



Special Immigrant Juvenile Status (SIJS)

A Lifeline for Abused and Neglected Children and Youth

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Overview

- **Definitions**
- **Unaccompanied Minors and their Experience**
- **Case Example**
- **TVPRA: Special Immigrant Juvenile Status**
- **Preparing and Building the Case**
- **Tips for Lawyers**

Undocumented, Refugee or UAC?

Undocumented	Refugee	Unaccompanied Alien Child (UAC)
Foreign-born, lacks right to be in US, having either entered without inspection (and not subsequently obtained right to remain) or stayed beyond expiration date of visa or other status.	Outside his/her country of nationality or habitual residence, unable or unwilling to return due to well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in particular social group.	No lawful immigration status in US; not yet age 18 and: 1) has no parent or legal guardian in US; or 2) no parent or legal guardian in US is available to provide care and physical custody.

UAC Experience



Shocking Conditions at Immigrant Detention Center

“It was worse than we ever thought,” said Rep. Rosa DeLauro

U.S. Border Patrol agents conduct intake of illegal border crossers at the Central Processing Center on June 17, 2018 in McAllen, Texas.

Photo by U.S. Customs and Border Protection

UAC Experience

Unaccompanied Children Apprehended by U.S. Border Patrol

Year (Oct-Sept)	Number of UAC
2014	68,631
2015	40,035
2016	59,757
2017	41,546
2018	50,145

<https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/bp-total-monthly-uacs-sector-fy2010-fy2018.pdf>

UAC Experience

Unaccompanied Children Released to Sponsors

State	FY2015 Oct - Sept	FY2016 Oct - Sept	FY2017 Oct - Sept	FY2018 Oct - Sept
Connecticut	206	454	412	332
District of Columbia	201	432	294	134
Florida	2,908	5,281	4,059	4,109
Massachusetts	738	1,541	1,077	813
New Jersey	1,462	2,637	2,268	1,876
New York	2,630	4,985	3,938	2,837

Source: ACS, ORR [acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors](https://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors)

Jane Case Study

- Age 15 years, born in Honduras, oldest of 5 siblings
- Not married
- Presently living under care of her aunt, in Any Town, CT
- Father is short tempered with significant history of family violence
- From early age, father emotionally abused Jane and subjected her to physical abuse
- Father's would get angry easily, and often shout and scream at Jane. Sometime he would hit her if she didn't move out of his way fast enough during fits of rage.
- Mother witnessed ongoing, abuse of Jane by father, but did nothing to stop it

Jane Case Study

- Father however had always maintain some reasonable degree of interest and provided very basic elements of subsistence: food and shelter and education
- Mother failed to protect Jane against father's abuse because father was sole breadwinner and needed to provide for the family
- On Jane's 15th birthday, father announced he would no longer pay Jane's tuition, because he wanted her to focus on getting married and father's friend was looking for a wife
- Terrified of being married off to someone more than twice her age, and as a result of father's abuse, Jane ran away to the U.S. to escape and live with her aunt



Jane Case Study

- Currently facing removal proceedings at U.S. Immigration Court for District of Connecticut
- Parents in Honduras willing to take her back but still plan to marry her off after father “teaches her a lesson” for running away
- Parents continues to hold legal guardianship but have failed to protect Jane from physical and mental abuse, and failed to provide proper care for physical, medical, educational and emotional well-being
- Under aunt’s care, Jane is able to have proper care and attention needed by a minor
- Jane is finally in school again and doesn’t want to return to Honduras

Jane Case Study

Can Jane remain in the U.S. or will she face removal to Honduras?

TVPRA

Special Immigrant Juvenile Status

- Purpose of federal language is to protect minors who have been abandoned, abused or neglected by allowing them to regularize their immigration status
- SIJS cannot be obtained solely for purposes of avoiding removal from U.S.
- SIJS is 2 part process:
 - State “Juvenile Court” (Probate, Juvenile, Family, Delinquency)
 - Federal Immigration Process

Juvenile Court Authority to Make SIJS Findings

8 CFR § 204.11(a): defining a juvenile court as any “court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.”

Probate Court: CGS §§ 45A-608n-608o

Juvenile/Family Court: CGS § 46b-121 and
Conn. Practice Book § 34a-1.

Though rare, SIJ is also possible through delinquency proceedings

Eligibility for SIJS

All of these must be true:

- Under age twenty-one
- Unmarried
- Dependent upon court or in custody of state agency or department or someone designated by the court
- Returning to live with *one* or both parents is not viable due to abuse, neglect, abandonment or a similar state basis (uncared for).
- Not in best interest to be returned to country of origin

See INA § 101(a)(27)(J), 8 USC 1101, 8 USC 1101

Basic Steps to Getting SIJ Order

Juvenile Court

Court Appointed
Counsel in
Juvenile Matters

File Neglect
Petition in Juvenile
Matters

Motion for Special Findings of Fact
CGS § 46b-1-121
Conn Practice Book § 34a-1
Memorandum of Law in Support of Motion

