



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 28658597

Date: OCT. 27, 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 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 denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile) (SIJ petition), determining the Petitioner had not established her eligibility because the juvenile court order, serving as the basis for the SIJ petition, did not contain the required findings for SIJ classification. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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).¹ In addition, the record must 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) of the Act; 8 C.F.R. § 204.11(c)(2). The juvenile court must have made the requisite judicial determinations under applicable state law to establish eligibility. 8 C.F.R. § 204.11(c)(3).

¹ 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).

II. ANALYSIS

A. Relevant Background and Procedural History

In [] 2022, the Superior Court of Washington, County [] Juvenile Court, (court) entered a “Findings and Conclusions re Petition to Appoint Vulnerable Youth Guardian” (findings and conclusions). The findings and conclusions document is a form and its footer contains “Chapter 13.90 RCW.”² The court states in its findings and conclusions that it considered the record and testimony. Under the part titled “Basis for Establishing Vulnerable Youth Guardianship,” the court checked the box that the Petitioner was abandoned and neglected by one or both of her parents. This part also requests information on the basis of the determination, to which the court entered: “Attached, please find the declaration by the youth as well as the joinder by the biological mother.” Under the part titled “Best Interest of the Youth,” the court checked the box indicating that the vulnerable youth guardianship is in the best interest of the youth. The field for the name of the guardian is blank. Under “Conclusions of Law” the boxes indicating that “[t]he court has jurisdiction over the youth and the vulnerable youth guardian and subject matter of this action” and “[a] vulnerable youth guardianship should be established” are checked. The Petitioner filed her SIJ petition using the findings and conclusions document as the basis for SIJ classification.

The Director issued a notice of intent to dismiss (NOID). Among the issues the Director raised in the NOID was that the court’s findings and conclusions document did not contain the requisite determinations for SIJ classification. The Petitioner responded with a nunc pro tunc findings and conclusions document dated March 2023, and other underlying court documents.³ The updated findings and conclusions document differs from the November 2022 version in that under the “Basis for Establishing Vulnerable Youth Guardianship,” the court selects the boxes indicating the Petitioner is a vulnerable youth on account of abandonment and neglect and “one or both parents cannot adequately provide for the youth such that the youth risks physical and psychological harm if the youth returns to the home.” The Petitioner’s father is named as guardian.⁴

One of the underlying court documents is a petition explaining why a vulnerable youth guardianship is in the best interest of the youth:

the [Petitioner] was subject to violent acts [in] her home country due to gangs . . . causing fear, physical harm, and blocking access to school. . . . The [Petitioner]’s sister was sexually abused . . . [by] the gang. [The Petitioner]’s parents were not able to provide any protections or resolutions to protect [her] in her native country.

² Washington Revised Code Annotated (Wash. Rev. Code Ann.) section 13.90 is titled “Vulnerable Youth Guardianship Program.” Wash. Rev. Code Ann. § 13.90 (2017).

³ The Petitioner’s declaration, referenced in the findings and conclusions document, was not provided but the “Agreement to Join Petition” was included and is authored by the Petitioner’s mother who acknowledges that she read the petition to appoint vulnerable youth guardian, agrees to join the petition, and requests she not be notified of hearings or decisions in the case. No further details relevant to this analysis were contained in the joinder document.

⁴ We read the November 2022 findings and conclusions document and the March 2023 findings and conclusions document together going forward.

Also included in the court filings was the Petitioner's father's declaration supporting the information found in the petition, adding details about how the Petitioner is attending school, is healthy, and safe, and acknowledging that he was unable to protect his daughters in Honduras.

The Director denied the SIJ petition. According to the denial, a juvenile court must have issued orders containing findings with respect to dependency or custody, parental reunification, and the best interest of the Petitioner. The Director explained the Petitioner was not eligible for SIJ classification because the juvenile court's orders did not contain these necessary findings to grant SIJ classification. On appeal, the Petitioner includes a cover letter discussing the basis of her appeal, parts of the underlying record, and a [REDACTED] 2022 "Order on Petition to Appoint Vulnerable Youth Guardian" (order) granting the guardianship petition to the Petitioner's father based on the findings and conclusions document.

