



CALIFORNIA APPELLATE LAW ON SPECIAL IMMIGRANT JUVENILE STATUS¹

In recent years, California's appellate courts have provided helpful guidance on the state court's role in Special Immigrant Juvenile Status (SIJS) cases. The following published decisions clarify many of the common questions that these cases present in state courts, including one-parent SIJS, SIJS in delinquency proceedings, and the proper role of the state court in the SIJS process.²

- *Eddie E. v. Superior Court* (2015) 234 Cal. App. 4th 319 (holding that the plain language of the SIJS statute means that a petitioner can satisfy the second SIJS finding by showing an inability to reunify with one parent due to abandonment, abuse, neglect or a similar basis).
- *In re Israel O.* (2015) 233 Cal. App. 4th 279 (holding that a child may be eligible for SIJS even if a safe and suitable parental home in the United States is available).
- *Leslie H. v. Superior Court* (2014) 224 Cal.App.4th 340 (finding that the lower court erred in denying the request for SIJS findings for a delinquent youth based on policy considerations and that ample, uncontroverted evidence was presented to satisfy the statutory criteria).
- *Eddie E. v. Superior Court* (2013) 223 Cal.App.4th 622 (holding that the lower court erred in declining to enter SIJS findings for the delinquent youth, even though he had not been declared dependent on the court but rather was a ward of the court. The court noted that dependency under Welf. & Inst. Code Section 300 is not the only manner in which an immigrant youth can satisfy the first SIJS finding).
- *In re Y.M.* (2012) 207 Cal.App.4th 892 (holding, *inter alia*, that concurrent jurisdiction exists between state and federal systems for a youth who was a dependent of the California juvenile court and a victim of human sex trafficking and that the lower court erred in not making findings relevant to her potential eligibility for Special Immigrant Juvenile Status).
- *B.F. v. Superior Court* (2012) 207 Cal.App.4th 621 (concluding that the superior court sitting as a probate court has the authority and duty to make SIJS findings within the meaning of section 1101(a)(27)(J) and 8 Code of Federal Regulations part 204.11).

¹ The Immigrant Legal Resource Center is a national, nonprofit resource center that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The mission of the ILRC is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. For the latest version of this document, please visit www.ilrc.org. For questions regarding content, please contact Rachel Prandini, rprandini@ilrc.org.

² An additional appellate court decision *In re Christian H.* (2015) 238 Cal. App. 4th 1085, recently made clear that juvenile courts and probation departments must treat undocumented youth the same as any other youth in their care or custody. The appellate court overturned the lower court for finding both that it was not in Christian's best interest to be returned to his home country for purposes of SIJS, and also *de facto* ordering his deportation by ordering him to live with his mother in Honduras. Although the issues presented in this opinion do not focus directly on SIJS, Christian had requested and obtained SIJS findings from the lower court, and the appellate court addressed the issue of "specific consent," which was raised on appeal since Christian was in the custody of ORR at the time.