Circuit Court for Prince George's County
Case No. CAE21-04129

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1421

September Term, 2021

IN RE: J.J.

Shaw,
Wells,
Zic,
JJ.

Opinion by Wells, J.

Filed: February 9, 2022

Appellant Jose Ignacio Duenas-Jimenez filed a petition in the Circuit Court for Prince George's County sitting as a Juvenile Court, to obtain guardianship of his younger brother, J.J., a minor,[1] with an additional request the court make findings that J.J. be deemed in Special Immigration Juvenile ("SIJ") status under section 101(a)(27)(J) of the Immigration and Nationality Act. In an oral ruling at the end of a hearing, the court denied the petition for guardianship and declined to make findings regarding SIJ status.[2]

Mr. Duenas-Jimenez filed a timely appeal and presents two questions which we have rephrased for clarity:[3]

[1] Under Maryland Code, Family Law § 1-201(a) a "child," for the purposes of a Special Immigration Juvenile ("SIJ") status petition, is defined as "an unmarried individual under the age of 21." In this case, there is no dispute that J.J.'s date of birth is March 6, 2001 and he is not married. Because J.J. is a minor for the purposes of a SIJ status determination we refer to him by his initials.

[2] Although the circuit court denied the petition in open court, it did not file a written order or a notice memorializing the disposition of the case consistent with Md. Rule 2-601. This Court issued an order on December 16, 2021 directing the circuit court to enter an order or otherwise memorialize its oral judgment of August 24, 2021. The notice of appeal in this case would then be deemed filed on the same day as, but after, the entry of the circuit court's order or notice.

[3] Mr. Duenas-Jimenez's verbatim questions were:

(1) Whether the Circuit Court erred in denying Appellant Jose Duenas Jimenez's petition for guardianship of his younger brother, immigrant child, [J.J.], referring to insufficiency of evidence for granting of guardianship and then not resolving on the motion (sic) for special immigration juvenile factual findings regarding the immigrant child, when there was oral testimony evidence during the hearing corroborated by material documentary evidence produced before the hearing, supporting the granting of the guardianship petition and special immigrant juvenile factual findings?

1. Did the circuit court abuse its discretion in denying the petition for guardianship?

2. Did the circuit court err in failing to make findings of fact regarding J.J.'s eligibility for Special Immigration Juvenile status?

For the reasons that we explain, we reverse the judgment of the circuit court and remand for further proceedings consistent with this opinion.

BACKGROUND

On April 12, 2021, Mr. Duenas-Jimenez, through an attorney, filed a petition for guardianship over his younger brother, J.J. with "a motion for Special Immigrant Juvenile factual findings[,]" under Maryland Code, Family Law ("FL") § 1-201(b)(10),[4] which permits a court sitting in equity to establish a guardianship over a child who was neglected or abused by his parents and as a result cannot be reunited with either of them. Perhaps more importantly, such a finding would also permit Mr. Duenas-Jimenez to petition the United States Customs and Immigration Services ("USCIS") to allow J.J. to remain in this country as a permanent resident.

(2) Whether, consequently (sic), the Appeal Court should reverse the lower Court's judgment and order the guardianship and special immigrant juvenile factual findings be entered upon the merits of the evidence produced before and at the oral hearing?

[4] FL § 1-201(b)(10) provides that an equity court has jurisdiction over "custody or guardianship of an immigrant child pursuant to a motion for Special Immigrant Juvenile factual findings requesting a determination that the child was abused, neglected, or abandoned before the age of 18 years for purposes of § 101(a)(27)(J) of the federal Immigration and Nationality Act."

A. The Rationale and Process for Obtaining SIJ Status

In *Romero v. Perez*, 463 Md. 182 (2019), the Court of Appeals briefly explained the rationale and the process for a petitioner to obtain SIJ status:

