

Circuit Court for Howard County
Case No. C-13-FM-18-001414

UNREPORTED

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 689

September Term, 2019

IN RE: D.C.-M.

Berger,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: February 13, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. MD. RULE 1-104.

D.C.-M. was adopted in 2015. Following the adoption, D.C.-M. filed a motion seeking to reopen his adoption proceeding to enter factual findings regarding his eligibility for status as a Special Immigrant Juvenile (SIJ). Judge Richard S. Bernhardt denied that motion, handwriting in the margin of D.C.-M.’s pleading: “Motion to re-open denied—relief requested is outside of adoption proceeding. Petitioner can file separately for requested relief.”¹ D.C.-M. did just that. Judge Mary M. Kramer, however, denied his petition holding that D.C.-M. was no longer dependent on the Court because he had already been adopted and that his request was barred by *res judicata*.² We disagree.

DISCUSSION

D.C.-M.’s petition for the predicate factual findings necessary to apply for SIJ status was properly filed in the circuit court. Because a request for factual findings can be made after an adoption has been granted, the circuit court erred in refusing to do so. *See In re Dany G.*, 223 Md. App. 707, 713 (2015) (noting that findings can be requested either at the same time as the initial complaint or after a court’s grant of guardianship or custody). Moreover, when a motion is properly filed, “state courts are required to make the requested factual findings.” *Id.* at 715 (citing *Simbaina v. Bunay*, 221 Md. App. 440, 455-56 (2015)).

¹ We note that there is no requirement that an SIJ petition must be separately filed. *Simbaina v. Bunay*, 221 Md. App. 440, 453 (2015) (finding that the circuit court “incorrectly concluded that … [Special Immigrant Juvenile factual findings] … must be done exclusively in a separate guardianship proceeding”).

² *Res judicata* does not bar D.C.-M.’s petition because Judge Bernhardt’s ruling was not a final judgment on the merits. *See Anne Arundel Cty. Bd. of Educ. v. Norville*, 390 Md. 93, 107 (2005) (noting that the application of *res judicata* requires a final judgment on the merits).

We, therefore, reverse the circuit court's decision and remand the case to that court with instructions to conduct a hearing and make the required factual findings pursuant to the standard set forth in *Romero v. Perez*, 463 Md. 182, 190-93 (2019).

**JUDGMENT OF THE CIRCUIT COURT
FOR HOWARD COUNTY REVERSED.
CASE REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE PAID BY
HOWARD COUNTY.**