

SIJS: Predicate Order, Default Prove-up Sample Script [APR]

The following document provides guidance for *pro bono* attorneys who represent clients seeking a predicate order in IL State Court. Also included is information on addressing [Hearsay Issues Regarding Child Abuse](#). Please see NIJC's website for more information on the SIJS process in IL or contact **Hillary Richardson** at hrichardson@heartlandalliance.org

I. Sample Prove-Up Script

Good morning judge, my name is ____ here on behalf of the Petitioner. We're here on line __, case number ____ for a default prove-up. My client is present in court, along with an interpreter.

Respondent was personally served on DATE in COUNTRY/served by publication on DATE. To date, he has not filed an appearance or response. He was sent notice of today's proceedings via registered mail (if personally served) and is not present in court. We're asking that he be held in default. OR the Respondent has signed a consent and waiver of service, which was filed with the court on DATE; here is a copy.

We are asking that my client be granted sole significant decision making responsibility over the minor children. I have tendered a proposed default judgment to the Court. We are also asking that the Court include special findings in this order regarding the Respondent's abuse and neglect of the minor children, which will allow the children to pursue Special Immigrant Juvenile Status before the immigration authorities and achieve stability and safety in the US.

Questions may be asked in a leading format for efficiency since this is a default matter.

Name:

Age:

Address:

Lived at this address for more than 90 days prior to filing this petition?

Employed part-time at a restaurant?

Earn approximately _____ per week?

You have ____ children?

Namely [names & ages]?

The father of the children is the Respondent?

The two of you were engaged in an exclusive sexual relationship from approximately ____ until ____?

That relationship resulted the in the birth of your children?

Respondent acknowledged the children by allowing his name to be listed on their birth certificates?

Prior to your separation from Respondent, all of the children resided with both of you?

And you were their primary caretaker?

After your separation, the children resided with you?

When you came to the United States in _____, the children resided with Respondent in COUNTRY?

Did you continue to provide support and maintain communication with them while they lived there?

Have the children been living exclusively with you since arriving in the U.S.?

You have been the primary person responsible for taking them to school? Providing food and clothing? Taking to doctor?

They have had no contact with the Respondent since arriving here?

He has provided no financial support for them?

You are able to provide for the children financially?

If the children were to return to COUNTRY, would they have an appropriate caregiver there?

If the children were to return to COUNTRY, would they face any other dangers?

Are you asking this Court:

To grant you sole significant decision making responsibility for the minor children?

To find that the children's reunification with the Respondent is not viable due to his abuse and neglect of them?

To find that it is in the best interest of the minor children to remain with you as their primary caretaker?

To find that it is not in the best interest of the minor children to return to Honduras due to the aforementioned abuse and neglect?

To reserve all remaining issues, including child support and parenting time?

II. Addressing Hearsay Issues Regarding Child Abuse

*If the basis for SIJS was **abuse or neglect** for which your client was not actually present, you may have a hearsay problem if you want your client to testify as to what the children told her. Many judges won't care, but if you get questioned, you can elicit testimony about your client's own observations of the children's behavior as corroboration of their statements (see IMDMA cite below).*

*If the basis was **abandonment**, you can have your client testify as to her personal knowledge of the last time Respondent communicated with or provided support for the child.*

Are you aware of how the children were treated when they lived with Respondent? How did you become aware? Because they told me that they were abused, because of their behavior I observed when I saw them afterwards, and because I've seen the police reports.

Let's start with the first way – what did they tell you about how they were treated?

*IF OBJECTION – IMDMA 750 ILCS 5/606.5(c) Previous statements made by the child relating to any allegations that the child is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be **admissible in evidence in a hearing concerning allocation of parental responsibilities** in accordance with Section 11.1 of the Abused and Neglected*

*Child Reporting Act. No such statement, however, if **uncorroborated** and not **subject to cross-examination**, shall be sufficient in itself to support a finding of abuse or neglect*

We plan to corroborate with mom's observations and judicial documents from Honduras.

Sample questions re abuse:

- With what did the children tell you were they beaten?
- Who did they tell you beat them?
- Did they tell you if the beatings left marks on their bodies?
- During what period of time did the children say this took place?
- Did the children tell you whether the Respondent ever observed this physical abuse?
- Did they say whether he ever intervene to stop it?
- Did they tell you if Respondent participated in abuse?
- When did you learn this was happening?
- Do you know if there is any documentation of this?
 - What documentation is there?
 - Do you know if those documents were filed as exhibits attached to your petition?
 - How did you obtain these documents?
- Did you ever talk to the Respondent about what happened to the children? *[admission of a party opponent is also a hearsay exception if you can get it]*
 - When did you speak with him?
 - Where were you?
 - Was anyone else present?
 - If by phone – did you call him? at what number? did you recognize his voice?
 - How?
 - What did he say?
- When did the children arrive in Illinois?
- What were your observations of them when they arrived?
- Based on these observations, what do you believe about their treatment in Honduras?

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