> Congress created SIJ status to "provide humanitarian protection for abused, neglected, or abandoned child immigrants" who lack immigration status. U.S. Citizenship and Immigration Services ("USCIS"), Policy Manual, Vol. 6, Part J, Ch. 1, § A (current as of Jan. 23, 2019) (hereinafter, "USCIS Policy Manual"), https://perma.cc/2VMS-YTJD. SIJ status "is an immigration classification that may allow for these vulnerable children to immediately apply for lawful permanent resident status." USCIS, Immigration Relief for Abused Children: Information for Juvenile Court Judges, Child Welfare Workers, and Others Working with Abused Children (2014) (hereinafter, "USCIS Info for Juvenile Courts"), https://perma.cc/5CXB-85H7.
>
> The application process for SIJ status is set forth in the Federal Immigration and Nationality Act and involves two primary steps. First, the child, or, as here, someone acting on the child's behalf, must obtain a predicate order from a state juvenile court that includes certain factual findings regarding the child's eligibility for SIJ status. Without that order, a child cannot apply for SIJ classification. Second, the child, or any person acting on the child's behalf, must submit a petition, along with the predicate order and other supporting documents, to USCIS for review and approval. USCIS Policy Manual, Vol. 6, Part J, Ch. 2, § A. If USCIS approves the petition, the child is then eligible to apply for adjustment of status to a lawful permanent resident under 8 U.S.C. § 1255.

Romero, 463 Md. at 187-89.

The Court of Appeals also noted the process was unique in that a state court was essentially charged with first level fact-finding in a federal immigration matter.

> Judge Zarnoch, writing for the Court of Special Appeals in *Simbaina v. Bunay*, 221 Md. App. 440 (2015), aptly noted that the process for attaining SIJ status is atypical in that "a State juvenile court is charged with addressing an issue relevant only to federal immigration law." 221 Md. App. at 449 (citation omitted). The State court's role is limited, however, to rendering findings about SIJ status eligibility; the findings do not confer any immigration benefits.

> Federal regulations define "juvenile courts" as "court[s]…having jurisdiction under State law to make judicial determinations about the custody and care of juveniles." 8 C.F.R. § 204.11(a). Maryland law designates circuit courts as having such jurisdiction and, consequently, authority to preside over SIJ status proceedings.

Romero, 463 Md. at 189-90.

B. Summary of Testimony in the Juvenile Court

In this case, the Juvenile Court conducted a remote hearing on the petition due to the on-going COVID-19 emergency. Mr. Duenas-Jimenez and J.J. were the only witnesses. Their uncontroverted testimony revealed that J.J. was born in Guatemala on March 6, 2001. He met his father for the first time when he was 14. His father had never provided for him financially and now lived with a woman with whom he had two young daughters. In short, J.J. had no relationship with his father who never provided any type of support for J.J.

J.J. testified that his relationship with his mother was a little better. According to J.J.'s testimony, she was unable to financially care for him. He also described her as being unable to protect him from local criminal gangs who would threaten to stab or cut him if he did not pay them. He mentioned that threats from these gangs was a constant problem. "[T]here was always threats." Additionally, because his mother was unable or unwilling to care for him, by age eight, J.J. had to work in local "fields planting chiles, tomatoes, beans and corn," in an effort to make some money. He described that he had injured himself twice while doing such work. When he was about 13, J.J. testified that he hit his head and injured himself so severely he had to be taken to a hospital. On another occasion, when he was about 14, while he was cutting grass to be used as cow fodder, he cut open his foot with a

machete. As a result of having to work at such a young age for "food, clothing and other needs we had in the house," J.J. was unable to attend school regularly.

In 2018, J.J. came to the United States as an unaccompanied minor to live with his older brother, Mr. Duenas-Jimenez. Since being released by USCIS to his brother's care, J.J. had been enrolled in online English classes and was helping his brother around the house. He said that he was not working. J.J. testified that he could not live with his mother or father in Guatemala and feared gang violence if he had to return to his home country.

Mr. Duenas-Jimenez testified that J.J. came to live with him in the United States on November 18, 2018. He said that J.J. came to the United States "because he was being threatened by the gangs, that they were asking him to pay rent and if he didn't pay, they were going to kill him." Apparently, USCIS intercepted J.J. at the border, detained him, and then contacted Mr. Duenas-Jimenez and released him to his custody. "I filled out and worked on all the paperwork that they asked me to so he [J.J.] could come in . . . ." According to Mr. Duenas-Jimenez, officials with USCIS also informed him of the SIJ process. As a result, he completed all of the necessary paperwork, including obtaining notarized affidavits from J.J.'s mother and father consenting to the guardianship, copies of which (in Spanish and English) were mentioned at the hearing.

