



October 11, 2019

PM-602-0173.1

Policy Memorandum

SUBJECT: *Matter of A-O-C*, Adopted Decision 2019-03 (AAO Oct. 11, 2019)

Purpose

This policy memorandum (PM) designates the attached decision of the Administrative Appeals Office (AAO) in *Matter of A-O-C* as an Adopted Decision. Accordingly, this adopted decision establishes policy guidance that applies to and shall be used to guide determinations by all U.S. Citizenship and Immigration Services (USCIS) employees. USCIS personnel are directed to follow the reasoning in this decision in similar cases.

Matter of A-O-C clarifies that to be eligible for Special Immigrant Juvenile (SIJ) classification, juveniles must have been subject to a dependency or custody order issued by a “juvenile court,” which 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.” 8 C.F.R. § 204.11(a).¹ While the specific title and type of state court may vary, juveniles seeking SIJ classification must establish that the court had competent jurisdiction to make judicial determinations about their dependency and/or custody and care as juveniles under state law.

Matter of A-O-C further explains that individuals must apply for SIJ classification while unmarried and under the age of 21, as federal immigration law mandates these filing requirements and related age-out protections. However, state law, not federal law, governs the definition of “juvenile,” “child,” “infant,” “minor,” “youth,” or any other equivalent term for juvenile which applies to the dependency or custody proceedings before the juvenile court.

Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

¹ Consistent with the district court’s decision in *R.F.M. v. Nielsen*, 365 F.Supp.3d 350 (S.D.N.Y. Mar. 15, 2019) and 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.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate directorate channels to the AAO.



U.S. Citizenship
and Immigration
Services

ADOPTED DECISION

MATTER OF A-O-C-

ADMINISTRATIVE APPEALS OFFICE
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
DEPARTMENT OF HOMELAND SECURITY

October 11, 2019¹

- (1) To be eligible for Special Immigrant Juvenile (SIJ) classification, juveniles must have been subject to a dependency or custody order issued by a “juvenile court,” which 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.” 8 C.F.R. § 204.11(a). While the specific title and type of state court may vary, juveniles must establish that the court had competent jurisdiction to make judicial determinations about their dependency and/or custody and care as juveniles under state law.
- (2) Individuals must apply to U.S. Citizenship and Immigration Services for SIJ classification while unmarried and under the age of 21, as federal immigration law mandates these filing requirements and related age-out protections. However, state law, not federal law, governs the definition of “juvenile,” “child,” “in fant,” “minor,” “youth,” or any other equivalent term for juvenile which applies to the dependency or custody proceedings before the juvenile court.

FOR THE PETITIONER: Amy M. Wax, Esquire, Boston, Massachusetts

As a child declared dependent upon a juvenile court for relief from his father’s abandonment and neglect, the Petitioner seeks Special Immigrant Juvenile (SIJ) classification 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 SIJ petition, concluding that the Petitioner was ineligible because he was over the age of 18 and

¹ *Matter of A-O-C-* was issued on April 3, 2019, as a non-precedent decision. We reopened the proceedings under 8 C.F.R. § 103.5(a)(5)(i) to revise for designation as an adopted decision.

not a juvenile under Massachusetts law when a Massachusetts court issued the underlying orders. On appeal, the Petitioner asserts his eligibility for SIJ classification under a recently enacted Massachusetts child welfare law, which applies retroactively to the court's orders in his case.

A petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will sustain the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for SIJ classification, juveniles must show that they are unmarried, under 21 years of age, and have been subject to a state juvenile court order determining that they 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; 8 C.F.R. § 204.11(c). Juveniles must have been declared dependent upon a juvenile court, or a juvenile court must have placed them in the custody of a state agency or department, or an individual or entity appointed by the state or juvenile court. Section 101(a)(27)(J)(i) of the Act. The record must also contain a judicial or administrative determination "that it would not be in the [juvenile's] best interest to be returned to the [juvenile's] or parent's previous country of nationality or country of last habitual residence[.]" Section 101(a)(27)(J)(ii) of the Act.

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 Homeland Security, through USCIS, when a juvenile meets all other eligibility requirements and establishes that the juvenile court order was sought to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law and not primarily to obtain an immigration benefit. Section 101(a)(27)(J)(i)-(iii) of the Act; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019).

