

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Jefferson D.O.M. (Maria T.M.S.)

2026 NY Slip Op 02983 · No. 2026-03450, 2026-03452; Family Court Docket Nos. G-1591-26, G-1679-26 ·
Decided May 13, 2026

SUMMARY

The Appellate Division, Second Department, reversed two Family Court orders that dismissed a petition to appoint the subject child's mother as guardian and denied the child's motion for special immigrant juvenile status findings. The court reinstated and granted the guardianship petition, finding that the child's age could be established without a particular type of documentary evidence and that appointment of the mother was in the child's best interests. The court also found that the child was unmarried and under 21, dependent on a juvenile court, unable to reunify with his deceased father, and that returning him to Honduras would not be in his best interests.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Paul Wooten, J.; Laurence L. Love, J.; Elena Goldberg Velazquez, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	May 13, 2026
DOCKET	2026-03450, 2026-03452; Family Court Docket Nos. G-1591-26, G-1679-26
DISPOSITION	reversed
PROCEDURAL POSTURE	The subject child appealed from two Family Court orders that, without a hearing, dismissed the mother's guardianship petition and denied as moot the child's motion for special immigrant juvenile status findings.
STANDARD OF REVIEW	Review on the law, on the facts, and in the exercise of discretion; the Appellate Division conducted an independent factual review of the record.
PRECEDENTIAL VALUE	Published intermediate appellate decision

PARTIES

Jefferson D. O. M., also known as Jefferson J. A. M., the subject child
v. Maria T. M. S., respondent-respondent, et al., respondent

TOPICS

guardianship procedure

guardianships

special immigrant juvenile

appellate procedure

PRACTICE AREAS

family law

immigration

guardianship

QUESTIONS PRESENTED

1. Whether the Family Court could dismiss a Family Court Act § 661(a) guardianship petition solely because of discrepancies between submitted birth certificates when sworn affirmations established that the child was under 21.
2. Whether appointment of the mother as guardian was in the child's best interests.
3. Whether the record supported the requisite SIJS findings that the child was under 21 and unmarried, dependent on a juvenile court, unable to reunify with his father because of a qualifying basis under state law, and would not be served by return to Honduras.

HOLDINGS

1. The Family Court erred by dismissing the guardianship petition based on discrepancies between birth certificates because Family Court Act § 661(a) does not require submission of a particular type of evidence, including a birth certificate, to establish the juvenile's age.
2. The child's best interests would be served by appointing the mother as guardian, and the guardianship petition should therefore be granted.
3. The child was dependent on a juvenile court, unmarried, and under 21; reunification with his father was not viable because the father was deceased; and returning the child to Honduras would not be in his best interests. The child was therefore entitled to the requested SIJS-related declaration and findings.

KEY QUOTATIONS

*“Since there is no express requirement to submit a birth certificate in a proceeding such as this pursuant to Family Court Act § 661(a) (see Matter of Jose S.S.G. [Elmer W.G.G.—Norma C.G.C.], 217 AD3d 864, 865; Matter of Joel A.A.R. [Sara I.R.T.—Eddy A.A.G.], 216 AD3d at 1169), and the child and the mother averred in their sworn affirmations that the child was under 21 years old, the Family Court erred by dismissing the petition based on discrepancies between copies of two birth certificates submitted by the child.” ([*2])*

*“Pursuant to 8 USC § 1101(a)(27)(J) (as amended by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub L 110-457, 122 US Stat 5044) and 8 CFR 204.11, a special immigrant is a resident alien who is, inter alia, under 21 years of age, unmarried, and dependent upon a juvenile court or legally committed to an individual appointed by a state or juvenile court.” ([*2])*

*“Further, based upon our independent factual review, we find that the record supports a finding that reunification of the child with his father is not a viable option due to parental abuse, neglect, abandonment, or a similar basis found under state law, since the father is deceased.” ([*2])*

FACTUAL BACKGROUND

The subject child sought appointment of his mother as guardian and sought SIJS-related findings. The child and mother submitted sworn affirmations stating that he was under 21, and the mother attested that the Guatemalan birth certificate was accurate despite discrepancies between submitted birth certificates. The child's father was deceased, and the record included evidence that the child faced threats of violence in Honduras, his previous country of nationality and last habitual residence.

PROCEDURAL HISTORY

The child commenced a Family Court Act article 6 proceeding to appoint his mother as guardian and later moved for findings necessary to petition USCIS for special immigrant juvenile status. The Family Court, Richmond County, dismissed the guardianship petition based on discrepancies in submitted birth certificates and denied the SIJS motion as moot. The Appellate Division reversed both orders, reinstated and granted the guardianship petition, appointed the mother guardian, and granted the SIJS motion with the required findings.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No further remand was ordered. The Appellate Division itself reinstated and granted the guardianship petition, appointed the mother guardian, granted the SIJS motion, and made the required declaration and findings.

CASES CITED

- Matter of Joel A.A.R. [Sara I.R.T.—Eddy A.A.G.], 216 AD3d 1167, 1169
- Matter of Jose S.S.G. [Elmer W.G.G.—Norma C.G.C.], 217 AD3d 864, 865-867
- Matter of Euceda v Romero, 233 AD3d 680, 682
- Matter of Marisol N.H., 115 AD3d 185, 191
- Matter of Mardin A.M.-I. [Reyna E.M.-I.—Mardin H.], 187 AD3d 913, 913-914
- Matter of Saul E.M.L. v Edmundo M.M., 244 AD3d 1126, 1127
- Matter of Trudy-Ann W. v Joan W., 73 AD3d 793, 795
- Matter of Denia M.E.C. v Carlos R.M.O., 161 AD3d 853, 855
- Matter of Carlos A.M. v Maria T.M., 141 AD3d 526, 528
- Matter of Grechel L.J., 167 AD3d 1011, 1013-1014
- Matter of Argueta v Santos, 166 AD3d 608, 610
- Matter of A.M.G. v Gladis A.G., 162 AD3d 768, 769

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