Since J.J. has been living with him, Mr. Duenas-Jimenez explained that he has provided financially for J.J., working "a little more so I can be looking out for him." Mr. Duenas-Jimenez said that he was in the process of enrolling J.J. in high school "but things became a little difficult for me, but I believe he is going to start in school this year." In the meantime, J.J. was taking English classes, as mentioned. Although he was not sure of the

name of the school, Mr. Duenas-Jimenez said that it was near his home. J.J. was scheduled to begin taking classes in the fall. Mr. Duenas-Jimenez had completed the paperwork to complete enrollment but had not turned it in yet because he had been working. But, Mr. Duenas-Jimenez explained, because he was off of work for the hearing, he would submit J.J.'s enrollment papers to the school that day.

At one point during Mr. Duenas-Jimenez's testimony, the court asked him if he had ever taken J.J. to see a physician. He said that he had. Apparently, J.J. had been diagnosed with tuberculosis and Mr. Duenas-Jimenez had sought treatment at a local clinic, "about four months ago, maybe." Pressed by the court for details, Mr. Duenas-Jimenez could not recall the name of the clinic but stated that it was near his house. He testified that the clinic was supposed to call him to follow-up with J.J.'s treatment, but they had not done so, and he had not contacted them. The court then asked, "How long are you going to wait?" Mr. Duenas-Jimenez responded that he would call the clinic "today."

Immediately after confirming from Mr. Duenas-Jimenez that J.J. was only taking English classes and not working, the court announced that it was "not granting custody or guardianship." The court explained that because Mr. Duenas-Jimenez could not give details about J.J.'s school or medical care, the court was not inclined to grant guardianship or make findings regarding SIJ status.

Mr. Duenas-Jimenez's attorney quickly asked the court to reconsider, citing the possibility of language and cultural barriers. Upon additional questioning by counsel, Mr. Duenas-Jimenez said that his formal education ended when he was 13 and in the sixth grade. He testified that he came to this country at age 17, had not attended school here, and

only learned English from his first employer. Prompted by additional questions from his attorney, Mr. Duenas-Jimenez said that because he had not gone to school in the United States, he was unfamiliar with "educational assistance in the State of Maryland." He testified that he works in construction, but work had been slow due to the COVID-19 pandemic. Despite the lack of a formal education and the fact that English was not his native language, Mr. Duenas-Jimenez assured the court that he was ready to comply with his agreement with USCIS to care for his brother, including enrolling him in school and financially supporting him. Finally, Mr. Duenas-Jimenez said that he lived with the mother of his two daughters, aged two and four.

C. The Juvenile Court's Ultimate Ruling

Upon the completion of Mr. Duenas-Jimenez's testimony, the court returned to its ruling and made it clear that its decision was not based on the fact that Mr. Duenas-Jimenez lacked a formal education and was not a native English speaker. The court stated that its focus was on whether Mr. Duenas-Jimenez was "proper and fit to care for the minor child." The court expressed its concern that Mr. Duenas-Jimenez could not explain what J.J. was doing when he was not participating in his online English classes. Further, the court was troubled that Mr. Duenas-Jimenez had not enrolled J.J. in school or adequately addressed J.J.'s medical needs. Afterwards, the court denied the petition for guardianship and declined to make findings that J.J. was in SIJ status.

Mr. Duenas-Jimenez filed this appeal. Additional facts will be discussed later in the opinion.

STANDARD OF REVIEW

In a case such as this, where a judge alone has decided the issues, "the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Maryland Rule 8-131(c).

We undertake an independent review of the trial court's legal conclusions. *Nesbit v. Gov't Emps. Ins. Co.*, 382 Md. 65, 72 (2004). Whether to grant a petition for guardianship is a matter for the trial court's discretion. While we generally afford the trial court substantial deference in this regard, it is not without limits. "A trial court has no discretion to misapply equitable doctrines or to refuse to apply one when the facts and circumstances of the case clearly warrant its application." *Noor v. Centreville Bank*, 193 Md. App. 160, 175 (2010).