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a native and citizen of Colombia, was born in February 1996 and entered the United States without inspection, admission, or parole in 2016. In January 2017, when the Petitioner was 20 years old, the Suffolk Probate and Family Court in Massachusetts issued a *Judgment Regarding Petitioner's Eligibility for Special Findings and Special Immigrant Status* (initial order), declaring the Petitioner dependent on the court, finding that his father neglected and abandoned him, and that it is not in his best interest to return to Colombia. The court cited no Massachusetts law in its initial order.

The court subsequently issued two amended orders, entered *nunc pro tunc* to the date of the initial order, which cited the court's equity jurisdiction under Massachusetts General Laws, Chapter 215, Section 6, and the Massachusetts Supreme Court decision, *Recinos v. Escobar*, 46 N.E. 3d 60 (Mass. 2016) as the authority for the court to issue the SIJ related special findings. The *Nunc Pro Tunc Amended Order for Findings of Fact and Ruling of Law and Decree on Special Immigrant Juvenile*

Status (first amended order), reiterated that the Petitioner is dependent upon the court and that the Petitioner's reunification with his father is not viable because his father is imprisoned and has abandoned and neglected the Petitioner since he was six years old. The court further determined that it is not in the Petitioner's best interest to return to Colombia, in part, because his mother "resides in Massachusetts and she has been the sole support in Petitioner's life for the last 15 years." The *Nunc Pro Tunc Amended Judgment Regarding Petitioner's Eligibility for Special Findings and Special Immigrant Status* (second amended order), reiterated the court's prior determinations and cited additional Massachusetts law.

The Petitioner filed his SIJ petition in January 2017 with the initial court order, and submitted the amended court orders in response to the Director's request for evidence and notice of intent to deny. The Director reviewed the evidence and determined the record did not demonstrate that the court orders were issued under the court's jurisdiction over the Petitioner as a juvenile based on the definition of "child" as a person who has not attained the age of 18 under Massachusetts General Laws, Chapter 119, section 21. The Director also determined that the court orders lacked the requisite juvenile dependency declaration or custodial placement.

The Petitioner subsequently appealed and the AAO issued a notice of intent to dismiss (NOID) the appeal because the submitted evidence did not establish that the orders contained qualifying SIJ determinations issued by a juvenile court with jurisdiction over the Petitioner's care and custody under the Massachusetts laws cited in the record at that time.

The AAO also took administrative notice that during the pendency of the appeal, the Massachusetts legislature amended the Massachusetts General Laws, Public Welfare Title, Chapter 119 pertaining to the "Protection and Care of Children" by adding a section entitled, "Return of child to child's country of origin; petition for special findings." MASS. GEN. LAWS ch. 119, § 39M (2018); 2018 Mass. Legis. Serv. Ch. 154 (H.B. 4800), Sec. 105, 113 (West). We allowed the Petitioner an opportunity to brief whether the new law (section 39M) applied to the court orders in his case and, if so, how such application would establish his eligibility for SIJ classification. In response to the NOID, the Petitioner asserts that section 39M is applicable to his case because the initial order was issued in January 2017, and the bill enacting section 39M explicitly provides for its retroactive application to such orders.

In enacting section 39M, the Massachusetts legislature determined that the new provision "shall apply" to certain requests for special findings pending in a juvenile court as of March 4, 2016, or commenced on or after that date; and, as applicable to the Petitioner's case here, "retroactively to any special findings issued that form the basis of a child's petition for special immigrant juvenile classification if that petition is subject to denial or revocation based on the child's dependency status or age when the special findings were issued." 2018 Mass. Legis. Serv. Ch. 154 (H.B. 4800), Sec. 105 (West).

The Petitioner further asserts that under this new law, the court orders "were issued by a juvenile court in Massachusetts, contain the required dependency declaration for SIJ[] status, and USCIS consent is warranted." As section 39M applies retroactively to the Petitioner's probate and family court orders, we will consider its application in our analysis of the Petitioner's eligibility and claims on appeal.

III. ANALYSIS

A. Juvenile Court

To be eligible for SIJ classification, juveniles must have been subject to a dependency or custody order issued by a “juvenile court,” which 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.” 8 C.F.R. § 204.11(a).² While the specific title and type of state court may vary, SIJ petitioners must establish that the court had competent jurisdiction to make judicial determinations about their dependency and/or custody and care as juveniles under state law. *See* 8 C.F.R. § 204.11(a), (d)(2)(i) (stating that required initial evidence includes a juvenile court order issued by a court of competent jurisdiction). In the context of federal immigration benefits contingent on prior legal determinations regarding a child’s welfare, the term “competent jurisdiction” refers to the court’s authority to adjudicate the dependency and/or custody and care of the child. *Compare* 8 C.F.R. § 204.11(a), (d)(2)(i) (requiring judicial determinations issued by a court of competent jurisdiction over the juvenile) *with* 8 C.F.R. §§ 204.3(b), 204.301 (referencing courts of competent jurisdiction as those authorized under the foreign country’s child welfare laws to be entrusted with the custodial care of an abandoned child in anticipation of adoption as an orphan or Hague Convention adoptee).

