



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

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

In Re: 15820693

Date: DEC. 23, 2021

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 petition, concluding the court was not acting as a juvenile court when it issued its order for the Petitioner. The Petitioner asserts that he has demonstrated his eligibility for SIJ classification. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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) of the Act; 8 C.F.R. § 204.11(c). 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. 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).

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; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019), at 5-6. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. The petitioner bears the burden of proof to demonstrate their 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 [ ] 2018, when the Petitioner was 20 years old, the Arizona Circuit Court for [ ] (circuit court) appointed guardianship of the Petitioner to Y-E-L-<sup>1</sup> in two ORDER OF TEMPORARY GUARDIANSHIP orders (temporary SIJ orders). The circuit court subsequently issued an ORDER OF PERMANENT GUARDIANSHIP (SIJ order) in [ ] 2018. The circuit court appointed Y-E-L- as a permanent guardian for the Petitioner and made determinations related to the Petitioner's SIJ eligibility. Specifically, the circuit court found that the Petitioner's reunification with his father is not possible due to abandonment as he has not communicated with his father since 2008. The circuit court further determined that it is not in the Petitioner's best interest to be returned to his last country of nationality or habitual residence due to family unity, future education, ability to seek employment, and ability to assimilate. The circuit court identified the Petitioner as an "incapacitated person" due to major depressive disorder, recurrent episode, severe, without psychotic features and posttraumatic stress disorder. The circuit court specified that a guardianship is desirable to protect the interests of the Petitioner, as an incapacitated person, and that its parental reunification and best interest determinations were similarly made for an incapacitated person.

In July 2018, based upon the circuit court's order, the Petitioner filed his SIJ petition.

### B. Juvenile Court

The Director determined the Petitioner did not meet his burden of demonstrating the circuit court had jurisdiction over him as a juvenile under state law when it issued its orders. On appeal, the Petitioner asserts the submitted circuit orders meet the eligibility requirements for SIJ classification as they make parental reunification and best interest determinations for the Petitioner. The Petitioner contends the circuit court acted as a juvenile court because it has jurisdiction over the care and custody of children. The Petitioner further asserts that it would be a violation of due process to require a person to be under 18 years of age at the time of SIJ petition filing since the statute itself specifies that petitioners must be under the age of 21 at the time of filing. However, the Petitioner conflates the federal filing requirements with the requisite validity of a juvenile court order under the applicable state law. An individual must apply for SIJ classification with USCIS while unmarried and under the age of 21, as federal immigration law mandates these filing requirements and related age-out protections. *See* 8 C.F.R. § 204.11(c)(1)-(2); (requiring an SIJ to be under 21 years of age and unmarried); William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, section 235(d)(6), Pub. L. 110-457, 122 Stat. 5044, 5080 (2008) (providing age-out protections for SIJs who are unmarried and under the age of 21 when their petitions are filed). But for SIJ classification, petitioners must also have been subject to a dependency or custody order issued by a "juvenile court." Section 101(a)(27)(J)(i) of the Act. And the term "juvenile court" is defined as a court "in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles." Section 101(a)(27)(J)(i) of the Act; 8 C.F.R. § 204.11(a).<sup>2</sup>

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<sup>1</sup> Initials are used to protect the individual's identity.

<sup>2</sup> Consistent with the New York district court decision in *R.F.M. v. Nielsen*, 365 F.Supp.3d 350 (S.D.N.Y. 2019) and

USCIS’ Policy Manual and adopted decisions clarify that, while the specific title and type of court may vary, SIJ petitioners must establish that the court had jurisdiction under state law to make judicial determinations about their dependency and/or custody and care as a juvenile. 8 C.F.R. § 204.11(a), (d)(2)(i); *Matter of A-O-C-*, Adopted Decision 2019-03, at 3 (AAO Oct. 11, 2019); *Perez-Olano v. Holder*, No. CV 05-3604, Settlement Agreement ¶ 8 (C.D. Cal. Dec. 15, 2010); *see also Budhathoki v. Nielsen*, 898 F.3d 504, 513 (5th Cir. 2018). The adopted decision further clarified that state law and not federal law governs the definition of “juvenile,” “child,” “infant,” “minor,” “youth,” or any other equivalent term for juvenile that is applicable to the dependency or custody proceedings before the juvenile court. *Matter of A-O-C-*, Adopted Decision at 4; *Matter of E-A-L-O*, Adopted Decision 2019-04, at 4 (AAO Oct. 11, 2019). As such, the dependency declaration or custodial placement and related SIJ findings must be entered by a juvenile court “while the [Petitioner] was . . . under the jurisdiction of the court.” 8 C.F.R. § 204.11(c)(3).

Arkansas circuit courts generally have jurisdiction over the custody and care of minors under Arkansas law, and therefore they *may* qualify as “juvenile courts” for the purposes of SIJ classification in some instances. *See* Ark. Const. Amend. 80, § 6 (outlining the jurisdiction of circuit courts as “trial courts of original jurisdiction of all justiciable matters not otherwise assigned pursuant to” the Arkansas Constitution); Ark. Code Ann. § 16-13-201 (same). Nonetheless, we must determine whether the Petitioner demonstrated the circuit court was acting as a juvenile court for SIJ purposes in his own matter when the court exercised its jurisdiction to appoint him a guardian and make SIJ rulings after his eighteenth birthday. As stated, the circuit court orders refer to the Petitioner as an “incapacitated person” in making its SIJ-related determinations. Similarly, the Petitioner’s underlying petition to the court requests the appointment of a guardian to “promote and protect the well-being of the incapacitated person,” as the Petitioner should have “an adequate medical proxy appointed” if he “suffers from a medical emergency. . .” The circuit orders notably do not refer to the Petitioner as a “minor,” which Arkansas law defined as all persons who have attained the age of 18 years. Ark. Code Ann. § 9-25-101 (West 2017). Overall, the Petitioner has not met his burden of demonstrating the circuit court acted as a juvenile court for SIJ purposes when it issued its court orders “to protect the interests of the incapacitated person, [Petitioner],” when the Petitioner was the age of majority in Arkansas.

### C. Additional Eligibility Grounds

The Director also concluded the Petitioner does not warrant USCIS’ consent to SIJ classification. Further, the record appears to demonstrate a deficiency in establishing the circuit court relied upon state law in making its parental reunification determination. However, as the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding whether he meets the additional eligibility requirements for SIJ classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also*

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section 101(a)(27)(J)(i) of the Act, USCIS interprets the definition of juvenile court at 8 C.F.R. § 204.11(a) to mean a court located in the United States having jurisdiction under state law to make judicial determinations about the dependency and/or custody and care of juveniles. *Matter of A-O-C-*, Adopted Decision at 4, n.2.

*Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

The Petitioner has not overcome the basis of the Director's denial and has not demonstrated his eligibility for SIJ classification.

**ORDER:** The appeal is dismissed.