

## Scholarly Commons @ UNLV Law

---

Nevada Supreme Court Summaries

Law Journals

---

9-2020

### Lopez v. Serbellon Protillo, 136 Nev. Adv. Op. 54 (Aug. 6, 2020)

Greer Sullivan

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>

---

This Case Summary is brought to you by the Scholarly Commons @ UNLV Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [david.mcclure@unlv.edu](mailto:david.mcclure@unlv.edu).

FAMILY LAW: FACTORS CONSIDERED TO SATISFY THE REUNIFICATION PRONG  
WHEN PETITIONING FOR SPECIAL IMMIGRANT JUVENILE STATUS

**Summary**

When determining whether the reunification prong<sup>2</sup> of finding Special Immigrant Juvenile (hereinafter “SIJ”) status is satisfied, the court should consider the history of the parent-child relationship, the conditions in the child’s foreign country, and whether returning the child to the parent in the foreign country would be workable or practicable due to abandonment, abuse, or neglect.

**Background**

Appellant Mariela Edith Lopez gave birth to K.M.L. in El Salvador in 2007 and informed the father, Manuel De Jesus Serbellon Portillo, of both the pregnancy and the birth. Serbellon Portillo resides in El Salvador and has not had any communication with K.M.L., has not sought to have any contact with K.M.L., nor has he provided any support for K.M.L. K.M.L. lived with Lopez’s mother up until 2017, when the mother was no longer able to care for him. At this time, Lopez began to fear for the safety of K.M.L. because gang activity had increased in his neighborhood resulting in the death of his neighbors at the hands of gang members. For both of these reasons, K.M.L. relocated to the United States to live with Lopez.

Lopez brought a custody action in the Eighth Judicial District Court seeking to establish physical and legal custody of K.M.L. She also asked the court to make the predicate findings in order to establish Special Immigrant status from the federal government. Serbellon Portillo was served with a copy of the custody complaint in both English and Spanish and did not file a responsive pleading. The district court awarded Lopez physical and legal custody, but did not find that reunification was not viable under NRS 3.2203 (3)(b) because the court was unable to predict if the father would seek to reunify with the child at some point in the future.

**Discussion**

NRS 3.2203 (3)(b) requires the court to determine that reunification with one or both of his or her parents is not viable in order to enable that child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services.<sup>3</sup> The Court found that because SIJ findings do not terminate parental rights the viability is broader than contexts that would result in termination of parental rights. The Court held that the district court erred in declining to make the findings that reunification is not viable because they looked at the possibility of reunification in the future as opposed to the practicability or workability of sending K.M.L. to live with Serbellon Portillo in El Salvador based on the history of lack of contact and the danger of El Salvador.

---

<sup>1</sup> By Greer Sullivan

<sup>2</sup> See NEV. REV. STAT. § 3.2203(3)(b) (2017).

<sup>3</sup> *Id.*

## **Conclusion**

The Court reversed the district court's order as to the denial of Lopez's motion for SIJ predicate findings, but affirmed the district court's order with regard to the custody. The case was remanded to the district court for further proceedings.