



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

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

In Re: 31766917

Date: APR. 19, 2024

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 this country 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). 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 remand the matter to the Director for entry of a new decision consistent with the following analysis.

To establish eligibility for SIJ classification, petitioners must show they are unmarried, under 21 years old, and have been subject to a state juvenile court order determining 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). 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). The juvenile court order(s) must be in effect on the date the petitioner files the petition and continue through the time of adjudication of the petition, with limited exceptions pertaining to termination of the court's jurisdiction. 8 C.F.R. § 204.11(c)(3)(ii).

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 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. *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). The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

The Petitioner's initial submission did not include the SIJ order, and he also did not provide it in response to the Director's subsequent request for evidence. The Director therefore found the Petitioner did not submit required evidence for SIJ classification in the form of a qualifying juvenile court order.

On appeal, the Petitioner submits for the first time a [redacted] 2022 Order Regarding Respondent's Eligibility for Special Immigrant Juvenile [Status] (SIJ order), issued by the Circuit Court for [redacted] Maryland, prior to the July 2022 filing of this SIJ petition. As the Director has not had opportunity to review the new evidence provided on appeal addressing the specific basis for denial of the SIJ petition, we will remand the matter to the Director to consider it in the first instance in determining whether the Petitioner has established by a preponderance of the evidence that he satisfies the requirements for SIJ eligibility.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.