



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

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

In Re: 16778941

Date: APR. 20, 2022

Appeal of National Benefits Center Decision

Form I-360, Petition for 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 (Director) denied the Petitioner's Form I-360, Petition for Special Immigrant Juvenile (SIJ petition), and the matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews 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, the appeal will be sustained.

I. LAW

To establish eligibility for SIJ classification, a petitioner must show that he or she is unmarried, under 21 years old, and has been subject to a state juvenile court order determining that the petitioner cannot reunify with one or both parents due to abuse, neglect, abandonment, or a similar basis under state law. Section 101(a)(27)(J) of the Act; 8 C.F.R. § 204.11(c). The petitioner must have been declared dependent upon the juvenile court, or the juvenile court must have placed the petitioner 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. The record must also contain a judicial or administrative determination that it is not in the petitioner's best interest to return to his or her parents' country of nationality or last habitual residence. *Id.* at section 101(a)(27)(J)(ii).

SIJ classification may only be granted upon the consent of the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), when the petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)–(iii) of the Act. *See also Matter of D-Y-S-C-*, Adopted Decision 2019-02, at 2, 6-7 (AAO Oct. 11, 2019) (providing guidance on USCIS' consent authority as rooted in the legislative history of the SIJ classification and longstanding agency policy). The Petitioner bears the burden of proof to demonstrate his or her eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

A. Relevant Facts and Procedural History

In 2017, when the Petitioner was 13 years old, the District Court for the [] Judicial District in [] Texas (district court), issued an *ORDER IN SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP ORDER OF DEPENDENCY* (SAPCR order). The SAPCR order declared the Petitioner “dependent on the district court pursuant to section 154.002 of the Texas Family Code.” The district court placed the Petitioner in the custody of her mother, who was appointed “as the parent sole managing conservator.” The district court also determined that the Petitioner’s reunification with her father was not viable due neglect and abandonment under Tex. Fam. Code section 261.001(1) and Tex. Fam. Code section 161.001(4), due to her father “subjecting her to regular beatings” and “repeated physical, mental, and emotional abuse.” In addition, after making its factual findings, the district court found that it would not be in the Petitioner’s best interest to be returned to Belize, her country of nationality.

The Director denied the SIJ petition, concluding that the Petitioner had not met her burden of establishing that USCIS’ consent is warranted. Specifically, the Director concluded that the record did not establish a reasonable factual basis for the district court’s best interest determination. Therefore, the Director held that she was unable to determine whether the Petitioner’s primary purpose in seeking the SAPCR order was to obtain relief from parental maltreatment or to obtain an order for immigration purposes.

On appeal, the Petitioner submits a brief and previously submitted documents. The Petitioner asserts that the SAPCR order had a reasonable factual basis, and that she merits USCIS’ consent to her SIJ classification.

B. USCIS’ Consent

SIJ classification may only be granted upon the consent of the Secretary of Homeland Security, through USCIS, where, as here, a petitioner meets all other eligibility criteria. Section 101(a)(27)(J)(i)-(iii) of the Act. To warrant USCIS’ consent, juveniles must establish that the requisite juvenile court or administrative determinations were sought primarily to gain relief from parental abuse, neglect, abandonment, or a similar basis under state law, and not primarily to obtain an immigration benefit. *See id.*; H.R. Rep. No. 105-405, 130 (1997) (reiterating requirement “that neither the dependency order nor the administrative or judicial determination of the alien’s best interest was sought primarily for the purpose of obtaining the status of an alien lawfully admitted for permanent residence, rather than for the purpose of obtaining relief from abuse or neglect”); *Matter of D-Y-S-C-*, Adopted Decision 2019-02, at 5-6. Consequently, the nature and purpose of the juvenile court proceedings is central to whether USCIS’ consent is warranted and the agency must consider whether the juvenile court’s determinations were sought in proceedings granting relief from parental maltreatment. *Id.*

The district court determined that it would not be in the Petitioner’s best interest to return to Belize after stating its factual findings. The district court specified that the Petitioner and her mother fled Belize to escape the abuse of their father. In addition to finding that the Petitioner’s father abused the

Petitioner, the district court further held that the Petitioner was abandoned by her father in Belize and cited to Texas law in support of the abuse and abandonment finding. Contrary to the Director's finding, the district court's consideration of the abuse and abandonment by the Petitioner's father provides a reasonable factual basis for the district court's determination that it is not in her best interest to return to Belize. *See* section 101(a)(27)(J)(ii) of the Act; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 at 8 and *Matter of A-O-C-*, Adopted Decision 2019-03 at 8 (discussing reasonable factual basis in juvenile court orders and other documents submitted to court in juvenile dependency and custody proceedings for petitioners in determining that they merited USCIS' consent to their SIJ classification).

In addition, the record shows that the nature and purpose of the proceedings were to protect the Petitioner from parental neglect and abandonment, as the district court granted relief by awarding her mother full custody of the Petitioner and by ordering her father to pay child support to her mother. Overall, the Petitioner has established by a preponderance of the evidence that her request for SIJ classification merits USCIS' consent.

The evidence in the record demonstrates that the district court found the Petitioner to be dependent on the court and awarded the Petitioner's sole custody to her mother. The district court also found that the Petitioner's reunification with her father was not viable due to neglect and abandonment, pursuant to Tex. Fam. Code sections 261.001(1) and 161.001(4), respectively. Finally, as discussed above, the SIJ order indicated it was not in her best interest to be removed from the United States and returned to Belize, her country of nationality. Therefore, the Petitioner has met all eligibility requirements for SIJ classification and demonstrated USCIS' consent is warranted, and we withdraw the Director's determination otherwise.

III. CONCLUSION

The Petitioner has established that she is eligible for and merits USCIS' consent to a grant of SIJ classification. The Director's decision is withdrawn, and the appeal is sustained.

ORDER: The appeal is sustained.