

Circuit Court for Prince George's County  
Case No.: C-16-FM-25-005059

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1767

September Term, 2025

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ILIANA ASUCELY MARTINEZ Y  
MARTINEZ

v.

MANUEL RENE ARGUETA VENTURA

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Berger,  
Shaw,  
Kehoe, Christopher B.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Kehoe, Christopher., J.

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Filed: March 4, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The issue in this appeal is whether the Circuit Court for Prince George’s County erred when it awarded Iliana Asucely Martinez Y Martinez (“Mother”)<sup>1</sup> custody of her child, O., but did not make the factual findings that are prerequisites for a determination of O.’s eligibility for Special Immigrant Juvenile Status (“SIJS”). The court declined to do so because O.’s father, Manuel Rene Argueta Ventura (“Father”), is deceased.

We conclude that the circuit court erred. We will vacate the judgment of the circuit court and remand this case for further proceedings consistent with this opinion.<sup>2</sup>

#### BACKGROUND

On July 3, 2025, Mother filed a complaint seeking sole legal and physical custody of O., accompanied by a motion requesting the court issue an order regarding O.’s

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<sup>1</sup> In her briefs, Mother uses “him,” “his,” “she,” and “her” to refer to individuals in lieu of gender-neutral pronouns. We will do the same.

<sup>2</sup> Mother phrases her questions as follows:

1. Did the Circuit Court err by concluding that the Minor Child was not “abandoned” or “neglected” under Md. Code Ann., Fam. Law § 9.5-101(b), and Md. Courts and Judicial Proceedings Code § 3-801(s), despite undisputed evidence that the Appellee abandoned and neglected the Minor Child at seven (7) months and did not provide care, support, or contact?
2. Did the Circuit Court apply an incorrect legal standard by requiring ongoing abandonment or neglect, or current parental misconduct, contrary to federal SIJS law, which focuses on past abuse, neglect, or abandonment?
3. Did the Circuit Court err by holding that the Appellee’s death negated his prior abandonment and neglect, contrary to SIJS statutory purpose and Maryland case law?

eligibility for SIJS. At a hearing before a magistrate on September 4, 2025, Mother’s counsel proffered the following evidence to the magistrate in lieu of testimony:

O. is a citizen of Guatemala and is the unmarried minor son of Mother and Father. O. was born on May 5, 2005. Father left the family and Guatemala when O. was just seven months old. Thereafter, Father had no physical contact with O. Father provided minimal, inconsistent financial assistance to Mother and O. This ended when Father died on January 16, 2015. Several years later, Mother decided to leave Guatemala with O. and come to the United States. O. and Mother arrived in this country on August 1, 2019.<sup>3</sup>

Based on this proffer, the magistrate issued a proposed order, granting sole legal and physical custody of O. to Mother. As to the requisite factual findings regarding O.’s special immigrant juvenile status, the magistrate found that:

- (1) O. is under twenty-one years of age and unmarried,
- (2) The court has jurisdiction “to make judicial determinations about the custody and care of juveniles under Md. Code Ann., Fam. Law § 9.5-201[.]”<sup>4</sup>

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<sup>3</sup> In her proffer, Mother asserted that it was necessary for O. to leave Guatemala because he was being pressured to join a gang. The magistrate did not address this topic in his proposed findings of fact.

<sup>4</sup> Md. Code, Fam. Law § 9.5-201 states in pertinent part:

- (a) Except as otherwise provided in § 9.5-204 of this subtitle, a court of this State has jurisdiction to make an initial child custody determination only if:
  - (1) this State is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(continued...)

(3) Family reunification “is not viable because [O.’s] biological father, Manuel Rene Argueta Ventura, neglected and abandoned [O.] before he turned eighteen (18) years old.”

(4) Father “abandoned [O.] when he left Guatemala in December 2005 when [O.] was seven (7) months old. [Father’s] physical absence from [O.’s] life constituted a prolonged separation with minimal direct involvement in his upbringing and only sporadic financial support. [Father’s] last financial contribution was in October 2014.”

(5) Father “suffered from chronic alcohol abuse, which led to the development of Hepatitis and ultimately caused his death on January 16, 2015. His illness and subsequent death left the family in severe financial hardship.” O. “never had the opportunity to meet his father in person before his death so the absence of a parental relationship, combined with the lack of consistent emotional and financial support, constitutes the abandonment and neglect.”