On appeal, the Petitioner initially asserted that he need not establish that the court had jurisdiction over him as a child or juvenile under Massachusetts law because only the Act’s definition of child applies to SIJ classification. The Petitioner conflates 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) (stating that an SIJ petitioner must 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 juveniles who are unmarried and under the age of 21 when their petitions are filed).

However, state law, not federal law, governs the definition of “juvenile,” “child,” “infant,” “minor,” “youth,” or any other equivalent term for juvenile which applies to the dependency or custody proceedings before the juvenile court. *See* 8 C.F.R. § 204.11(a), (d)(2)(i); *Perez-Olano v. Holder*, No. CV 05-3604, Settlement Agreement ¶ 8 (C.D. Cal. Dec. 15, 2010) (the juvenile court order must be properly issued under state law to establish SIJ eligibility). *See also Budhathoki v. Nielsen*, 898 F.3d 504, 513 (5th Cir. 2018) (“Although the regulation permits an applicant for SIJ status to be someone who has not yet become age 21, what controls on eligibility for that status is the state law governing decisions over the care and custody of juveniles”).

In response to the NOID, the Petitioner correctly asserts that the orders in the state child welfare proceedings were issued by a juvenile court for SIJ purposes, under the retroactive application of

² Consistent with the district court’s decision in *R.F.M. v. Nielsen*, 365 F.Supp.3d 350 (S.D.N.Y. Mar. 15, 2019) and 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.

section 39M. Subsection 39M(a) specifically identifies the probate and family court as a court “competent to make decisions concerning the protection, well-being, care and custody of a child” and defines the term “child” as “an unmarried person under the age of 21.” MASS. GEN. LAWS ch. 119, § 39M(a). This law requires “that when issuing special findings under this section” the probate and family court “shall be acting under the jurisdiction specified.” *Id.*

The record shows that the probate and family court took such competent jurisdiction over the Petitioner as a juvenile under Massachusetts law when it issued its orders. The Petitioner met section 39M’s definition of “child” when the probate and family court entered its initial order, and the two subsequent amended orders were entered *nunc pro tunc* to the date of this initial order.³ As a result, the orders were entered by a court with competent jurisdiction to make judicial determinations over the dependency, custody and care of the Petitioner as a juvenile under state law. Therefore the court was operating as a “juvenile court,” as that term is referenced in section 101(a)(27)(J) of the Act and defined at 8 C.F.R. § 204.11(a).⁴ The Director’s decision to the contrary is withdrawn, as it was based on an assessment of Massachusetts law prior to the enactment of section 39M.

B. Dependency Declaration

An SIJ petitioner must be declared dependent upon a juvenile court, or be legally committed to, or placed under the custody of a state agency or department, or of an individual or entity appointed by a state or juvenile court. Section 101(a)(27)(J)(i) of the Act. On appeal, the Petitioner asserts USCIS is required to give deference to the juvenile court’s dependency declaration and we exceed our authority when we examine the basis under state law for the dependency determination. However, a juvenile court’s dependency declaration must be made in accordance with state law governing such declarations. 8 C.F.R. § 204.11(c)(3). Determining whether a juvenile court’s dependency declaration meets this requirement does not exceed our authority, but is required for USCIS to adjudicate a petitioner’s eligibility for SIJ classification under federal law. *See Budhathoki*, 898 F.3d at 511 (“Whether a state court order submitted to a federal agency for the purpose of gaining a federal benefit made the necessary rulings very much is a question of federal law, not state law, and the agency had authority to examine the orders for that purpose.”).

Petitioners bear the burden of establishing the state law that the juvenile court applied in its dependency determination. *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019). Consequently, a state court’s declaration of dependency submitted without evidence of the state law governing such declarations is insufficient to establish SIJ eligibility. *See generally M.B. v. Quarantillo*, 301 F.3d 109, 116 (3d Cir. 2002) (“Both the statute and the regulation implicitly require an alien applying for special immigrant juvenile status . . . to qualify for a dependency order under state law”); *Budhathoki*, 898 F.3d at 514, 517 (explaining that state court orders with the words “dependent on this Court,” would not necessarily establish juvenile dependency under the “specific federal meaning” of the Act and regulations).

