

Oregon Juvenile Appellate Case Law Outline

Cases reported beginning in July 2013.

Oregon Judicial Department

Juvenile Court Improvement Program

Condensed Versions –
Full Summaries Available Online

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Juvenile Delinquency

1. *State v. J.N.S.*, [258 Or App 310 \(2013\)](#).

Second-degree burglary may be committed in two alternative ways: (1) entering a building unlawfully with the intent to commit a crime therein; or (2) entering a building lawfully, but then remaining unlawfully – *viz.*, failing to leave after authorization to be present expires or is revoked – with the intent to commit a crime therein. The focus of the question is on youth's intent at the initiation of the trespass. In this case, the only evidence of the youth's intent to commit a crime when he entered the premises unlawfully was youth's possession of a key that was found after he entered the premises. The Court of Appeals found the juvenile court erred in adjudicating the youth delinquent for burglary in the second degree because intent to commit a crime had not formed upon unlawful entry, but found the court's factual findings were sufficient to support an adjudication for criminal trespass in the second degree under ORS 164.245.

2. *State v. S.N.R.*, [260 Or App 728 \(2014\)](#).

The court held that to find a defendant guilty of criminally negligent homicide (or other crime) based upon falling asleep requires some evidence that the defendant had, or should have been aware of, a sufficient prior warning of the likelihood of sleep so that the defendant had the opportunity to reduce the substantial risk of injury.

Conditions of Probation

1. *State v. C.M.C.*, [259 Or App 789 \(2013\)](#).

Ordering the youth to pay for his own psychological evaluation was outside the court's dispositional authority under ORS 419C.446(2).

Motions for Judgment of Acquittal

1. *State v. J.C.L.*, [261 Or App 692 \(2014\)](#).

Trial court did not err in denying youth's motion for acquittal when there was evidence in the record establishing that youth knowingly possessed child pornography with intent to duplicate or display the images.

Motion to Suppress

1. *State v. D.P.*, [259 Or App 252 \(2013\)](#).

Court found the 12 year old youth's statements should have been suppressed when police interviewed him without giving him Miranda warnings. In determining whether the circumstances were compelling, the court considered whether a reasonable person in the child's

position (considering age, knowledge, experience and similar environment) would have felt required to stay and answer all of the detective's questions.

2. *State v. J.C.L.*, [261 Or App 692 \(2014\)](#).

It's the state's burden to show exigency by establishing both that the destruction of evidence was imminent and that a warrant could not have otherwise been expeditiously obtained. The Court of Appeals found the record supported the juvenile court's conclusion that the police detective reasonably believed Dutton was about to erase youth's hard drive and that, if he left youth's computer within Dutton's control to obtain a warrant, the destruction of evidence was imminent.

3. *State v. A.J.C.*, [355 Or 552 \(2014\)](#).

The court found the requirements of the school-safety exception to the warrant requirement were met when the school official was notified of youth's verbal threats to shoot other students, and officials did not know whether youth had a gun on his person or elsewhere.

Restitution

1. *State v. N.R.L.*, [354 Or 222 \(2013\)](#).

A restitution determination pursuant to ORS 419C.450 is not civil in nature. Article 1, section 17, does not confer the right to a jury trial for a restitution determination in a juvenile delinquency matter.

Juvenile Dependency

Disposition

1. *Dept. of Human Services v. A.E.F.*, [261 Or App 384 \(2014\)](#).

The juvenile statutes authorize a court to order a parent to participate in a psychological evaluation if the evaluation "bears a rational relationship to the bases the court found for taking jurisdiction." See ORS 419B.337(2) and 419B.343(1)(a). The juvenile court erred in construing its authority to order a psychological evaluation was limited to cases when: (1) a "psychological condition" was one of the jurisdictional bases; or (2) the parent has not benefitted from services for unexplained reasons. The case was remanded for the trial court to determine if there is a rational relationship between the findings that brought the child within the court's jurisdiction (injuries/excessive discipline/anger management) and the proposed psychological evaluation.