(6) It is not in O.’s “best interests to be returned to his country of nationality because there is no one in Guatemala able or willing to care for him. Furthermore, he has better access to education and healthcare in the United States than in Guatemala.” The magistrate concluded that “[i]t is therefore in [O.’s] best interests to remain in the United States.”

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(2) a court of another state does not have jurisdiction under item (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under § 9.5-207 or § 9.5-208 of this subtitle, and:

(i) the child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and

(ii) substantial evidence is available in this State concerning the child’s care, protection, training, and personal relationships;

(3) all courts having jurisdiction under item (1) or (2) of this subsection have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under § 9.5-207 or § 9.5-208 of this subtitle; or

(4) no court of any other state would have jurisdiction under the criteria specified in item (1), (2), or (3) of this subsection.

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The magistrate’s recommendations were submitted to the circuit court. The court awarded Mother sole legal and physical custody of O. but denied the request for SIJS findings. The court explained:

Neither the Appellate Court of Maryland, the Supreme Court of Maryland or any Maryland statute states that the death of a parent is considered abandonment. The[re] must be a finding of abuse, neglect or abandonment according to the statute or current case law, which there is none. Therefore the motion for SIJS is hereby denied.

Mother filed a motion for reconsideration and then a timely notice of appeal. After the notice of appeal was filed, the court denied Mother’s motion for reconsideration as moot.

#### THE STANDARD OF REVIEW

Maryland Rule 8-131(c) provides that “[w]hen an action has been tried without a jury, the appellate court will review the case on both the law and the evidence.” It is well-established that we review the trial court’s factual findings for clear error and its legal conclusions *de novo*. We are tasked here with interpreting Maryland and federal law to decide whether the circuit court’s order was legally correct. *Simbaina [v. Bunay]*, 221 Md. App. 440, 448 (2015) (stating that SIJ status cases require appellate courts to interpret state and federal law to decide if the circuit court order was legally correct). We do so *de novo*.

*Romero v. Perez*, 463 Md. 182, 196–97 (2019) (cleaned up).

#### DISCUSSION

##### *Special Immigrant Juvenile Status*

Congress established the SIJS program to protect children without legal immigration status from removal from this country. *In re Dany G.*, 223 Md. App. 707,

720 (2015). “The Immigration and Nationality Act of 1990,<sup>[5]</sup> which established the initial eligibility requirements for SIJ status, was enacted ‘to protect abused, neglected, or abandoned children who, with their families, illegally entered the United States.’”

*Simbaina*, 221 Md. App. at 448–49 (quoting *Yeboah v. U.S. Dep’t of Just.*, 345 F.3d 216, 221 (3d Cir. 2003)).

The Immigration and Nationality Act creates “a special circumstance where a State juvenile court is charged with addressing an issue relevant only to federal immigration law.” *Simbaina*, 221 Md. App. at 449 (cleaned up); *Dany G.*, 223 Md. App. at 713 (same). An individual seeking SIJ status must file a civil action to obtain a “predicate order” issued by the court which has the authority to address guardianship and child custody matters, including the authority to make specific findings of fact regarding the individual’s eligibility for SIJ status. *Dany G.*, 223 Md. App. at 713, 715.<sup>6</sup>

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<sup>5</sup> The Immigration and Nationality Act was amended by the Trafficking Victims Protection Reauthorization Act (“TVPRA”) in 2008. We will refer to the amended version of the statute.

<sup>6</sup> In *Dany G.*, we explained the process for applying for SIJ status as follows:

First, there must be a filing in state court, which is often in the form of a guardianship or custody complaint, but which can also come through filings in orphans, probate, and delinquency courts, among others. In conjunction with the state court proceedings there must be a request for specific findings. These findings can be requested at the same time as the initial guardianship or custody complaint, or . . . the motion for findings can come separately, after the guardianship or custody has been granted.

Once the state court has made the specific findings . . . , [an] application is made to USCIS for SIJ status. If SIJ status is granted by

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The required SIJS findings are:

- (1) The juvenile is under the age of 21 and is unmarried;
- (2) The juvenile is dependent on the court or has been placed under the custody of an agency or an individual appointed by the court;
- (3) The juvenile court has jurisdiction under state law to make judicial determinations about the custody and care of juveniles;
- (4) That reunification with one or both of the juvenile’s parents is not viable due to abuse, neglect, or abandonment or a similar basis under state law;
- (5) It is not in the best interest of the juvenile to be returned to his [or her] parents’ previous country of nationality or country of last habitual residence[.]