³ The Supreme Judicial Court of Massachusetts has explained that “[t]he function of a *nunc pro tunc* order in general is to put upon the record and to render efficacious some finding, direction, or adjudication of the court made actually or inferentially at an earlier time, which by accident, mistake, or oversight was not made matter of record.” *Perkins v. Perkins*, 114 N.E. 713, 713-14 (Mass. 1917) (internal citations omitted).

⁴ *See supra* note 2.

Here, as the Petitioner correctly asserts in response to our NOID, the probate and family court, in its capacity as a juvenile court, issued a qualifying declaration of juvenile dependency under the retroactive application of the recently enacted Massachusetts child welfare law. Section 39M defines “dependent on the court” as relating to a child who is “subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child, for findings, orders or referrals to support the health, safety and welfare of a child or to remedy the effects on a child of abuse, neglect, abandonment or similar circumstances.” MASS. GEN. LAWS ch. 119, § 39M(a). The law specifies that “when issuing special findings under this section, a court shall be acting” under such competent jurisdiction. *Id.*

The initial juvenile court order declared the Petitioner “dependent on the Probate and Family Court of Suffolk County,” and the second amended order clarified that the Petitioner was dependent on the juvenile court for his health, safety, and welfare and that the court’s findings were made to provide for his safety and well-being, to establish residence for the purposes of health care eligibility, and to protect the Petitioner from future harm, in accordance with Massachusetts laws. The Petitioner was therefore declared dependent upon the juvenile court in accordance with a Massachusetts law governing such declarations. The Director’s decision to the contrary is withdrawn, as it was based on an evaluation of the law cited in the orders before section 39M was enacted.

C. Parental Reunification Determination

The Director did not address whether the Petitioner met the remaining eligibility criteria. On *de novo* review, the record on appeal shows the Petitioner meets the other requirements and is eligible for and merits USCIS’ consent to a grant of SIJ classification.

The Act requires a determination that a juvenile’s reunification with one or both parents “is not viable due to abuse, neglect, abandonment, or a similar basis found under State law.” Section 101(a)(27)(J)(i) of the Act. Because the Act references this finding as made under state law, the record must contain evidence of a judicial determination that the juvenile was subjected to such maltreatment by one or both parents under state law. *See id.*; *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct. 11, 2019). The Petitioner bears the burden of proof to establish the state law the juvenile court applied in this determination. *Id.*

Here, that burden has been met. In the second amended order, the juvenile court clarified its determination that the Petitioner’s “reunification with his father . . . is not viable due to neglect and abandonment.” The juvenile court reiterated its consideration of the Petitioner’s father’s destructive and criminal behaviors that led him to fail to provide adequate protection and support to the Petitioner in the past and his inability to do so in the future given his ongoing imprisonment. The juvenile court cited the definition of “neglect” in the Massachusetts Department of Children and Families (DCF) regulations at 110 CMR § 2.00. The court also relied on chapter 210, section 3, of the Massachusetts General Laws domestic relations provisions and related case law concerning the guidelines for DCF and other entities to dispense with parental (and other required) consent in adoption, custody, guardianship, or other disposition of the child when the child has been abused, neglected, or abandoned by an unfit parent. Accordingly, the juvenile court made a qualifying determination that the Petitioner could not reunify with his father due to neglect and abandonment under Massachusetts law.

D. Best Interest Determination

SIJ classification also requires an administrative or judicial determination “that it would not be in the [juvenile’s] best interest to be returned to the [juvenile’s] or parent’s previous country of nationality or country of last habitual residence[.]” Section 101(a)(27)(J)(ii) of the Act. A petitioner must submit evidence of a best-interest determination made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions. 8 C.F.R. § 204.11(d)(2)(iii). While the standards may vary among states, the best-interest determination generally refers to the deliberation undertaken by a juvenile court (or in administrative proceedings recognized by the juvenile court) when deciding what types of services and orders are best for a child, as well as who is best suited to care for the child. See U.S. Department of Health and Human Services, Children’s Bureau, Child Welfare Information Gateway (2016), *Determining the Best Interests of the Child*.