DISCUSSION

Mr. Duenas-Jimenez argues that the Juvenile Court erred in denying his petition for guardianship. He also contends the court erred in not making the requisite factual findings and ultimately concluding that J.J. merited SIJ status. He maintains that he satisfied the standard set forth in *In re Dany G.*, 223 Md. App. 707 (2015), namely that the uncontroverted evidence showed that J.J. had been neglected by both parents in his native Guatemala and that reunification with them was not a viable option. Further, that J.J. had been forced to work since he was eight years old because neither parent could financially

support him, and J.J. had twice sustained injuries while working. Finally, that criminal gangs had threatened to injure or kill J.J. if he did not pay them protection money.[5]

In *In re Dany G.*, we established the parameters or factors with which circuit courts should assess requests for SIJ status:

> (1) The minor is presently in the U.S., unmarried, and under the age of 21;
>
> (2) The minor is dependent on the court or has been placed under the custody of a state agency/department or individual/entity appointed by the court;
>
> (3) The presiding court has jurisdiction under Maryland law to make determinations about the minor's custody and care;
>
> (4) Reunification with one or both of the minor's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
>
> (5) It is not in the minor's best interest to return to his or her country of nationality or last habitual residence.

223 Md. App. at 714-15 (internal citations omitted).

When assessing these factors, circuit courts should be mindful that "USCIS relies on the expertise of the juvenile court," USCIS Policy Manual, Vol. 6, Part J, Ch. 2, § D.5, and "does not go behind the juvenile court order to reweigh evidence." *Id.* at Vol. 6, Part J, Ch. 2, § A. Accordingly, "it is imperative that the predicate order be worded very

[5] Protection Money (n.): Money paid, especially at regular intervals, to criminals or to corrupt officials who threaten to cause harm to the payer or to his or her business if the money is not paid. See Sir Walter Scott, "The Highland Widow" ch. 2, in *The Chronicles of the Canongate* 1827:

> Those in the Lowland line who lay near him, and desired to enjoy their lives and property in quiet, were contented to pay him a small composition, in name of protection money, and comforted themselves with the old proverb that it was better to "fleech the deil than fight him."

https://en.wiktionary.org/wiki/protection_money.

precisely and contain all necessary language." *In re Dany G.*, 223 Md. App. at 716. The orders must provide USCIS with a "reasonable factual basis" for confirming "that the juvenile court made an informed decision . . . for all of the required findings." USCIS Policy Manual, Vol. 6, Part J, Ch. 2, § D.5.

In *Romero*, the Court of Appeals summarized the appropriate approach for Maryland courts to undertake in evaluating a petition for guardianship and SIJ status:

> The Court of Special Appeals has held, and we agree, that when a party requests SIJ status findings in his or her pleadings, the circuit court must undertake the fact-finding process (hear testimony and receive evidence) and issue "independent factual findings regarding" the minor's eligibility for SIJ status. No separate motion is required, but a party's filings must put "the court . . . on notice" that such findings have been requested.

463 Md. at 190-91. Significantly, in *Romero* the Court of Appeals also emphasized the following:

> [W]e reiterate what our colleagues on the Court of Special Appeals have observed: trial judges are not gatekeepers tasked with determining the legitimacy of SIJ petitions; that is exclusively the job of USCIS. *See Simbaina* [221 Md. App. at] 458-59 (noting that state courts are "not to determine worthy candidates for citizenship, but simply to identify abused, neglected, or abandoned alien children under its jurisdiction who cannot reunify with a parent[.]") [citation omitted]. Trial judges should not step in for, or act on behalf of, an unrepresented party. Nor should they impose insurmountable evidentiary burdens on SIJ petitioners. [*Benitez v. Doe*, 193 A.3d 134, 139 (D.C. 2018)].

463 Md. at 203 (some citations and interior quotation marks omitted).

Romero concerned a Guatemalan father who sought sole legal and physical custody of his 17-year-old son in the Circuit Court for Baltimore City. The father also requested the court make findings so that the son, also a Guatemalan native, could obtain SIJ status. 463 Md. at 193-94. The father claimed that the young man's mother had neglected him in

Guatemala and that reunification with her was not feasible. *Id*. at 194. Both father and son were the only witnesses at the hearing and their testimony was uncontroverted.

The son testified that his mother forced him to work as a farm laborer when he was ten years old, including having to gather firewood in a mountainous area while unsupervised. *Id.* At some point the son hurt his wrist and the injury was inadequately treated such that the young man continued to complain of problems. *Id*. Because he was forced to work at a young age, his "education suffered; he was unable to complete his homework and fell behind grade level in all subjects." *Id*. After coming to the United States, the son had secured a stable life with his father and was expected to complete his high school education and later to obtain a college degree. *Id*.

