



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

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

In Re: 22222009

Date: DEC. 7, 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 (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding that the Petitioner did not submit a signed court order prior to turning 21 years of age as required. On appeal, the Petitioner asserts 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), (c)(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 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. *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 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). 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

The Petitioner, a native and citizen of Guatemala, entered the United States without inspection, admission, or parole in November 2016. On [] 2020, when the Petitioner was 20 years old, the Superior Court of California, [] Probate Division (probate court) issued a *Minute Order* (SIJ order) granting a petition for appointment of guardianship of the Petitioner and making SIJ-related determinations. Specifically, the probate court determined the Petitioner “is legally committed to, or placed under the custody of, an individual appointed by a State or juvenile court” and “that reunification with one of [the Petitioner’s] parents is not viable due to abandonment or a similar basis under California law.” The probate court also determined that “it is not in [Petitioner’s] best interest to be returned to his/her parents’ previous country of nationality.”

Based on the probate court’s judgment, the Petitioner filed his SIJ petition in January 2021. Thereafter, in February 2021, the Petitioner supplemented the record with an *Order Appointing Guardian or Extending Guardianship of the Person* and an *SIJ Findings* dated [] 2021, and stating that the Petitioner is under the age of 21 and “has been placed under the custody of [J-J-C-¹] by order issued on [] 2020 pursuant to California Probate Code 1510.1 and 1514.” The *SIJ Findings* also states that reunification with the Petitioner’s father was not viable due to abandonment as defined under California law and that it was not in his best interest to be removed from the United States and returned to Guatemala, his country of nationality.

The Director issued a notice of intent to deny (NOID) notifying the Petitioner that the court order submitted in February 2021 was signed on [] 2021, after the Petitioner was 21 years old. The Petitioner responded to the NOID with an *Order on Ex Parte Application/Petition* issued by the probate court, which states that “both the Minute Order and the court-signed order state correctly that the petition was granted on [] 2020.” The Director subsequently denied the SIJ petition, concluding that the Petitioner did not establish that he was under the age of 21 when the SIJ order was issued.

On appeal, the Petitioner asserts that he was under the age of 21 when the SIJ order was granted and explains that there was a delay in the signing of the SIJ order due to the coronavirus (COVID-19) pandemic.

Upon review, we find that the record establishes that the SIJ order was issued in [] 2020, before the Petitioner was 21 years old. Accordingly, the Petitioner has overcome the basis of the Director’s decision on appeal. Moreover, the record establishes that the Petitioner meets all other eligibility criteria. Specifically, the SIJ order shows that the probate court was acting as a juvenile court when it appointed a guardian for the Petitioner and declared him dependent on the court, and the order contains determinations that reunification with one of the Petitioner’s parents is not viable due

¹ We use initials to protect the privacy of individuals.

to abandonment or a similar basis under California law and that it is not in his best interest to be returned to his parents' previous country of nationality.

Furthermore, the SIJ order and the underlying documents in the record, including the *Memorandum of Points and Authorities in Support of Petition Regarding Minor's Eligibility for Special Immigrant Juvenile Status* and the *Declaration in Support of the Petition Regarding Minor's Eligibility for Special Immigrant Juvenile Status*, establish the factual basis for the court's determinations. The Petitioner has shown that a primary reason he sought the SIJ order was to obtain relief from his father's abandonment, and not primarily to obtain an immigration benefit. Accordingly, USCIS' consent to the Petitioner's SIJ classification is warranted.

III. CONCLUSION

The Petitioner has overcome the basis of the Director's denial on appeal and has demonstrated his eligibility for SIJ classification.

ORDER: The appeal is sustained.