Plea and Disposition Hearing

Probate Court

Court Appointed
Counsel in
Probate

File Removal &
Appointment of
Guardian Petition

Preliminary Motions
i.e. Motion to Waive Requirement for DCF Study

Motion for Special Findings of Fact
Memorandum of Law in Support of Motion
or File Form PC-609

Evidentiary Hearing



Legal Standards and Case Law Guardianship Matters

Mother and Father as Joint Guardians

CGS § 45a-606

**Court Acquires Jurisdiction to Determine
Guardianship** CGS § 45a-607-616a, inclusive;
CGS § 46b-115k

**Court Removes Parent(s) as Guardian(s) of
Minor Child** CGS § 45a-610; CGS § 45a-613;
CGS § 45a-614

Court Appoints Guardian for Minor Child
CGS § 45a-616-617, inclusive

Legal Standards and Case Law

1. Determine Who Has Guardianship

- **Birth certificate**
 - Is father named on birth certificate?
 - If no, is there need to establish paternity?
- **Any court orders from country of origin or habitual residence that vest custody on another?**
- **Any court orders from Connecticut or any other state that vest custody on another?**



Guardianship Matters

2. Acquiring Jurisdiction

- **Minor under 18 years of age (CGS § 45a-604) or 18-21 for Voluntary Appointment of Guardian (PA 18-92)**
- **Minor has been abused, abandoned or neglected (CGS § 45a-610 and CGS § 45b-120)**
- **Court has jurisdiction (CGS § 45b-115k)**
- **No pending matter related to minor's custody in another court (Probate Court Rule 42.1)**



Guardianship Matters

3. Application for Removal of Guardian

- The Hague Convention on Service of Process Abroad of Judicial and Extrajudicial Documents established November 15, 1965.
- The Hague Convention currently has 68 contracting states, including the United States.
- CGS§ 52-59d governs requirements for service of process abroad in CT courts



Preliminary Immigration Procedures for SIJ

Affirmative vs. Defensive SIJ Application

Master Calendar Hearing(s)

- **Notice to Appear (charging document)**
- **Individual Hearings**
 - Status Conferences
 - Merits Hearings

SIJS Process

1. File Petition in State Court (Juvenile, Probate or Family)
2. Special Findings Order
 - File Motion for Special Findings of Fact pursuant to CGS § 46b-121 and Conn. Practice Book § 34a-1
 - May need to file Memorandum of Law in support of Motion
3. File for Special Immigrant Juvenile Classification and Adjustment of Status

SIJS Process

Benefits of SIJS

- Allows recipient to remain in the country and become permanent resident
- Recipient given work authorization before interview (serves as government issued identification)

Immigration Relief for Your Client Jane's Case

- Under age 21
- Unmarried
- Dependent upon Court or in custody of someone designated by the court
- Reunification with both parents not viable due to abuse and neglect
- Not in best interest to return to country of origin

Tips for Lawyers

Consider sources of evidence for proving your case

- Psychological and medical examinations
- Birth certificate
- Country condition reports
- Sworn statements
- Documents from immigration process

Tips for Lawyers

If possible, collaborate/consult with immigration lawyer to assure pleadings do not create problems

Example: Psychological Examination

- can be helpful for purposes of proving your client experienced significant trauma
- information contained can be used as mandatory bar for admission or to granting lawful permanent residence

Tips for Lawyers

- Consider how much information to use in pleadings (sometimes less is more)
- Know that you can obtain SIJS findings as part of Removal and Appointment of Guardian Petition, or TPR/Adoption process in Probate Court, or similar proceeding in Family Court

CGS § § 608n-608n

Tips for Lawyers

- You only need a finding that reunification with at least **one** parent is not viable
- Age requirements for eligibility
 - Up to age 18 for Juvenile Court to acquire jurisdiction
 - Up to age 21 for Probate Court to acquire jurisdiction
 - Filed before age 21 for USCIS to make final determination of SIJS application

Questions?

Connecticut-Specific Resources

Center for Children's Advocacy cca-ct.org

CT Institute for Refugees & Immigrants (CIRI) cirict.org

Formerly International Institute of Connecticut

UConn Law School Asylum & Human Rights Clinic law.uconn.edu

Click 'academics' then 'clinics'

Esperanza Center for Law & Advocacy esperanzalaw.org

Connecticut Legal Services connlegalservices.org

New Haven Legal Assistance nhlegal.org

Connecticut-Specific Resources

Integrated Refugee and Immigration Services irisct.org

Spanish Community of Wallingford scowinc.org

Unidad Latina en Acción ulanewhaven.org

New Haven Trauma Coalition | Clifford Beers Clinic
cliffordbeers.org/new-haven-trauma-coalition-2/

CT Students for a Dream ct4adream.org

Community Foundation of Greater New Haven cfgnh.org

National Resources

Immigrant Legal Resource Center

ilrc.org click 'info on immigration law' then 'remedies'

ilrc.org/resources/unaccompanied-immigrant-children-resources

U.S. Committee for Refugees and Immigrants

refugees.org/resources/for-lawyers/special-immigrant-juvenile-status

ATLAS DIY findingatlas.wordpress.com

U.S. Committee for Refugees and Immigrants

refugees.org/resources/for-lawyers

Immigration Advocates Network

immigrationadvocates.org/probono/volunteer