Based on this testimony, the court had no difficulty granting father sole custody of the son. *Id*. As for the SIJ findings, the court found that the son met the age requirement, being under 21, was not married, and was living in the United States. *Id*. Further, the court found that it was not in the son's best interests to return to Guatemala. But the court was confused whether to apply the lower preponderance of the evidence standard or the more exacting clear and convincing standard when it considered whether reunification with the mother was possible. Ultimately, the circuit court concluded whichever standard was appropriate, it was "'50/50' on the issue of neglect, and 'at that level of evidence,' the court can't make a finding" that reunification with the mother was not viable because of neglect. *Id*. As a result, the court declined to prepare an order that included the findings of SIJ status. *Id*.

On direct appeal to this Court, the father argued that the circuit court erred in using the more stringent clear and convincing standard in rejecting his SIJ status request. We held that the proper burden of proof for SIJ status cases is the preponderance of the evidence standard because that standard is "generally applicable in civil and administrative proceedings" in Maryland. See *Romero v. Perez*, 236 Md. App. 503, 507 (2018). We noted that although the circuit court "expressed confusion about the applicable standard," we nonetheless concluded that the court applied the preponderance of the evidence standard. *Id*. at 510. We ultimately determined that the circuit court did not clearly err in finding that the father "had not adduced credible evidence sufficient for the court to make a finding of neglect." *Id*.

The Court of Appeals granted the father's petition for writ of certiorari "to resolve two issues: (1) whether the burden of proof in SIJ status proceedings should be the preponderance of the evidence standard or the clear and convincing standard; and (2) whether the legal framework for evaluating mistreatment in SIJ status cases should be broad, looking at the totality of the circumstances, or narrow, involving an exacting inquiry of the evidence presented." The Court held that the appropriate standard of proof in SIJ status cases was that of a preponderance of the evidence.

Because it was an issue of first impression, the Court undertook an examination of the appropriate legal standards for neglect, abandonment, and abuse in SIJ status cases. In so doing, the Court reviewed two decisions from the District of Columbia Court of Appeals, *J.U. v. J.C.P.C.*, 176 A.3d 136 (D.C. 2018), and *Benitez v. Doe*, 193 A.3d 134 (D.C. 2018).

From its review of *J.U.*, the Maryland Court of Appeals noted that the proper inquiry in SIJ status cases was not an

> abstract question of whether the minor has been neglected or abandoned by the parent. Rather, it is whether reunification with the parent in the country of origin is "viable" due to "abandonment," abuse, or neglect. It calls for a realistic look at the facts on the ground in the country of origin and a consideration of the entire history of the relationship between the minor and the parent in the foreign country.

Romeo, 463 Md. at 200 (quoting *J.U.*, 176 A.3d at 140). As far as whether "the facts on the ground" suggested that reunification was "practical," the Court favored the approach in *J.U.* "[T]rial courts [should] determine whether forced reunification between a parent and a child was workable given 'the impact of . . . the parent's past conduct.'" *Id*. (quoting *J.U.*, 176 A.3d at 140-41).

Similarly, from *Benitez*, the Court favorably quoted the D.C. Court of Appeals' approach to interpreting "abandonment," noting that

> in SIJ status cases in Maryland, the terms "abuse," "neglect," and "abandonment" should be interpreted broadly when evaluating whether the totality of the circumstances indicates that the minor's reunification with a parent is not viable, i.e., workable or practical, due to prior mistreatment.

463 Md. at 202. In broadly interpreting these terms, the Court concluded that trial courts would further "Congress's intent in creating SIJ status . . . and is consistent with Maryland's public policy of protecting children[.]" *Id*. (internal citations omitted).

The Court then suggested several factors trial courts should consider in applying the standard, such as:

> (1) the lifelong history of the child's relationship with the parent (i.e., is there credible evidence of past mistreatment); (2) the effects that forced reunification might have on the child (i.e., would it impact the child's health,

> education, or welfare); and (3) the realistic facts on the ground in the child's home country (i.e., would the child be exposed to danger or harm).

