



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

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

In Re: 17151252

DATE: MAR. 23, 2023

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). SIJ classification protects foreign-born children in the United States who cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law. The Director of the National Benefits Center (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and the matter is now before us on appeal, which we review 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)(i) of the Act; 8 C.F.R. § 204.11(b), (c)(1).<sup>1</sup> 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. 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 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,

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<sup>1</sup> The Department of Homeland Security (DHS) issued a final rule, effective April 7, 2022, amending its regulations governing the requirements and procedures for those who seek SIJ classification. See Special Immigrant Juvenile Petitions, 87 Fed. Reg. 13066 (Mar. 8, 2022) (revising 8 C.F.R. §§ 204, 205, 245).

neglect, abandonment, or a similar basis under State law. *See* section 101(a)(27)(J)(i)–(iii) of the Act; *see also* 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 establish their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

In [ ] 2016, when the Petitioner was 19 years old, the Chancery Court for [ ] Tennessee (Chancery Court) issued an “ORDER GRANTING PETITIONERS’ REQUEST FOR EQUITABLE RELIEF UNDER TENNESSEE CODE ANNOTATED § 16-11-109 AND APPOINTING LIMITED GUARDIAN” (SIJ order), asserting jurisdiction over the Petitioner under the same state code. This order further declared that the Petitioner was dependent on the Chancery Court “based on the abuse, neglect, and abandonment [she] has experienced” and appointed limited guardianship of the Petitioner to K-Z-<sup>2</sup>, finding that such appointment “shall continue, pursuant to Tenn. Code Ann. § 34-2-106” until the completion of the SIJ adjudication process. The SIJ order also determined that the Petitioner’s reunification with both her parents was not viable due to their abandonment, and that it was not in the Petitioner’s best interest to be returned to Honduras, her country of nationality.

Based on the SIJ order, the Petitioner filed this SIJ petition in December 2016.<sup>3</sup> The Petitioner subsequently submitted a [ ] 2017 order, clarifying that the Chancery Court exercised jurisdiction as a juvenile court when the court issued the initial SIJ order, and another [ ] 2017 order further clarifying the court’s initial guardianship and best interest determinations.

The Director denied the SJI petition, concluding that the Petitioner did not establish that the court exercised jurisdiction over her as a juvenile under state law as she was over 18 years of age and over the age of majority in Tennessee when the court orders were issued. The Director also found that she did not show that her request for SIJ classification warranted USCIS’ consent because the record indicated that she sought the guardianship order primarily for obtaining SIJ classification. On appeal, she submits a brief as well as additional documents. She reasserts her SIJ eligibility, specifically arguing that the court exercised jurisdiction over her as a juvenile under state law and that her request for SIJ classification warrants USCIS’ consent.

### B. Juvenile Court

To be eligible for SIJ classification, juveniles must have been subject to a dependency or custody order issued by a “juvenile court,” which is defined as a court “in the United States having jurisdiction under

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<sup>2</sup> We use initials for privacy.

<sup>3</sup> The record reflects that USCIS received two duplicate SIJ petitions on the same date, including this one, which were issued two separate receipt numbers. The Director denied the other SIJ petition in March 2019, and we rejected the Petitioner’s appeal of that denial as untimely. The Director then declined to treat the untimely appeal as a motion and dismissed that case in December 2020. On the same date, the Director also separately denied the current SIJ petition now before us on appeal.

State law to make judicial determinations about the dependency and/or custody and care of juveniles.” 8 C.F.R. § 204.11(a). While the specific title and type of state court may vary, SIJ petitioners must show that the court had jurisdiction to make judicial findings about their dependency and/or custody and care as juveniles under state law. *See id.* Because the dependency declaration or custodial placement and related SIJ findings must have been entered by a juvenile court while the Petitioner was a juvenile, the Petitioner must show that the court determined that she was a juvenile under state law and exercised jurisdiction over her accordingly. *See* 8 C.F.R. § 204.11(c)(3)(i).

The record establishes that the Chancery Court exercised jurisdiction over the Petitioner as a juvenile under state law, as the February 2017 clarifying order contains the court’s determination that it is a “juvenile court” within the meaning of section 101(a)(27)(J) of the Act and cites as authority Tenn. Code Ann. section 16-11-109 (stating that “[t]he chancery court has jurisdiction, concurrent with the county court, of the persons and estates of infants, and of the appointment and removal of guardians”). Further, consistent with the clarifying order, the initial SIJ order declares that the court has concurrent jurisdiction with the country court to appoint guardianship and make SIJ related findings, and cites Tenn. Code Ann. sections 16-11-101, 16-11-109, 34-2-106, and state caselaw. In determining that the Petitioner had waived appointment of Guardian ad Litem, the court also specifically identified her as a “minor” under Tenn. Code Ann. section 34-1-107(a)(2)(B) in that order.<sup>4</sup> We do not go behind the court orders to reevaluate its findings. 87 Fed. Reg. 13066, 13086 (March 8, 2022) (stating that USCIS does not go behind the juvenile court order to reweigh evidence and generally defers to the juvenile court on matters of State law”); *see generally* 6 USCIS Policy Manual J.2, <https://www.uscis.gov/policy-manual> (providing guidance that USCIS generally defers to the court on matters of state law and does not go behind the relevant order to make independent determinations as to the requisite SIJ determinations). Accordingly, a preponderance of the evidence establishes that the court exercised its jurisdiction over the Petitioner as a juvenile under state law when the court orders were issued, and we therefore withdraw the Director’s conclusion to the contrary. 8 C.F.R. §§ 204.11(a), 204.11(c)(3).

