

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

JEW

NUMBER 2018 CJ 1115

JOP

IN THE INTEREST OF:

P.-M., D.^[1]

J

Judgment Rendered: NOV 05 2018

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Appealed from the
Juvenile Court
In and for the Parish of Terrebonne, Louisiana
Juvenile Court Number 181,901

Honorable David W. Arceneaux, Judge

* * * * *

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S.S.-P., Individually and
on behalf of the minor child,
P.-M., D.

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* * * * *

BEFORE: PETTIGREW, WELCH, AND CHUTZ, JJ.

¹ To ensure the privacy of the juvenile, we refer to the juvenile by his initials.

WELCH, J.

S.S.-P. challenges the denial of his petition for a finding of eligibility for special immigrant juvenile status, which he filed on behalf of his son, D.P.-M. For reasons that follow, we dismiss this appeal and issue this memorandum opinion in compliance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B).

In 1990, Congress enacted the special immigrant juvenile provisions of the Immigration and Nationality Act, 8 U.S.C. §1101(a)(27)(J),² that allows immigrant juveniles, or any person acting on their behalf, to petition the United States Citizenship and Immigration Services for special immigrant juvenile status, which then enables the immigrant juvenile to be granted lawful permanent residency in the United States. **In the Interest of Lopez-Sanchez**, 2018-0318, p. 2 (La. App. 1st Cir. 6/1/18)(*unpublished*), citing **State in Interest of Jimenez**, 2015-1788 (La. App. 1st Cir. 8/25/16), 199 So.3d 1218, 1219. To be eligible for special immigrant juvenile status, an immigrant juvenile must obtain an order from a state juvenile court³ finding that the juvenile satisfies certain criteria. *Id.*; see 8 C.F.R. §204.11.⁴

² 8 U.S.C. §1101(a)(27)(J) provides, in pertinent part, that the term “special immigrant” means an immigrant (i) who is present in the United States who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with one or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law; and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence.

³ Pursuant to 8 C.F.R. §204.11(a), a “[j]uvenile court means a court located in the United States having jurisdiction under [s]tate law to make judicial determinations about the custody and care of juveniles.”

⁴ 8 C.F.R. §204.11(c) provides in pertinent part, that an alien is eligible for classification as a special immigrant juvenile if the alien (1) is under twenty-one years of age; (2) is unmarried; (3) has been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, while the alien was in the United States and under the jurisdiction of the court; (4) has been deemed eligible by the juvenile court for long-term foster care; (5) continues to be dependent upon the juvenile court and eligible for long-term foster care, such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and (6) has been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien’s best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parents.

The petitioner, Mr. S.-P., is the father of D., a minor child. Both Mr. S.-P. and D. are native citizens of Honduras currently residing in Terrebonne Parish. D. is an undocumented immigrant.⁵ On January 26, 2018, Mr. S.-P. filed a petition on behalf of D. in the juvenile court for Terrebonne Parish⁶ seeking a finding of eligibility for special immigrant juvenile status for D. and an order appointing Mr. S.-P. as D.'s natural tutor.⁷

Mr. S.-P. also filed two pleadings with his petition. The first pleading, entitled "Order Appointing and Confirming Tutor," contains the handwritten words "Ex Parte Order Denied" at the end of the document, followed by the judge's signature and the date. That document also contains a stamp indicating that it was received from the judge on January 30, 2018, as well as the signature of a Deputy Clerk of Court. The second pleading, entitled "Judgment," was a draft judgment that purported to make all of the findings necessary for D. to be eligible for special immigrant juvenile status; however, that document has a handwritten notation at the bottom that reads "Rec'd unsigned," followed by a stamp indicating that it was received from the judge on January 30, 2018, and the signature of a Deputy Clerk of Court.

After a hearing in open court on April 20, 2018, the juvenile court, in oral reasons for judgment, denied Mr. S.-P.'s petition on the basis of the lack of jurisdiction to make the necessary findings for eligibility for special immigrant juvenile status. However, no written judgement was subsequently signed indicating that the relief that Mr. S.-P. sought was denied or that his petition was

Notably, the requirement that a juvenile seeking special immigrant status be eligible for long-term foster care was removed by a 2009 amendment to 8 U.S.C. §1101(a)(27)(J).

⁵ The record does not reveal Mr. S.-P.'s immigration status.

⁶ See La. Ch.C. arts. 302 and 303; 8 C.F.R. §204.11(a).

⁷ Mr. S.-P. was appointed as D.'s tutor without the requested findings of eligibility for special immigrant juvenile status for D. on January 30, 2018.

dismissed. On May 21, 2018, Mr. S.-P. filed a motion and order to appeal the April 20, 2018 ruling of the trial court denying his request, on behalf of his son, for a finding of eligibility for special immigrant juvenile status.

Appellate courts have a duty to examine subject matter jurisdiction *sua sponte*, even when the parties do not raise the issue. **Texas Gas Exploration Corp. v. Lafourche Realty Co., Inc.**, 2011-0520 (La. App. 1st Cir. 11/9/11), 79 So.3d 1054, 1059, writ denied, 2012-0360 (La. 4/9/12), 85 So.3d 698. This Court's appellate jurisdiction extends to "final judgments," which are those that determine the merits in whole or in part. See La. C.C.P. arts. 1841 and 2083. "A final judgment shall be identified as such by appropriate language." La. C.C.P. art. 1918. In addition, every final judgment shall be signed by the judge. La. C.C.P. art. 1911(A).

Although the juvenile court's ruling on April 20, 2018, determined the merits of Mr. S.-P.'s request and, thus, appears to be final and appealable ruling, the record contains no written judgment signed by the juvenile court judge with respect to that ruling. In the absence of a valid, final, written, and signed judgment, this Court lacks jurisdiction to review this matter. Therefore, we dismiss this appeal.⁸

For all of the above and foregoing reasons, the appeal of the April 20, 2018 ruling of the juvenile court is dismissed. All costs of this appeal are assessed to the appellant, S.S.-P.

APPEAL DISMISSED.

⁸ To the extent that Mr. S.-P.'s motion for appeal can be construed as an appeal from either the denial of the ex-parte "Order Appointing and Confirming Tutor" on January 30, 2018 or the unsigned "Judgment" received by the clerk of court from the judge on January 30, 2018, we note that such appeal would likewise warrant dismissal. See La. C.C.P. arts. 1841, 1911, 1918, 2083, 2087 and 2121. See also **In the Interest of Lopez-Sanchez**, 2018-0318 at pp. 4-5.