Evidence

1. *Dept. of Human Services v. J.G.*, [258 Or App 118 \(2013\)](#).

With respect to the medical care hearsay exception, a declarant's out-of-court statement is admissible under OEC 803(4) if it (a) is made for purposes of medical diagnosis or treatment; (b) describes or relates medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof; and (c) is reasonably pertinent to diagnosis or treatment. In this case, the record supported the juvenile court's conclusion that the statements were made for the purpose of medical diagnosis or treatment where the medical examiner testified that she explained to each child the examination and interview is for purposes of the medical diagnosis and treatment of any medical problems that are found and the physical examination and interviews took place at the same time in the same medical facility.

2. *Dept. of Human Services v. J.B.V.*, [262 Or App 745 \(2014\)](#).

The court may only rely upon evidence that is relevant, material and admissible under the Oregon Evidence Code in ruling on a party's motion to terminate a child's wardship. In addition, the ORS 419B.325(2)(governing evidence admissible for the purpose of determining proper disposition) exception to competent evidence applies to permanency hearings pursuant to ORS 419B.476(1), allowing the court to receive the exhibits at issue for purposes of considering reasonable efforts to effect reunification, and whether the parent made sufficient progress to allow the child's safe return home.

Guardianship

1. *Dept. of Human Services v. K.H.*, [256 Or App 242 \(2013\)](#), *opinion adhered to as modified*, [258 Or App 532 \(2013\)](#).

The hearing required by ORS 419B.366 is "independent from a permanency hearing and requires different determinations." ORS 419B.366 doesn't require any specific type of hearing, but the party requesting the hearing must be given an opportunity to be heard at a "meaningful time and in a meaningful manner." The initial Court of Appeals opinion found a sufficient hearing was provided under ORS 419B.366 (durable guardianship) where the trial court had made a "reasonable time" determination four months earlier at the permanency hearing, and mother was allowed to submit an offer of proof for the trial court's consideration in determining whether a full evidentiary hearing would be necessary. On reconsideration, the Court of Appeals clarified the trial court did not take judicial notice of the permanency hearing record, but rather considered it in light of mother's offer of proof to determine whether mother's circumstances had changed. warranting a full evidentiary hearing.

2. *Dept. of Human Services. v. J.G.*, [260 Or App 500 \(2014\)](#).

Allegation of an ICWA violation may be raised for the first time on appeal even though Oregon rule requires preservation of error. A proceeding to establish a durable guardianship under ORS 419B.366 is a “foster care placement” under ICWA, however, the court was not required under ICWA to make an “active efforts” finding in the guardianship judgment where it had made that finding in the permanency judgment changing the case plan to guardianship.

3. *Dept. of Human Services v. R. S.*, [261 Or App 815 \(2014\)](#).

A review of the record shows that mother did not move to terminate the wardship, or otherwise properly place the continuing jurisdiction of the court at issue. Instead, mother used the guardianship hearing to attack the court's initial jurisdictional determination. Once the initial jurisdiction of the court is established, the issue in later proceedings is only whether jurisdiction continues.

Immunizations

1. *Dept. of Human Services v. S.M.*, [355 Or 241 \(2014\)](#).

Under ORS 419B.372 and ORS 419B.376, DHS had statutory authority as the children's legal guardian to approve their immunization. The power of DHS as guardian to "make other decisions concerning the ward of substantial legal significance" under ORS 419B.376(5) includes the power to immunize the wards in its care against common childhood diseases.

Incarcerated Parents

1. *Dept. of Human Services v. M.K.*, [257 Or App 409 \(2013\)](#).

Juvenile court's decision that DHS made reasonable efforts was reversed when court did not consider totality of the circumstances by engaging in a cost-benefit analysis to determine if DHS was required to provide father with a psychosexual evaluation, a service identified as “key” to reunification.

2. *Dept. of Human Services v. D.A.N.*, [258 Or App 64 \(2013\)](#).

The Court of Appeals considered the issue of whether the juvenile court was required to find, before it changed the case plan to adoption, that the child could not be returned within a reasonable time. The court declined to reach that issue, because it concluded that the juvenile court's findings “implicitly included” that determination.