Id. at 202-03. The Court stressed that the list was not exhaustive and that courts "may consider other factors based on the evidence and testimony before the court, but such factors must relate to the ultimate inquiry of whether reunification is viable." *Id*. at 203. In doing so, however, the Court signified that "trial judges should not abdicate their responsibility as fact finders; judges should assess witness credibility and discredit evidence when warranted. . . . But they must do so with caution because creation of contrary evidence often rests on surmise, particularly in uncontested cases." *Id*. (internal quotation marks and brackets omitted).

In addressing another issue, the Court also held that in SIJ status cases decided here, Maryland law, not the law of the petitioner's home country, shall apply. *Id.* at 204. That holding was consonant with our holding in *In re Dany G.* "[T]rial judges are to determine whether the child would be considered abused, neglected, or abandoned under Maryland law without regard to where the child lived. 233 Md. App. at 718.

Having completed its assessment of the applicable law, the Court decided that "[t]he ultimate inquiry [in *Romero*]," was "whether [the son's] reunification with [his mother] is not viable because [his mother's] prior conduct constituted neglect under Maryland law." *Id*. at 206. The Court found that the labor the son was forced to endure by his mother, and the injuries he sustained at the age of ten as a result, would be illegal in Maryland. *Id*. at 206 (citing Lab. & Empl. §§ 3-203, 3-209). The Court concluded that "returning [the son] to the custody of a mother who inadequately cared for and supervised him 'cannot be a

reunification that is viable.'" *Id*. (quoting *J.U.*, 176 A.3d at 143). The Court also concluded that the circuit court erred by applying "a narrow analysis of whether [the mother] was neglectful in a technical sense," instead of assessing the mother's behavior in broad terms. *Id*. at 206.

Importantly, because the evidence was uncontroverted, the Court took issue with the circuit court challenging the son's veracity:

> The court challenged the veracity of [the son's] testimony about his injury because he was able to continue working afterward, even though the uncontroverted evidence indicated that [the mother] forced him to do so. The court also concluded that because [the son] worked for his mother and still managed to attend school, no "Maryland standards" were violated. While such an exacting inquiry is appropriate in a Termination of Parental Rights hearing, it has no place in an uncontested SIJ status proceeding. The circuit court's order—and consequently, the Court of Special Appeals' decision affirming that order—was therefore legally incorrect.

Id. at 207. Consequently, the Court vacated both this Court's and the circuit court's judgments and remanded the case to the circuit court "to issue an amended order with the requisite SIJ status findings." *Id*. at 207.

We now turn our attention to Mr. Duenas-Jimenez's appeal. The facts presented here are similar if not identical to those presented in *Romero*. Applying *Romero*'s analysis to this case, the two critical inquiries are: 1) whether J.J. had been neglected, abandoned, or abused while in Guatemala, and 2) whether reunification with either parent is viable under the circumstances presented.

With regard to the first question, Mr. Duenas-Jimenez averred that J.J.'s father had abandoned him and that his mother had neglected him. Family Law § 9.5-101(b) defines an "abandoned" child as a child who is "left without provision for reasonable and necessary

care or supervision." The Court of Appeals, in *Wakefield v. Little Light*, 276 Md. 333 (1975), gave a more detailed definition. There, "abandonment" was defined as "[a]ny willful and intentional conduct on the part of the parent which evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child, and to renounce and forsake the child entirely." *Id.* at 351.

Maryland Code Annotated, Courts and Judicial Proceedings ("CJ") Article § 3–801(f) provides a definition of "neglect:"

> "Neglect" means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:
>
> (1) That the child's health or welfare is harmed or placed at substantial risk of harm; or (2) That the child has suffered mental injury or been placed at substantial risk of mental injury.

But we apply a broad interpretation to the terms "neglect," and "abandonment" in evaluating whether the totality of the circumstances indicates that the minor's reunification with a parent is not viable, i.e., workable or practical, due to prior mistreatment. *Romero*, 463 Md. at 202.

The uncontroverted evidence adduced at the hearing was that J.J. had not known his father and, in fact, had not met him until J.J. was 14. The father's current circumstances--living apart from J.J. and residing with the mother of his two young daughters--seemed to reinforce the argument that he was not likely to provide emotional or financial support for J.J. in the future.

