



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

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

In Re: 26686081

Date: AUG. 11, 2023

Appeal of National Benefits Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 denied the Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), concluding the Petitioner did not establish the state court exercised jurisdiction over him as a juvenile in issuing the order underlying his SIJ petition. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner asserts that he has demonstrated his eligibility for SIJ classification.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 sustain the appeal.

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). A petitioner 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 petitioner's 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). Finally, SIJ classification may only be granted upon the consent of the Secretary of the Department of Homeland Security, through U.S. Citizenship and Immigration Services (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).

In [ ] 2022, when the Petitioner was 18 years old, the Juvenile and Domestic Relations District Court for the City of [ ] (district court) issued an order (SIJ order), which committed the Petitioner to the “sole physical and legal custody” of his brother. Based on that SIJ order, the Petitioner filed his SIJ petition in April 2022. The Director issued a notice of intent to deny (NOID) in December 2022, indicating the SIJ petition would be denied on the basis the Petitioner did not establish the district court exercised jurisdiction over him as a juvenile under state law because the SIJ order was issued after his 18th birthday. The Petitioner responded to the NOID, submitting a letter from his attorney and a copy of section 16.1-241 of the Virginia Code. The Director subsequently denied the SIJ petition in January 2023 on the ground that the Petitioner did not establish the district court exercised jurisdiction over him as a juvenile under Virginia state law.

As to the jurisdiction of the district court over the Petitioner as a juvenile, the record indicates that under Virginia Code section 16.1-241(A1) the district court retained jurisdiction over the Petitioner as a juvenile from the time the petition for an SIJ order was filed, which was prior to his 18th birthday, until his 21st birthday at the latest. In issuing the SIJ order the district court found it had jurisdiction over the Petitioner “under Virginia Law to make determinations about the custody and care of juveniles under Virginia Code § 16.1-241,” and on appeal the Petitioner correctly notes the extended jurisdiction of the district court under Virginia Code section 16.1-241(A1). Thus, based on the preponderance of the evidence in this case, we conclude the district court properly exercised jurisdiction over the Petitioner as a juvenile under state law in issuing the SIJ order, as section 101(a)(27)(J)(i) of the Act requires.

Further, the SIJ order includes a qualifying custodial placement, indicating the Petitioner’s brother shall have sole custody of the Petitioner. The SIJ order also contains a finding that reunification with the Petitioner’s mother is not viable due to abandonment, as defined in section 20-81 of the Virginia Code. The record contains a factual basis for this finding, indicating the Petitioner’s mother “abandoned him,” remains in Honduras, “has not maintained a positive relationship” with the Petitioner, and “has not provided any financial support” for him. Finally, the SIJ order also includes a finding that it would not be in the Petitioner’s best interest to be returned to his home country of Honduras because he “does not have any other family members that can care for and provide for him” there. The district court concluded it would instead be in the Petitioner’s best interest to remain in the United States in the care of his brother, citing that the Petitioner lives with his brother and is attending high school, is happy and healthy, and indicated “he feels that he is in a safe place.”

For these reasons, the Petitioner has overcome the Director’s grounds for denying his petition. The Petitioner was under the age of 21 years old at the time he filed his SIJ petition, and the record indicates he remains unmarried. The SIJ order from the district court contains a qualifying custody placement and parental reunification and best interest determinations, and it was sought in proceedings granting relief from parental abandonment. Accordingly, the Petitioner has established that his eligibility for SIJ classification and that his request warrants USCIS’ consent. Thus, the Petitioner has met his burden to establish that he is eligible for and merits USCIS’ consent to his SIJ classification. The Director’s decision is withdrawn, and the appeal is sustained.

**ORDER:** The appeal is sustained.