



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

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

In Re: 28015361

Date: OCT. 16, 2023

Appeal of National Benefits Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner seeks classification as a special immigrant juvenile (SIJ). *See* Immigration and Nationality Act (the Act) sections 101(a)(27)(J) and 204(a)(1)(G), 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 denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile) (SIJ petition), concluding that the record did not establish that U.S. Citizenship and Immigration Services' (USCIS) consent was warranted because it did not establish the SIJ petition was bona fide. Section 101(a)(27)(J)(iii) of the Act; 8 C.F.R. § 204.11(b)(5). 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 and warrants USCIS consent.

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 dismiss 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).<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. *Id.* at section 101(a)(27)(J)(ii); 8 C.F.R. § 204.11(c)(2).

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

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).

## II. ANALYSIS

### A. Relevant Evidence and Procedural History

In [REDACTED] 2021, when the Petitioner was 17 years old, the Circuit Court of the Fourth Judicial Circuit in and for [REDACTED] County, Florida (juvenile court) issued an order titled *ORDER OF ADJUDICATION OF DEPENDENCY* (dependency order) finding the Petitioner under its jurisdiction, thus acting as a juvenile court under Florida law. The dependency order found the Petitioner to be a minor child under the state laws of Florida, declared him dependent within the meaning and intent of Florida Statutes (Fla. Stat.) §§ 39.01(15)(a), (e) (2020), determined that he has been abandoned and neglected pursuant to Fla. Stat. § 39.01(1), determined that reunification with both of his parents was not viable, and determined that it is not in his best interest to return to Honduras. Based on the dependency order, the Petitioner filed an SIJ petition in June 2021.

The Director issued a notice of intent to deny (NOID), advising the Petitioner that the record did not establish USCIS' consent was warranted as it did not indicate the juvenile court had provided some form of relief to protect him from parental abuse, abandonment, neglect, or a similar basis under state law, which could be in the form of a custodial placement, supervision, or services in connection with the finding of dependency. The Director further noted that the dependency order stated the Petitioner waived any services that could have been provided as relief. In response, the Petitioner indicated that he meets all eligibility requirements for SIJ classification because the requirement is to be declared dependent on the court *or* be legally placed in the custody of an individual or entity, and in his case, the juvenile court declared him dependent on the court. He also submitted copies of documents presented to the juvenile court titled *THE SURRENDER, CONSENT AND WAIVER OF THE NOTICE OF HEARING ON THE TERMINATION OF PARENTAL RIGHTS* from each of his parents, and documents titled *ACCEPTANCE OF ADVICE OF COUNSEL, CONSENT TO DEPENDENCY, AND ORDER OF ADJUDICATION OF DEPENDENCY* from each of his parents and executed by the juvenile court, and an affidavit from the Petitioner. The Director denied the SIJ petition, noting that the Petitioner did not demonstrate that the juvenile court provided some form of placement, supervision, services, or other relief in connection with the finding of dependency. The Director determined USCIS' consent was not warranted, as the Petitioner did not establish his petition for SIJ classification was bona fide.

On appeal, the Petitioner submits a brief asserting that he has been declared dependent on the juvenile court and has met the general eligibility requirements for SIJ classification, which demonstrate that his SIJ petition is bona fide. The Petitioner claims that the dependency order itself is the form of relief provided by the court. He explains that relief could include a court-ordered custodial placement or dependency with the capacity to provide child welfare services or other protective relief, but there is

no requirement that a dependency order specifically include a custodial placement, supervision, or services in connection with the finding of dependency, as stated by the Director. Additionally, the Petitioner argues that, assuming a form of relief is required, he “did in fact obtain ‘other relief’ by the granting of the court-ordered dependency, including both psychological and legal relief.” He indicates that “in obtaining a dependency order and having his parents voluntarily surrender him and consent to the termination of their parental rights, he, via the state of Florida, was able to obtain a modicum of control over the situation.” He contends that the dependency order was the first step in obtaining SIJ classification, which, when granted, will allow him to stand up for himself and tell his biological parents that he cannot and will not file an immigration petition for them, thanks to the protections afforded to him by federal statutes, thus providing him psychological and legal relief.

#### B. USCIS’ Consent Is Not Warranted

Classification as an SIJ may only be granted upon the consent of USCIS when a petitioner meets all the other eligibility criteria under section 101(a)(27)(J)(i)-(iii) of the Act, and the request for SIJ classification is bona fide. 8 C.F.R. § 204.11(b)(5). We do not question the juvenile court’s purpose in issuing its order, but here, USCIS’ consent is not warranted because the Petitioner has not established that a primary reason for seeking the dependency order was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under Florida law.

To show a bona fide request for SIJ classification, a petitioner must establish a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. 8 C.F.R. § 204.11(b). To establish that USCIS’ consent is warranted, the juvenile court order or supplemental evidence must include the factual bases for the parental reunification and best interest determinations. 8 C.F.R. § 204.11(d)(5)(i). In addition, these documents must include relief, granted or recognized by the 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.*<sup>2</sup>

Upon review of the record, we find the Petitioner has not established by a preponderance of the evidence that a primary reason for seeking the requisite juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. The dependency order reflects that the juvenile court made findings of abandonment and neglect by the Petitioner’s parents and determined that reunification with his parents was not viable on that basis, but the record does not establish that the juvenile court provided any protective or remedial relief to the Petitioner for such parental maltreatment pursuant to the Florida child protection provisions or any other Florida law, as required to establish that USCIS’ consent is warranted. *See* 8 C.F.R. § 204.11(d)(5)(ii). Further, although the juvenile court made the necessary determinations as to parental reunification and found it would not be in the Petitioner’s best interest to be returned to Honduras, it did not order any relief from the abuse or neglect. In fact, the dependency

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<sup>2</sup> *See also* 6 USCIS Policy Manual J.2(D), <https://www.uscis.gov/policy-manual> (explaining, as guidance, that the relief provided or recognized by the juvenile court may include dependency on the court for the provision of child welfare services, and/or other court-ordered or recognized protective or remedial relief).

order explicitly states that the Petitioner “specifically waived, with counsel, any services that could be provided by the State of Florida through community based care providers since [he] is soon going to reach the age of majority.” The inclusion of this statement in the dependency order clearly indicates that, while the State of Florida had the capacity to provide child welfare services or other protective relief to the Petitioner based on the dependency order, it did not provide any such relief.

Furthermore, the Petitioner’s argument that he obtained psychological and legal relief by way of the juvenile court’s dependency order, because it afforded him control over his situation and the means to potentially refuse immigration-related relief to his biological parents in the future, is erroneous. The regulations clearly specify that the relief from parental abuse, neglect, abandonment, or a similar basis under state law, must be granted or recognized by the juvenile court, and may include a custodial placement, dependency on the court for the provision of child welfare services, or protective or remedial relief. 8 C.F.R. § 204.11(d)(5)(ii). The psychological and legal relief referenced by the Petitioner are not granted or recognized by the juvenile court, and as such, are not sufficient to meet this requirement.

Here, the dependency order indicated only that the Petitioner is a dependent of the State of Florida, that he has been abandoned and neglected pursuant to Florida law, that reunification with both of his parents is not viable, and that it is not in his best interest to return to Honduras, but it did not include any protective or remedial relief to the Petitioner for such parental maltreatment pursuant to Florida law. Likewise, the dependency order explicitly states that the Petitioner waived any services that could be provided by the State of Florida. Without any court-ordered relief, the Petitioner has not demonstrated 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. As such, the Petitioner has not established USCIS’ consent is warranted.

**ORDER:** The appeal is dismissed.