3. *Dept. of Human Services v. D.J.*, [259 Or App 638 \(2013\)](#).

The Court of Appeals found the right to “participate in hearings” in ORS 419B.875(2)(c) includes the right to testify on the party’s own behalf. The court reversed the juvenile court’s judgment changing the permanency plan from reunification when an incarcerated parent who wanted to participate was not able to be connected by telephone.

Indian Child Welfare Act (ICWA)

1. *Dept. of Human Services. v. J.G.*, [260 Or App 500 \(2014\)](#).

Allegation of ICWA violation may be raised for the first time on appeal even though Oregon rule requires preservation of error. The court was not required under ICWA to make an “active efforts” finding in the guardianship judgment where it had made the finding in the permanency judgment.

Jurisdiction

1. *Dept. of Human Services v. W.A.C.*, [263 Or App 382 \(2014\)](#).

A juvenile court cannot assert jurisdiction over a child based on the admissions of one parent when the other parent has been served and summoned, appears, and contests the allegations in the petition. In such a case, the juvenile court can only assume jurisdiction over the child after a contested hearing on the allegations denied by the other parent.

Conditions and Circumstances

1. *Dept. of Human Services v. N.P.*, [257 Or App 633 \(2013\)](#).

Juvenile court’s judgment establishing jurisdiction based on father’s “ongoing mental health and/or anger and frustration problems” reversed. Court found father’s mental health did not impair his ability to parent, and trial court impermissibly relied on father’s past substance abuse and risk of relapse when no evidence of current use was presented.

2. *Dept. of Human Services v. T.A.H.*, [257 Or App 526 \(2013\)](#).

Juvenile court’s exercise of jurisdiction based on the child’s conditions and circumstances affirmed based on evidence of injuries to child, mother’s conduct in response, and evidence that mother failed to provide adequate supervision.

3. *Dept. of Human Services v. C.J.T.*, [258 Or App 57 \(2013\)](#).

Juvenile court jurisdiction is appropriate under ORS 419B.100(1)(c) when a child's condition or circumstances endanger the welfare of the child. To "endanger" the welfare of a child means to expose the child to conditions or circumstances that present a current threat of serious loss or injury. In this case, the record lacked legally sufficient evidence to establish a nexus between mother's marijuana use and a current threat of harm, when there was no evidence presented that mother used marijuana for the three months prior to the date of jurisdiction.

4. *Dept. of Human Services v. R.L.F., Jr.*, [260 Or App 166 \(2013\)](#).

Without evidence that father is unable to protect the child, or that the child will suffer some actual harm because father lacks sole legal custody, lack of a custody order alone is not sufficient for jurisdiction pursuant to ORS 419B.100. In this case, the state failed to establish there was a current, nonspeculative threat of serious loss or injury to the child at the time of the jurisdictional hearing, when there was no current evidence of drug or alcohol use, father had obtained and enforced a restraining order against mother, and he had moved out of the family residence.

5. *Dept. of Human Services v. C.F.*, [258 Or App 50 \(2013\)](#).

Considering the following evidence in the record: (1) mother expressed fear of father; (2) in December 2011 (six months prior to jurisdiction), mother obtained a protective order against father based on the allegations of domestic violence and sought help from the Women's Crisis Center; (3) mother told a DHS investigator that she was not able to leave the house on a frequent basis, and was not able to go to the library, her parenting classes, or WIC appointments; and (4) mother's behavior demonstrated a pattern that is common in domestic violence, which presents a risk to the children; the court found the evidence was legally sufficient to permit the trial court's ruling there was a current threat of serious injury to the children, despite the fact that no physical confrontation had occurred between the parents for at least 18 months prior to jurisdiction.

6. *Dept. of Human Services v. S.D.I.*, [259 Or App 116 \(2013\)](#).

Evidence of risk of serious loss or injury was insufficient to support jurisdiction when no testimony was presented establishing how, to what extent, or for how long A would be "psychologically damaged" by immediately moving into mother's home whom she had not had contact with for several years.

