

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).

The Director of the National Benefits Center denied the petition, concluding that the record did not establish that the juvenile court made the requisite determinations that parental reunification was not viable due to abuse, neglect, abandonment or a similar basis under state law and it was not in the Petitioner's best interest to be returned to his country of nationality. The matter is now before us on appeal pursuant to 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), (c)(1). 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. *Id.* 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).

II. ANALYSIS

The record reflects that the Petitioner is a citizen of Honduras. In [redacted] 2022, when the Petitioner was 13 years old, the [redacted] Texas District Court (juvenile court) issued an *Order in Suit Affecting the Parent-Child Relationship and Findings*, which appointed the Petitioner's mother as his sole managing conservator. The juvenile court also ordered that the Petitioner's father shall have no possession or access to him unless approved by his mother, ordered the Petitioner's father to pay child support and found that the juvenile court's orders regarding health-care coverage were in the Petitioner's best interest.

In response to the Director's Request for Evidence (RFE) of the juvenile court's determination that parental reunification was not viable due to abuse, neglect, abandonment, or a similar basis under state law and that it would not be in the Petitioner's best interest to be returned to Honduras, the Petitioner submitted a transcript of the juvenile court hearing, his mother's *Original Petition in Suit Affecting the Parent Child Relationship*, and his mother's affidavit.

The Director determined the evidence lacked the requisite juvenile court determinations on parental reunification and the Petitioner's best-interest and denied the petition. On appeal, the Petitioner asserts the juvenile court, in effect, made a qualifying determination on parental reunification because at the hearing, as reflected in the court hearing transcript, the judge stated, "There is no evidence that [the Petitioner had] been neglected or abandoned in any way, other than by the father." This statement is insufficient to establish that the juvenile court made a qualifying determination regarding parental reunification. The *Order in Suit Affecting the Parent-Child Relationship and Findings* does not contain an order or finding that the Petitioner's reunification with his father was not viable due to abuse, neglect, abandonment, or a similar basis under state law. The *Order in Suit Affecting the Parent-Child Relationship and Findings* also does not contain a judicial determination that it is not in the Petitioner's best interest to return to Honduras.

Although the Petitioner's mother's *Original Petition in Suit Affecting the Parent Child Relationship*, requested the juvenile court to find that the Petitioner's reunification with his father was not viable due to his father's neglect and abandonment under Texas law, and that it was not in the Petitioner's best interest to be returned to Honduras, the juvenile court declined to do so. The juvenile court hearing transcript shows the judge stated to the Petitioner's mother's attorney, "I don't know what you meant by putting all this other stuff concerning the children because, obviously, the children are unified with one parent. ... So I don't understand what all this other stuff is for"

We do not discount the unfortunate facts asserted in the Petitioner's mother's *Original Petition in Suit Affecting the Parent Child Relationship* and stated in her affidavit. However, we do not have the authority to make judicial determinations and instead defer to the state juvenile court's judicial determinations made under applicable state law. *See* 8 C.F.R. § 204.11(c)(1) (stating that the "juvenile court must have made" the requisite-SIJ related judicial determinations, including regarding parental reunification). *See also* 6 *USCIS Policy Manual* J.2, <https://www.uscis.gov/policy-manual> (explaining that "USCIS generally defers to the court on matters of state law and does not go behind the juvenile court order to reweigh evidence and make independent determinations about the best interest of the juvenile and abuse, neglect, abandonment, or a similar basis under state law.").

III. CONCLUSION

The record lacks evidence of a juvenile court determination that the Petitioner's reunification with one or both of his parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law, and a judicial or administrative determination that it is not in the Petitioner's best interest to return to Honduras. He is consequently ineligible for SIJ classification under section 101(a)(27)(J) of the Act.

ORDER: The appeal is dismissed.