*Id.* at 714-15 (cleaned up); *see also* 8 C.F.R. § 204.11(b); 8 U.S.C.A. § 1101(a)(27)(J).

When a motion for SIJ status findings is properly filed, “[c]ircuit courts are required to take evidence and make individual factual findings on each of the[] factors when they are petitioned by an immigrant applying for SIJ status.” *Romero v. Perez*, 236 Md. App. 503, 506 (2018), *rev’d on other grounds*, 463 Md. 182 (2019).

In this context, our Supreme Court has instructed 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.” *Romero*, 463 Md. at 202 (emphasis added). Additionally, the SIJ

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USCIS, there is a third step of applying to adjust status to Legal Permanent Resident (green card application).  
223 Md. App. at 713-14 (cleaned up).

requirements allow for an individual to show that reunification is not feasible for a reason that is “similar” to the three named grounds. *Dany G.*, 223 Md. App. at 715; *see also* 8 C.F.R. § 204.11(b)(5);<sup>7</sup> 8 U.S.C.A. § 1101(a)(27)(J)(i). Although neither the Supreme

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<sup>7</sup> 8 C.F.R. § 204.11 states in pertinent part:

(b) Eligibility. A petitioner is eligible for classification as a special immigrant juvenile under section 203(b)(4) of the Act as described at section 101(a)(27)(J) of the Act, if they meet all of the following requirements:

- (1) Is under 21 years of age at the time of filing the petition;
- (2) Is unmarried at the time of filing and adjudication;
- (3) Is physically present in the United States;
- (4) Is the subject of a juvenile court order(s) that meets the requirements under paragraph (c) of this section; and
- (5) Obtains consent from the Secretary of Homeland Security to classification as a special immigrant juvenile. For USCIS to consent, the request for SIJ classification must be bona fide . . . . USCIS approval of the petition constitutes the granting of consent.

(c) Juvenile court order(s).

(1) Court-ordered dependency or custody and parental reunification determination. The juvenile court must have made certain judicial determinations related to the petitioner’s custody or dependency and determined that the petitioner cannot reunify with their parent(s) due to abuse, neglect, abandonment, or a similar basis under State law.

(i) The juvenile court must have made at least one of the following judicial determinations related to the petitioner’s custodial placement or dependency in accordance with State law governing such determinations:

- (A) Declared the petitioner dependent upon the juvenile court; or
- (B) Legally committed to or placed the petitioner under the custody of an agency or department of a State, or an individual or entity appointed by a State or juvenile court.

(ii) The juvenile court must have made a judicial determination that parental reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under State law. The court is not

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Court of Maryland nor this Court has specifically defined the term “similar basis” in the context of SIJ proceedings, we have recognized that this language was added to the statute to “allow for expansion of protected grounds beyond those of abuse, neglect, and abandonment.” *Dany G.*, 223 Md. App. at 718 n.6. Finally, the burden of proof in SIJ cases is preponderance of the evidence. *Romero*, 463 Md. at 199.

Returning to the case before us, the magistrate found that:

[Father] is not a fit or proper person to have custody of [O.] because he effectively abandoned [O.] when he passed away on January 16, 2015. However, [Father] abandoned [O.] when he left Guatemala in December 2005 when [O.] was seven (7) months old. [Father’s] physical absence from [O.]’s life constituted a prolonged separation with minimal direct involvement in his upbringing and only sporadic financial support. [Father’s] last financial contribution was in October 2014. [Father] suffered from chronic alcohol abuse, which led to the development of Hepatitis and ultimately caused his death on January 16, 2015. His illness and subsequent death left the family in severe financial hardship. [O.] never had the opportunity to meet his father in person before his death so the absence of a parental relationship, combined with the lack of consistent emotional and financial support, constitutes . . . abandonment and neglect.

The magistrate’s recommendations were submitted to the circuit court. The court awarded Mother sole legal and physical custody of O. but denied the request for SIJS findings. The court explained:

Neither the Appellate Court of Maryland, the Supreme Court of Maryland or any Maryland statute states that the death of a parent is considered abandonment. The[re] must be a finding of abuse, neglect or abandonment according to the statute or current case law, which there is none. Therefore the motion for SIJS is hereby denied.

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required to terminate parental rights to determine that parental reunification is not viable.