7. *Dept. of Human Services v. N.B.*, [261 Or App 466 \(2014\)](#).

The evidence in the record was legally sufficient to support the juvenile court's findings and those findings support the bases for jurisdiction. The evidence included a history of mother medically abusing her older children, mother continuing to see a convicted sex offender who had physically abused two of her children, a recent incident of medical child abuse, and expert

medical testimony that mother's progress in dealing with her mental health was fragile and the children remain at risk of significant harm and potentially death in her care.

8. *Dept. of Human Services v. I.S.*, [261 Or App 731 \(2014\)](#).

In cases in which the allegation of harm involves the lack of a custody order, jurisdiction is not proper if the lack a custody order would not expose the child to a reasonable likelihood of harm.

In this case, mother did not have legal custody of the children, and there was no evidence that mother had ever tried to physically prevent father from taking physical custody of the children, or attempted to remove the children from father's care.

9. *Dept. of Human Services v. S.R.C.*, [263 Or App 506 \(2014\)](#).

The fact that the child is currently receiving protection because of the court's jurisdiction cannot be used by mother to argue that the asserted additional jurisdictional bases do not present a current risk of harm to H. When reviewing a challenge to jurisdiction based on an additional allegation in an amended petition, the court examines whether there is sufficient evidence from which a reasonable factfinder could conclude by a preponderance of the evidence that a current risk of harm exists from the additional allegation standing alone, or that the additional allegation contributes to or enhances the risk associated with the existing bases of jurisdiction.

10. *Dept. of Human Services v. E.M.*, [264 Or App _____ \(2014\)](#).

There was insufficient evidence in the record to support a finding that mother was using illegal drugs at the time of the jurisdictional hearing when her last positive UA was four months prior to the hearing, and no additional evidence established drug use, or that her drug use interfered with her ability to parent.

13. *Dept. of Human Services v. A.B.* [264 Or. App _____ \(2014\)](#).

The Court of Appeals found the petition allegation of substance abuse was not established when mother tested positive for methamphetamine shortly after removal of the children from her care, but every urinalysis after that date was negative up to the time of the juvenile court's jurisdictional hearing four months later.

Motion to Set Aside Judgment or Order

1. *Dept. of Human Services v A.D.G.*, [260 Or App 525 \(2014\)](#).

ORS 419B.923(1) grants the juvenile court broad discretion to set aside any order or judgment made by it. For that reason, the court's authority is not limited to the enumerated grounds for relief.

Permanency Hearings

Compelling Reason Determination

1. *Dept. of Human Services v. M.H.*, [258 Or App 83 \(2013\)](#).

The court must enter an order within 20 days of the permanency hearing and must include, “*if the plan is **continued as**, or changed to, adoption...*the court’s determination of whether one of the circumstances in ORS 419B.498(2) is applicable.” ORS 419B.476(5)(d) (emphasis added). One of the circumstances in ORS 419B.498(2) is whether “there is a compelling reason” not to file a petition to terminate parental rights, ORS 419B.498(2)(b), and one of the “compelling reasons” is that the parent is “successfully participating in services that will make it possible for the child or ward to safely return home within a reasonable time” ORS 419B.498(2)(b)(A). Failure to include the “no compelling reason” determination when the court continued the plan of adoption was reversible error, and the error was not harmless.

Motion to Dismiss

1. *Dept. of Human Services v. D.A.S.*, [261 Or App 538 \(2014\)](#).

Without evidence that one parent is unable to protect the child from the other parent, or that the child will suffer some risk of actual harm because one parent lacks sole legal custody, lack of a custody order alone is insufficient to support continued jurisdiction.

2. *Dept. of Human Services v. J.B.V.*, [262 Or App 745 \(2014\)](#).

The court may only rely upon evidence that is relevant, material and admissible under the Oregon Evidence Code in ruling on a party’s motion to terminate a child’s wardship. In addition, the ORS 419B.325(2)(governing evidence admissible for the purpose of determining proper disposition) exception to competent evidence applies to permanency hearings pursuant to ORS 419B.476(1), allowing the court to receive the exhibits at issue for purposes of considering reasonable efforts to effect reunification, and whether the parent made sufficient progress to allow the child's safe return home.

