judicial District Court for [] Idaho (District Court) issued a *Decree for Custody* (custody order) granting custody of the Petitioner to his sister, Y-A-A-¹. In the custody order, the District Court also determined, among other findings necessary for SIJ eligibility under section 101(a)(27)(J) of the Act, that the Petitioner was “dependent upon an individual appointed by a State Court located in the United States.” The District Court further found that the Petitioner’s reunification with one or more of his parents was not viable due to abuse, abandonment or neglect, or a similar basis under State law, and that it was not in his best interest to be removed from the United States and returned to Mexico, his country of nationality or country of last habitual residence.

Based on the Family Court orders, the Petitioner filed this SIJ petition in June 2019. Prior to issuing a decision, the Director issued a request for evidence (RFE) stating, among other things, that the SIJ order did not contain qualifying parental reunification or best interest determinations, and USCIS’ consent was not warranted. In response, the Petitioner submitted a *Corrected Decree for Custody* (corrected order) citing Idaho State law, a copy of Y-A-A-’s affidavit submitted in support of her petition for custody, and a news article detailing her and the Petitioner’s father’s arrest for murder in Mexico. In August 2020, the Director issued a notice of intent to deny (NOID), informing the Petitioner that the evidence in the record indicated he was 19, over the age of majority in the state of Idaho on the date the custody order was issued.² The Petitioner timely responded to the NOID with an affidavit from his attorney, and a copy of his Mexican birth certificate with an English translation. The Director subsequently denied the SIJ petition, concluding that the Petitioner had not established that the District Court had jurisdiction over him as a juvenile under State law and, consequently, USCIS’ consent was not warranted.

On appeal, the Petitioner argues that he has met his burden of establishing his eligibility for SIJ classification because he was an unmarried person under the age of 21 when he filed his petition. While he met the definition of a “child” under the Act—an unmarried person under 21 years old—is at the time the SIJ petition was filed, this relates to a separate requirement for SIJ classification.³ The Petitioner’s age at the time the petition was filed does not determine the validity of a juvenile state court order under the applicable state law.

The Petitioner argues that the Director improperly denied the petition because he was over eighteen when the juvenile court issued the order. In the order, the District Court determined that it had jurisdiction over the Petitioner under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) codified at section 32-11-101 of the Idaho Code Annotated (Idaho Code Ann.). Under the UCCJEA, a child means an individual who has not attained eighteen (18) years of age. Idaho Code §

¹ Initials are used to protect the individual’s privacy.

² The Petitioner was born on [] 9, 2000. The custody and corrected orders were issued on [] 9, 2019 and [] 2020, respectively.

³ 8 C.F.R. § 204.11(c)(1) states that an SIJ petitioner must be under 21 years of age and unmarried; *also 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).

32-11-102(b). *See also* Idaho Code Ann. §§ 16-2002 (defining “child” or “minor” as “any individual who is under the age of eighteen (18) years,” 16-1602 for purposes of the Child Protective Act (defining a “child” as “an individual who is under the age of eighteen (18) years”), 16-2403 for purposes of Children’s Mental Health Services defining a “child” as “an individual less than eighteen (18) years of age and not emancipated by either marriage or legal proceeding”), 31-11-102 (defining “child” for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), as “as an individual who has not attained eighteen (18) years of age”), 20-502 for purposes of the Juvenile Corrections Act (defining “juvenile” as a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status.” In this case, the District Court issued the custody and corrected orders when the Petitioner was 19 and 20 years of age and no longer a “child,” “minor,” or “juvenile” under Idaho law. *See* Idaho Code Ann. §§ 16-1602, 16-2002, 16-2403, 20-502, and 31-11-102. As a result, the Petitioner has not established, by a preponderance of the evidence, that the District Court exercised jurisdiction over him as a juvenile under Idaho law as required by the regulation at 8 C.F.R. § 204.11(c)(3).

III. CONCLUSION

The Petitioner has not established that the District Court exercised jurisdiction over him as a juvenile, which is required for SIJ purposes. Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(c)-(d). As the Petitioner has not shown that he is eligible and merits USCIS’ consent to his SIJ classification, the petition remains denied.

ORDER: The appeal is dismissed.