



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

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

In Re: 26686387

Date: JUN. 12, 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 her as a juvenile in issuing the order underlying her SIJ petition.<sup>1</sup> The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner asserts that she has demonstrated her 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

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<sup>1</sup> The Director's decision also includes a reference to the determination to exercise consent to the SIJ classification, which appears to be an inadvertent inclusion, as there is no indication consent formed a basis of the denial of the Petitioner's SIJ petition.

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 [REDACTED] 2021, when the Petitioner was 18 years old, the Circuit Court of the 11th Judicial Circuit, [REDACTED] Florida – Family Division (Circuit Court) issued an order entitled *Final Judgment on Petition to Establish Paternity, Custody and Other Relief* (custody order). Based on that custody order, the Petitioner filed her SIJ petition in December 2021. The Director issued a notice of intent to deny (NOID) in September 2022, indicating the SIJ petition would be denied on the basis the Petitioner did not establish the Circuit Court exercised jurisdiction over her as a juvenile under state law. The Petitioner responded to the NOID in October 2022, submitting a letter from her attorney; a copy of an *Amended Final Judgment on Petition to Establish Paternity, Custody, and Other Relief* (amended custody order) issued *nunc pro tunc* to a date prior to the Petitioner’s 18th birthday; a copy of the receipt notice for the SIJ petition; and a copy of the Petitioner’s Honduran birth certificate with an English translation. The Director subsequently denied the SIJ petition in November 2022 on the ground that the Petitioner did not establish the Circuit Court exercised jurisdiction over her as a juvenile under Florida state law.

As a threshold matter, we accept the amended custody order as properly issued by the Circuit Court under Florida state law. As to the jurisdiction of the Circuit Court over the Petitioner as a juvenile, the record indicates that under Florida Statutes Annotated section 39.5075(6), the Circuit Court retained jurisdiction over the Petitioner as a juvenile from the time the petition for a custody order was filed, which was prior to her 18th birthday, until her 22nd birthday at the latest. The custody order was issued, finding the Circuit Court had jurisdiction over the Petitioner “pursuant to the applicable Florida Statutes and the Uniform Child Custody Jurisdiction and Enforcement Act,” and on appeal the Petitioner correctly notes the extended jurisdiction of the Circuit Court under the Chapter 39 of the Florida Statute, which the Circuit Court had referenced in both its custody order and the amended custody order. Thus, based on the preponderance of the evidence in this case, we conclude the Circuit Court properly exercised jurisdiction over the Petitioner as a juvenile under state law in issuing the custody order, as section 101(a)(27)(J)(i) of the Act requires.

Further, the custody order includes a qualifying custodial placement, adopting the Parenting Plan of the Petitioner’s parents by reference, which indicates the Petitioner’s mother shall have sole custody of the Petitioner. The custody order further contains a finding that reunification with the Petitioner’s father is not viable due to abandonment and neglect, as defined in Chapter 39 of the Florida Statutes. The record contains a factual basis for this finding, indicating the Petitioner’s father “is an alcoholic,” failed to maintain a “healthy parent-child relationship” with the Petitioner, was “verbally abusive” to the Petitioner, and “was a very violent man.” Finally, the custody order also includes a finding that it would not be in the Petitioner’s best interest to be returned to her home country of Honduras because she would be “under substantial risk of imminent abuse, abandonment, and neglect,” citing her father’s past treatment of her. The Circuit Court concluded it would instead be in the Petitioner’s best interest to remain in the United States in the fulltime care of her mother.

For these reasons, the Petitioner has overcome the Director’s grounds for denying her petition. The Petitioner was under the age of 21 years old at the time she filed her SIJ petition, and the record indicates she remains unmarried. The custody order from the Circuit 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 her eligibility for SIJ classification and that her request warrants USCIS' consent. Thus, the Petitioner has met her burden to establish that she is eligible for and merits USCIS' consent to her SIJ classification. The Director's decision is withdrawn, and the appeal is sustained.

**ORDER:** The appeal is sustained.