3. *Dept. of Human Services v. J.M.*, [260 Or App 261 \(2013\)](#).

The Court of Appeals found the evidence did not support the inference that father, despite his assertions, would resume the infliction of inappropriate corporal punishment on the child, and for that reason posed a risk of harm. The court found the important inquiry in the case was not what father believes, but what he is likely to do at the time of the hearing. The court found DHS did not satisfy its burden of establishing that father posed a current threat of serious loss or injury that is reasonably likely to be realized, and that the evidence was legally insufficient to support

the juvenile court's finding that father had not made sufficient progress to allow the children to be returned home safely.

Reasonable Efforts

1. *Dept. of Human Services v. M.K.*, [257 Or App 409 \(2013\)](#).

Juvenile court's decision that DHS made reasonable efforts was reversed when court did not consider totality of the circumstances by engaging in a cost-benefit analysis to determine if DHS was required to provide father with a psychosexual evaluation, a service identified as "key" to reunification.

2. *Dept. of Human Services v. R.D.*, [257 Or App 427 \(2013\)](#).

Court of Appeals affirmed juvenile court's decision that DHS didn't make reasonable efforts to provide reunification services to mother based on a 16 month delay between the time of jurisdiction and the time a sex offender treatment provider was provided to mother. DHS's failure to make reasonable efforts precludes a change in the permanency plan away from reunification.

3. *Dept. of Human Services v. G.N.*, [263 Or App 287 \(2014\)](#).

The record contained sufficient evidence DHS made reasonable efforts when: (1) visits were reduced to one hour a week because the child indicated they weren't going well; (2) the child and parents started attending individual counseling sessions in preparation for family therapy starting in December 2012 (family therapy was court ordered in September 2012), then were provided with one family therapy session in April 2013 and subsequently family counseling was discontinued due to father's behavior; and (3) once DHS learned that father had stopped taking his ADHD medication because of its cost, it made efforts to help him pay for the medication.

Reasonable Time

1. *Dept. of Human Services v. D.A.N.*, [258 Or App 64 \(2013\)](#).

The juvenile court's findings implicitly include a determination that a minimum of an additional nine months from the date of the permanency hearing was not a "reasonable time". The Court of Appeals did not decide if the juvenile court is required to make a "reasonable time" determination pursuant to ORS 419B.476 and ORS 419B.498(2)(b)(A) as a prerequisite to changing the plan from reunification to adoption. *See also*, [Department of Human Services v. D.L.H.](#), [251 Or App 787 \(2012\)](#), for a discussion on whether the court is required to make a "reasonable time" determination before changing a permanency plan from reunification to adoption.

Right to Participate

1. *Dept. of Human Services v. D.J.*, [259 Or App 638 \(2013\)](#).

The Court of Appeals found the right to “participate in hearings” in ORS 419B.875(2)(c) includes the right to testify on the party’s own behalf. The court reversed the juvenile court’s judgment changing the permanency plan from reunification when an incarcerated parent who wanted to participate was not able to be connected by telephone.

Sufficient Progress

1. *Dept. of Human Services v. D.W.C.*, [258 Or App 163 \(2013\)](#).

The record was legally sufficient to permit the juvenile court’s finding that father had made insufficient progress in addressing limited contact with his daughter where he had only visited with her twice in her lifetime (both times over the two years since she entered foster care), and did not understand her needs.

2. *Dept. of Human Services v. D.A.N.*, [258 Or App 64 \(2013\)](#).

The juvenile court’s finding that father had not made sufficient progress was supported by evidence in the record (father was still incarcerated and unable to participate in drug and alcohol services and parenting classes). The juvenile court’s findings implicitly include a determination that a minimum of an additional nine months from the date of the permanency hearing was not a “reasonable time”.

3. *Dept. of Human Services and J.H., a Child v. G.L.H.*, [260 Or App 72 \(2013\)](#).

