

Circuit Court for Baltimore City
Case No. 24-D-16-001362

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1004

September Term, 2017

PATRICIA MACHADO

v.

GILBERTO MARTINEZ MEJIA,

Wright,
Arthur,
Shaw Geter,

JJ.

Opinion by Arthur, J.

Filed: June 13, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Patricia Machado appeals a circuit court finding that her daughter was not neglected, abused, or abandoned by her father for purposes of consideration for Special Immigration Juvenile (“SIJ”) status. The circuit court was not persuaded, by clear and convincing evidence, that the young woman was the victim of neglect, abuse, or abandonment. However, since Machado’s case was decided, this Court published *Romero v. Perez*, 236 Md. App. 503 (2018), in which we held that the proper evidentiary standard to be applied to SIJ petitions is the preponderance of the evidence.

Maryland Rule 8-604(d) permits this Court to remand a case to the lower court if “the substantial merits of a case will not be determined by affirming, reversing or modifying the judgment, or that justice will be served by permitting further proceedings[.]” We believe that this is a case where justice will be served by permitting further proceedings. Although the trial court appropriately identified the pertinent factors for considering Machado’s SIJ petition, it evaluated those factors under a higher burden than the one that Machado was required to meet, because it did not have the benefit of our recent decision. Hence, we vacate the judgment and remand for further proceedings consistent with the standard articulated in that decision.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY VACATED.
CASE REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE DIVIDED
EQUALLY BETWEEN APPELLANT AND
APPELLEE.**