B. The Court's Findings and Conclusions Do Not Include All Requisite Findings for SIJ Classification

1. Dependency or Custody

The juvenile court must have made a judicial determination related to the petitioner's custodial placement or dependency in accordance with state law governing such determinations by declaring the petitioner dependent upon the juvenile court; or legally committing or placing the petitioner under the custody of an agency or department of a state, or an individual or entity appointed by a state or juvenile court. 8 C.F.R. § 204.11(c)(1)(i)(A).

The Director's decision generally states that the court's findings and conclusions documents do not contain the requisite determinations for SIJ classification but does not explain why the Director determined that the requisite dependency or custody finding was not made by the court. The Petitioner argues on appeal that the order, submitted for the first time on appeal, evidences that the court appointed the Petitioner's father as her guardian and gave him custody of the Petitioner, and thereby made the requisite custody determination. The March 2023 findings and conclusions document determined that the Petitioner was a vulnerable youth, that the court had jurisdiction over the youth and the subject matter of the action and, that the identified guardian was suitable under state law and that guardianship should be established. While the court did not specify the state law it relied upon, the footer of the document contained a reference generally to Wash. Rev. Code Ann. section 13.90, which refers to the entire chapter on vulnerable youth.⁵ Based on the record below, the Petitioner has established by a preponderance of the evidence that the court made the requisite custody determination pursuant to state law.

2. Parental Reunification and Best Interest Determinations

The juvenile court must have made a judicial determination that parental reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under state law. 8 C.F.R. § 204.11(c)(1)(ii). In addition, a determination must be made by a court or agency recognized

⁵ Contained in the chapter is Wash. Rev. Code Ann. section 13.90.900, titled "Purpose[.]" and it "authorizes a court to appoint a guardian for a vulnerable youth from eighteen to twenty-one years old, who is not participating in extended foster care services . . . and who is eligible for classification under 8 U.S.C. Sec. 1101(a)(27)(J) with the consent of the proposed ward." Wash. Rev. Code Ann. § 13.90.900 (2017).

by the juvenile court and authorized by law to make such decisions that it would not be in the petitioner's best interest to be returned to the petitioner's or their parent's country of nationality or last habitual residence. 8 C.F.R. § 204.11(c)(2). This requires the juvenile court to make an individualized assessment and consider the factors that it normally takes into account when making best interest determinations. See generally 6 USCIS Policy Manual J.2(C)(3), <https://www.uscis.gov/policymanual> (explaining, as guidance, the requirements of a juvenile court order).

The findings and conclusions documents do not contain a finding by the court that parental reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under state law or that it would not be in the best interest of the Petitioner to return to Honduras. The Petitioner asserts on appeal that the court made determinations regarding abandonment, neglect, and best interest, however, these determinations were made in the context of the court's guardianship analysis. In the findings and conclusions documents, the court checked the boxes indicating the bases for its vulnerable youth determination included that the Petitioner was abandoned and neglected by one or both of her parents and one or both parents cannot adequately provide for her such that she risks physical or psychological harm if she returns home. Later in the findings and conclusions documents, the court checks the box that the vulnerable youth guardianship is in the best interest of the youth. The court refers to the joinder document by the biological mother and the Petitioner's declaration as the basis for its determination, but the joinder document does not discuss parental reunification or the best interest of the Petitioner and the declaration by the Petitioner was not provided. Similarly, the petition to the court includes a justification for why a vulnerable youth guardianship is in the best interest of the Petitioner. The Petitioner does not explain how a vulnerable youth finding by the court is tantamount to the parental reunification or best interest determinations required under section 101(a)(27)(J)(i) and (ii) of the Act and the corresponding regulations at 8 C.F.R. § 204.11(b) and (c)(2). Further, neither the findings and conclusions documents, the order submitted on appeal, nor the underlying documents filed with the court cites to state law regarding parental reunification or best interest determinations as required under 8 C.F.R. § 204.11(c).

III. CONCLUSION

The court's findings and conclusions documents do not contain the requisite parental reunification and best interest determinations. The Petitioner has therefore not established her eligibility for SIJ classification.

ORDER: The appeal is dismissed.