Here, the second amended juvenile court order states, “[h]aving considered the health, educational, developmental, physical and emotional interest of [the Petitioner], this Court determines that it is not in [the Petitioner’s] best interest to return to his country of nationality, Colombia.” In support, the court cites *Custody of Kali*, 439 Mass. 834, 843-45 (2003), in which the Massachusetts Supreme Judicial Court discussed the factors a court considers under Massachusetts law when determining a child’s best interest in custody proceedings. Although the orders in this case were not issued in child custody proceedings, many of the best-interest factors discussed in *Custody of Kali*, are also specified in section 39M. The special findings in this case were issued under the juvenile court’s competent jurisdiction over “the protection, well-being, care and custody” of the Petitioner as a child requesting findings concerning his best interest. MASS. GEN. LAWS ch. 119, § 39M(a), (b). Subsection 39M(b) specifies that in making such findings, the “health and safety of the child shall be of paramount concern” and the court “shall consider whether present or past living conditions will adversely affect the child’s physical, mental or emotional health.” *Id.* at § 39M(b).

The juvenile court’s orders indicate that the court considered the adverse effects of the Petitioner’s past living conditions, including his father’s criminal conviction when the Petitioner was six years old and his father’s ongoing imprisonment since that time, the terminal illness of his grandmother and lack of any other relative to care for him in Colombia.⁵ Accordingly, the court orders contain a qualifying determination that return to Colombia would not be in the Petitioner’s best interest.

E. 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 the 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

⁵ The Petitioner’s birth certificate reflects that Colombia is also his parents’ country of nationality.

permanent residence, rather than for the purpose of obtaining relief from abuse or neglect”); *Matter of D-Y-S-C-*, Adopted Decision 2019-02 (AAO Oct.11, 2019). 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.*

In this case, the record shows that the nature and purpose of the proceedings were to protect the Petitioner from parental neglect and abandonment. Section 39M of the Massachusetts child protection provisions explains that when issuing special findings, “[t]he health and safety of the child shall be of paramount concern. When considering the child’s health and safety, the court shall consider whether present or past living conditions will adversely affect the child’s physical, mental or emotional health.” MASS. GEN. LAWS ch. 119, § 39M(b). The second amended order shows that the juvenile court considered those factors when it declared the Petitioner dependent on the court for his health, safety, and welfare. The juvenile court stated that it was considering the health, educational, developmental, physical, and emotional interests of the Petitioner in finding that it is not in his best interest to return to Colombia. The juvenile court addressed the Petitioner’s father’s destructive and criminal actions in determining that the Petitioner’s reunification with his father is not viable, and explained that its findings were made due to the neglect and abandonment of the Petitioner’s father, to provide for the Petitioner’s safety and well-being, to establish his residence for the purposes of health care eligibility, and to protect the Petitioner from future harm, in accordance with Massachusetts law.

Where the juvenile court proceedings involve relief from parental abuse, neglect, abandonment or a similar basis under state law, the record must also contain a reasonable factual basis for each of the requisite SIJ determinations to establish that a petitioner’s request for SIJ classification merits USCIS’ consent. A reasonable factual basis for the juvenile court’s determinations may be shown through, for example, factual findings in the juvenile court order(s), the underlying petition for dependency or custody, other supporting documents submitted to the juvenile court and transcripts or other records of the judicial or administrative proceedings, if available, or affidavits or records attesting to the evidence presented to the juvenile court and consistent with its findings. *See, e.g., Reyes v. Cissna*, 737 Fed. Appx. 140, 145-46 (4th Cir. 2018) (finding USCIS did not abuse its discretion and properly withheld consent to an SIJ petition based on juvenile court orders with no factual findings and accompanied by no evidence considered by the court).

Here, the Petitioner’s affidavit submitted to the court during the dependency proceedings, combined with the initial order, first amended order, and second amended order establish a reasonable factual basis for the juvenile court’s determinations. The Petitioner has shown that he sought the juvenile court orders to gain relief from his father’s neglect and abandonment and not primarily to obtain an immigration benefit. The Petitioner has demonstrated by a preponderance of the evidence that the juvenile court granted such relief when it issued orders to provide for the Petitioner’s safety and welfare, including establishing residency for health care eligibility and protection from future harm under Massachusetts law. The Petitioner’s request for SIJ classification consequently merits USCIS’ consent.

IV. CONCLUSION

The Petitioner has established that he 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.

Cite as *Matter of A-O-C-*, Adopted Decision 2019-03 (AAO Oct. 11, 2019)