The evidence also strongly suggests that J.J.'s mother had neglected if not abandoned him as well. Again, the uncontroverted testimony from J.J. was that his mother

essentially forced him to survive by working in the surrounding fields at age eight. For "ten years," he was forced to perform such work, enduring two different injuries in the process, one of which was serious enough to require treatment at a hospital. In neither of these instances, which occurred when J.J. was 13 and 14, did he mention his mother being present or caring for him in any way. Further, the evidence strongly suggests that J.J.'s mother left him to fend off gang threats of bodily assault and, possibly, death. Broadly interpreting "neglect" or "abandonment," the evidence was sufficient to show that J.J.'s mother neglected if not abandoned him.

With regard to the second issue, the viability of reunification, we consider some of the factors the Court of Appeals set forth in *Romero*. 463 Md. at 202-03. In this case, J.J.'s father has been absent for virtually all of J.J.'s life. This pattern is not likely to change given how long it has persisted. Mother's apparent inability or unwillingness to provide J.J. financial support, guidance, or safety strongly suggests that reunification with her is unlikely. Additionally, based on J.J.'s uncontradicted testimony, it seems clear that a forced reunification would require that he wholly abandon whatever chance he has in this country of obtaining an education in favor of agricultural labor in Guatemala. Equally dire, a forced reunification would also mean that J.J. would face the prosect of falling under the sway of a criminal gang or being harmed or killed if he resisted their demands for payment. In making findings relevant to a minor's SIJ status the best interest factors to determine parental custody (or modification of custody), as discussed in *Taylor*, 306 Md. 307-11 and *Sanders*, 38 Md. App at 420 are not particularly relevant. Instead, it is appropriate in making a SIJ status assessment for the court to examine all of the attendant circumstances,

to determine whether reunification seems possible. In this case, reunification with either parent does not seem viable.

We reach this conclusion without yet considering the signed, stamped, and notarized affidavits obtained from both parents in which they agree that Mr. Duenas-Jimenez should be J.J.'s guardian. It is unclear from the transcript if these documents were admitted into evidence at the hearing. Our review of these papers, particularly in light of the lack of any countervailing evidence that would cast doubt on their authenticity, means that they should be admitted and considered by the court.

Finally, the court seemingly questioned Mr. Duenas-Jimenez's veracity on the grounds that he could not provide details about the names of J.J.'s high school or the clinic where J.J. was treated for tuberculosis. But just as in *Romero*, the uncontroverted evidence favored the petitioner. Specifically, here, Mr. Duenas-Jimenez has had J.J. in his custody since 2018 when J.J. was released to his care by U.S. immigration officials. The record reveals that J.J. has been living with Mr. Duenas-Jimenez, who has acted as J.J.'s guardian, providing all necessities--food, clothing, and shelter--for him.

Additionally, there was no indication that USCIS was dissatisfied with Mr. Duenas-Jimenez continuing to exercise guardianship. In other words, there was nothing in the record to indicate that: 1) J.J. had been charged with a criminal or civil violation and was likely to be remanded back into USCIS's custody, 2) that Mr. Duenas-Jimenez had abused, neglected, or abandoned J.J., 3) J.J. desired to live with someone else, or 4) that he wanted to return to Guatemala. In short, despite not knowing the names of J.J.'s school or clinic,

the record is bereft of anything that would rebut the contention that Mr. Duenas-Jimenez and J.J. have been abiding by the terms of the latter's release as set by USCIS.

We emphasize that trial courts should not impose "insurmountable evidentiary burdens on SIJ petitioners." *Romero*, 463 Md. at 203 (quoting *Benitez*, 193 A.3d at 139). Further, courts should be mindful that "Congress established the requirements for SIJ status knowing that those seeking the status would have limited abilities to corroborate testimony with additional evidence." *In Re Dany G.*, 223 Md. App. at 715 (quoted in *Romero*, 463 Md. at 203).

For these reasons, we reverse the circuit court's judgment and remand this case so that the court may enter an order granting Mr. Duenas-Jimenez's petition and to make the findings of fact required by 8 U.S.C. § 1101(a)(27)(J). We respectfully note that the findings "must provide USCIS with a reasonable factual basis for confirming that the juvenile court made an informed decision[.]" *Romero*, 463 Md. at 193.

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS REVERSED AND THIS CASE IS REMANDED FOR ENTRY OF A JUDGMENT CONSISTENT WITH THIS OPINION. APPELLANT TO PAY COSTS.