Mother filed a motion for reconsideration and lodged a timely notice of appeal. After the notice of appeal was filed, the court denied Mother’s motion for reconsideration as moot.

#### ANALYSIS

The circuit court concluded that O. is not eligible for SIJ status because his father is dead. We do not agree with the court’s reasoning.

The Supreme Court of Maryland has made it clear 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.” *Romero*, 463 Md. at 202. Additionally, the SIJ requirements allow for an individual to show that reunification is not feasible for a basis “similar”<sup>8</sup> to the three named grounds. *Dany G.*, 223 Md. App. at 715.

Although Maryland’s appellate courts have not specifically defined the term “similar basis” in this context, “we recognize that” our Supreme Court acknowledged that this language was added to the statute to “allow for expansion of protected grounds beyond those of abuse, neglect, and abandonment.” *Id.* at 718 n.6 (citing Jessica R. Pulitzer, *Fear and Failing in Family Court: Special Immigrant Juvenile Status and the State Court Problem*, 21 CARDOZO J. L. & GENDER 201, 225 (Fall 2014)).

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<sup>8</sup> In *Dany G.*, 223 Md. App. at 718 n.6, Judge Friedman explained that the “similar basis” language was added to 8 U.S.C.A. § 1101(a)(27)(J) by the TVPRA, which was enacted in 2008.

We agree with Mother and the magistrate that Father’s death constitutes a basis “similar” to parental abandonment. The magistrate found that:

[Father] is not a fit or proper person to have custody of [O.] because he effectively abandoned [O.] when he passed away on January 16, 2015. [Moreover, Father] abandoned [O.] when he left Guatemala in December 2005 when [O.] was seven (7) months old. [Father’s] physical absence from [O.’s] life constituted a prolonged separation with minimal direct involvement in his upbringing and only sporadic financial support. [Father’s] last financial contribution was in October 2014. [Father] suffered from chronic alcohol abuse, which led to the development of Hepatitis and ultimately caused his death on January 16, 2015. His illness and subsequent death left the family in severe financial hardship. [O.] never had the opportunity to meet his father in person before his death so the absence of a parental relationship, combined with the lack of consistent emotional and financial support, constitutes the abandonment and neglect.

Father abandoned O. when O. was seven months old. Father’s demise, although not an active form of neglect or abandonment, left O. without any kind of paternal support. The effect of Father’s death is to permanently deny O. of any possibility of paternal physical, financial, and emotional support. It is impossible to conjure up a form of parental abandonment that is more irreparable than death. We hold that, for purposes of the Immigration and Nationality Act, Father’s death constitutes a “similar basis” to parental abuse, neglect, or abandonment. *See Dany G.*, 223 Md. App. at 715.

We affirm the judgment of the circuit court appointing Mother as O.’s guardian. We vacate the judgment of the circuit court as to all other issues and remand this case for the court to make specific findings regarding O.’s eligibility for SIJ status consistent with the holdings and analyses of our Supreme Court in *Romero*, 463 Md. at 196–97, and this Court in *Dany G.*, 223 Md. App. at 718, and *Simbaina*, 221 Md. App. at 448.

To be clear, the issues that the circuit court must address are:

- 1) Is O. under the age of twenty-one and unmarried?
- 2) Is O. dependent on the court or has been placed under the custody of an agency or an individual appointed by the court?
- 3) Does the juvenile court have jurisdiction under state law to make judicial determinations about the custody and care of juveniles?
- 4) Is reunification with one or both of O.’s parents not viable due to abuse, neglect, or abandonment or a similar basis under state law?
- 5) Is it not in the best interest of O. to be returned to his parents’ previous country of nationality or country of last habitual residence?

*Dany G.*, 223 Md. App. at 714–15.<sup>9</sup>

On remand, appellant, that is, Mother, should be given an opportunity to address these issues in light of the analyses and holdings of this opinion. The court should hold a hearing if one is requested, and it is feasible to do so. Mother and the court must discharge their obligations expeditiously because the window for a judicial conclusion that O. is eligible for SIJ status terminates on May 5, 2026.

**THE JUDGMENT FOR THE CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY IS VACATED. THIS CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.**

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<sup>9</sup> As we have explained in the main text, the answer to the second question is yes because Mother has been appointed by the circuit court as O.’s guardian. The answer to the third question is also yes because circuit courts are vested with the authority to make judicial determinations as to the custody and care of children. *See Dany G.*, 223 Md. App. at 716–17.