



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

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

In Re: 28209884

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) 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 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.

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) of the Act; 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, 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). USCIS may also withhold consent if evidence materially conflicts with the

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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).

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).

In [ ] 2022, when the Petitioner was 18 years of age, the Nebraska County Court for [ ] County (County Court) issued an “ORDER APPOINTING GUARDIAN FOR A MINOR,” appointing guardianship of the Petitioner to R-J-A-<sup>2</sup>, under the relevant sections of Nebraska Revised Statutes (NRS), including sections 30-2633, 30-2605, 30-2616, 30-2608. A week later, the court issued “LETTERS OF PERMANENT GUARDIANSHIP” further memorializing its guardianship order. The County Court also issued a separate order titled “ORDER AND ADDITIONAL FINDINGS FOR GUARDIANSHIP” (SIJ order), determining, among other findings necessary for SIJ eligibility, that the Petitioner’s reunification with both his parents was “not possible” and that it was not in his best interest to be returned to Guatemala, his country of nationality. The SIJ order also included the court’s factual findings in support of its parental reunification and best interest determinations, and the record also contains the underlying court documents the Petitioner and his guardian presented to the court.

Based on the court orders, the Petitioner filed his SIJ petition in April 2022. The Director ultimately denied the SIJ petition, concluding that the SIJ order lacked a qualifying parental reunification determination. On appeal, the Petitioner submits a brief and additional documents, reasserts his SIJ eligibility, and maintains that his request for SIJ classification warrants USCIS’ consent. We agree.

As stated, the Act requires a juvenile court’s determination that SIJ petitioners cannot reunify with one or both of their parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J)(i) of the Act. This reunification determination must be made under state law. *See id.*; *see also* 8 C.F.R. § 204.11(c)(1)(ii). USCIS defers to the juvenile court in making such determination, which may vary between states, and does not require the court to utilize any specific language other than what is required under state law. *See generally* 6 USCIS Policy Manual J.3(A)(1), <https://www.uscis.gov/policy-manual>.

Here, the County Court concluded that the Petitioner’s reunification with both his parents “is not possible as it is not in [his] best interest to return to his native country of Guatemala.” However, the court also provided factual findings for its parental reunification determination including that the Petitioner “has been abandoned and neglected by” both his parents and they “knowingly, intentionally, or negligently caused or permitted [the Petitioner] to be placed in a situation that endangered [his] life, physical, or mental health, and deprived him of necessary food, shelter, or care,” and based on these findings, the court determined that his parents neglected him as contemplated under applicable state Child Protection and Family Safety Act as set forth in NRS section 28-710(b). The County Court also found that the Petitioner’s parents provided no economic or emotional support to the Petitioner, and he was sent to live with his uncle after being abandoned. 8 C.F.R. § 204.11(c)(1)(ii); *see also* 8 C.F.R. § 204.11(d)(5)(i) (requiring a factual basis for the requisite SIJ related determinations). The findings contained in the SIJ order reflect that the court’s parental reunification determination is based on its finding that the Petitioner was subjected to parental maltreatment, specifically neglect, and that the determination was made under applicable state law, as required. Although the court did not explicitly use the phrase “due to abuse, neglect, abandonment, or a similar basis under state law” in

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<sup>2</sup> We use initials to protect individuals’ privacy.

making the parental reunification determination, no such exact wording found in the Act or regulations was required. *See generally* 6 *USCIS Policy Manual* at J.3(A)(1) (explaining that the language of qualifying juvenile court orders may vary due to variations in terminology and local state practice in making child welfare decisions, and that qualifying determinations may use different terms than those found in the Act). Further, we do not go behind the court order to reevaluate its findings. 87 Fed. Reg. 13066, 13086 (March 8, 2022) (“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 also* 6 *USCIS Policy Manual* at J.2(A) (providing guidance to officers on deference to juvenile court determinations made under state law and explaining that we do not go behind a juvenile court order to make independent findings about parental maltreatment and the juvenile’s best interest). Accordingly, the Petitioner has established that the County Court made a qualifying parental reunification determination under section 101(a)(27)(J)(i) of the Act.

Furthermore, the record shows that the court made the requisite SIJ related findings regarding juvenile dependency and/or custody and best interest and establishes a factual basis for these determinations. Section 101(a)(27)(J)(i)–(iii) of the Act; 8 C.F.R. § 204.11(c), (d)(5)(i). Moreover, we discern no evidence that materially conflicts with the SIJ related determinations. 8 C.F.R. § 204.11(b)(5). Accordingly, the record shows that a primary reason the Petitioner sought the court orders was to obtain relief from parental maltreatment, and that he was granted such relief under applicable state law, as evidenced by the court’s permanent guardianship order. 8 C.F.R. § 204.11(d)(5)(ii).<sup>3</sup> The Petitioner therefore has demonstrated that his request for SIJ classification warrants USCIS’ consent. As the record otherwise shows that he meets the remaining eligibility criteria and his request for SIJ classification warrants USCIS’ consent, the Petitioner has established his eligibility for SIJ classification under the Act. 8 C.F.R. §§ 204.11(b), (d).

**ORDER:** The appeal is sustained.

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<sup>3</sup> The Petitioner also provides evidence on appeal that the Director granted the SIJ petition of his twin brother, P-A-T-R-, who shares the same guardian, based on the brother’s County Court orders containing similar determinations.