### C. USCIS’ Consent Is Warranted

The record also does not support the Director’s conclusion to withhold USCIS’ consent to the Petitioner’s request for SIJ classification. As stated, an SIJ petitioner must satisfy all other eligibility criteria and establish that request for SIJ classification is bona fide for USCIS to grant consent to SIJ classification. *See* section 101(a)(27)(J)(i)–(iii) of the Act; *see also* 8 C.F.R. § 204.11(b)(5). To show a bona fide request, a petitioner must establish that a primary reason for seeking the requisite juvenile court findings was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. *Id.* If the evidence contains a material conflict related to eligibility requirements so that the record reflects a request is not bona fide, USCIS may withhold consent. *Id.* To establish that USCIS’ consent is warranted, the juvenile court order or supplemental evidence must include the factual bases for the court’s SIJ-related determinations. 8 C.F.R. § 204.11(d)(5)(i). And these documents must include relief, granted or recognized by the

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<sup>4</sup> The petition she submitted to the court in November 2016, titled “FIRST AMENDED PETITION FOR EQUITABLE RELIEF [ . . . ] AND APPOINTMENT OF GUARDIAN,” also cites other state code sections such as section 37-10-201 (defining “child” as anyone under 21 years old for purposes of Tennessee’s “Missing Children Recovery Act”) and section 37-1-102 (providing chapter and part definitions for general provisions of “Juvenile Courts and Proceedings”), which define terms like “child” and “minor” and provides for “continuing jurisdiction” of the juvenile court in certain situations.

juvenile court, from parental abuse, neglect, abandonment, or a similar basis under state law. 8 C.F.R. § 204.11(d)(5)(ii). Such relief may include a court-ordered custodial placement, court-ordered dependency on the court for the provision of child welfare services, or court-ordered or recognized protective or remedial relief. *Id.*

The Director withheld USCIS' consent, concluding that the Petitioner did not establish that her request for SIJ classification was bona fide because the record indicated that she sought the court orders primarily for obtaining SIJ classification as the SIJ order indicates that the court appointed the Petitioner a limited guardian primarily for SIJ purposes. However, USCIS recognizes that petitioners may have some immigration-related motive for seeking a juvenile court order and need only show that a primary reason for seeking the requisite court findings was to obtain relief from parental maltreatment. 8 C.F.R. § 204.11(b)(5); *see also* 6 USCIS Policy Manual, *supra*, at J.2(D) (explaining that a special order issued to clarify that the determinations were made so that USCIS can determine a petitioner's SIJ eligibility does not mean that the order is not bona fide). Here, the court orders and the Petitioner's underlying court documents demonstrate that, in addition to seeking the court orders to establish SIJ eligibility, she also requested guardianship to obtain relief from parental abandonment, and the court orders show that such relief was granted. The court in its original SIJ order specifically determined that the Petitioner's reunification with both her parents was not viable due to abandonment and made factual findings regarding her parents' maltreatment in support of that determination, including that her father's whereabouts are unknown, that he abandoned her "around the time of her birth, that she has never had a relationship with him," and that the Petitioner's mother also abandoned her by relinquishing care and custody, leaving her "without a biological parent or legal guardian to care for her." Further, the court's [redacted] 2017 clarifying order specifically determined that "based on the abuse [the Petitioner] experienced as a minor, and [her guardian K-Z-'s] role in caring for [her] in her recovery from that abuse," it was in her best interest that K-Z- continues to serve as the Petitioner's guardian during the SIJ process. The November 2016 guardianship petition filed with the court also provides details regarding the parental abandonment she experienced as a child that are consistent with the court's findings and indicate that she requested guardianship in part to seek relief for parental maltreatment, and the record reflects that such relief was granted in the form of a guardianship appointment.

Further, the record shows that, in addition to its parental reunification determination, the court made the other requisite SIJ related findings regarding juvenile dependency and/or custody and best interest, and also establishes a factual basis for these determinations. *See* Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(b)(5), (d)(5)(i) (setting forth requirements for USCIS' consent). The Petitioner has also shown, as explained, that a primary reason she sought the court orders was to obtain relief from parental abandonment, and that she was granted such relief under applicable state law, as evidenced by the guardianship order. 8 C.F.R. § 204.11(d)(5)(ii). Further, we discern no evidence here that materially conflicts with the SIJ eligibility requirements. 8 C.F.R. § 204.11(b)(5). The Petitioner thus has shown by a preponderance of the evidence that her request for SIJ classification merits USCIS' consent. Accordingly, the Petitioner has established her eligibility for SIJ classification under the Act.

**ORDER:** The appeal is sustained.