



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

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

In Re: 18775264

Date: SEP. 28, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner, a native and citizen of Honduras, 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 the Petitioner subsequently appealed that decision. On appeal, the Petitioner submits a brief and additional evidence and asserts that he has established his eligibility for SIJ classification. We review the questions raised 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 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(c). 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. 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 [] 2019, when the Petitioner was 20 years old, the Probate and Family Court (Court) in the Commonwealth of Massachusetts issued a Decree of Special Findings of Fact and Rulings of Law (Decree) under Massachusetts General Law chapter, 119 section 39M (section 39M). The Decree indicated that the Petitioner “remains dependent upon this Court’s jurisdiction and care in relation to his complaint in equity until the Special Immigrant Juvenile Process is complete.” The Court further noted that the Petitioner’s father abandoned him when he was two years old by relocating to another area in Honduras, has not contacted the Petitioner in 17 years, and that reunification was not viable due to abandonment or neglect.

Based on the Decree, the Petitioner filed this SIJ petition in March 2020. The Director issued a request for evidence (RFE) in June 2020, requesting that the Petitioner submit, amongst other things, evidence of relief provided by the court in connection with its finding of dependency. The Petitioner responded to the RFE with another copy of the Decree, two letters from his attorney, his Affidavit in support of the Decree, and another copy of section 39M.

In February 2021, the Director denied the petition concluding that USCIS’ consent was not warranted. The Director acknowledged that the Petitioner was declared dependent on the Court, but concluded that the Petitioner did not submit evidence that the Court provided a form of relief to protect him from parental abuse, abandonment, neglect, or a similar basis under state law.

On appeal, the Petitioner argues that he has established eligibility for relief and submits a *Nunc Pro Tunc* Decree of Special Findings of Fact and Rulings of Law (*Nunc Pro Tunc* Decree) issued in [] 2021. As noted above, SIJ classification may only be granted upon the consent of DHS, through USCIS, when petitioners meet all the other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act. To warrant USCIS’ consent, juveniles must 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); *see also* section 101(a)(27)(J)(i)-(iii) of the Act; H.R. Rep. No. 105-405, 130 (1997) (reiterating the requirement that SIJ-related determinations not be sought “primarily for the purpose of obtaining [lawful permanent resident] status . . . , rather than for the purpose of obtaining relief from abuse or neglect”). Such relief may include “court-ordered dependency on the court for the provision of child welfare services and/or other court-ordered or court-recognized protective or remedial relief[.]” 8 C.F.R. § 204.11(d)(5)(ii)(B). In the *Nunc Pro Tunc* Decree, the Court referred the Petitioner to probation as a resource for medical, occupational, dental, and educational services, thus providing relief under section 39M. Based on the foregoing, and because he meets the remaining eligibility criteria, the Petitioner has met his burden to establish that he is eligible for, and merits USCIS’ consent to a grant of, his SIJ classification.

ORDER: The appeal is sustained.