The court determined that while the trial court did not expressly find that mother had made sufficient progress to make it possible for the child to go home, such finding was implicit in the trial court’s decision to terminate wardship and dismiss the case. However, the court found that the implicit finding was not supported by legally sufficient evidence given that the only evidence was the caseworker report, which came to a contrary conclusion.

4. *Dept. of Human Services v. J.M.*, [260 Or App 261 \(2013\)](#).

The Court of Appeals found the evidence did not support the inference that father, despite his assertions, would resume the infliction of inappropriate corporal punishment on the child, and for that reason posed a risk of harm. The court found the important inquiry in the case was not what father believes, but what he is likely to do at the time of the hearing. The court found DHS did not satisfy its burden of establishing that father posed a current threat of serious loss or injury that is reasonably likely to be realized, and that the evidence was legally insufficient to support the juvenile court's finding that father had not made sufficient progress to allow the children to be returned home safely.

5. *Dept. of Human Services v. L.A.S.*, [259 Or App 125 \(2013\)](#).

The Court of Appeals rejected mother's challenge to the court's finding that she had not made sufficient progress because it was not preserved. Without deciding whether a "reasonable time" finding is required to change the plan, the court found the trial court's determination the children could not be returned home within a reasonable time was supported by the record, including evidence of mother's history of substance abuse combined with her belated and incomplete progress through treatment.

6. *Dept. of Human Services v. J.M.*, [262 Or App 133 \(2014\)](#).

The assessment of a parent's progress toward addressing an unexplained injury ordinarily requires a determination of the cause of the injury. Because there was never any admission, stipulation, or finding as to the cause of the injury, parents' attempt to introduce evidence that the injury resulted from rickets does not represent a collateral attack on any prior admission, stipulation or finding as to the cause of the injury.

7. *Dept. of Human Services v. G.N.*, [263 Or App 287 \(2014\)](#).

The record contained sufficient evidence for the juvenile court's finding that father made insufficient progress based on the fact that despite completing therapy for domestic violence, father continued to be emotionally abusive during visits and blamed the children for DHS involvement. Father's counselor also testified father did not express empathy for the children.

8. *Dept. of Human Services v. R.B.*, [263 Or App ____ \(2014\)](#).

It was permissible for the juvenile court to consider mother's mental health issues when determining sufficient progress even though that issue was not expressly provided in the bases for jurisdiction. In this case, mental health issues are implied by the allegations, there is evidence in the record that mother's mental health issues are not new, and the record doesn't indicate that mother would have been provided with any different services had the jurisdictional judgment more particularly identified her mental health problems.

Review Hearings

Motion to Dismiss

1. *Dept. of Human Services v. A.R.S.*, [258 Or App 624 \(2013\)](#) (*ARS III*).

Mother had moved from her boyfriend's home upon learning he was unsafe, and found another residence that was deemed safe and appropriate by DHS, but lacked a bed. The Court of Appeals found the record contained insufficient evidence from which a reasonable fact finder could conclude, by a preponderance of the evidence, that those circumstances exposed the child

to a current risk of serious loss or injury that was reasonably likely to occur. In the context of a motion to dismiss at a review hearing, the evidence is limited to whether the conditions that were originally found to endanger a child persist. DHS had the burden to prove, by a preponderance of the evidence, that the factual bases for jurisdiction persisted to a degree that they posed a current threat of serious loss or injury that is reasonable likely to be realized.

Reviewability

1. *Dept. of Human Services v. C.W.J.*, [260 Or App 180 \(2013\)](#).

An appeal of the trial court's denial of father's motion to dismiss is moot when the trial court entered a judgment terminating the wardship after the appeal was filed and sufficient collateral practical effects on the parents' rights were not shown.

2. *Dept. of Human Services v. B.A.*, [263 Or App 675 \(2014\)](#).

Appeal was moot and collateral consequences did not exist when basis of jurisdiction was based on drug use (mother) and lack of a custody order (father), and father obtained a custody order while the appeal was pending.

3. *Dept. of Human Services v. A.B.* [264 Or. App](#) (2014).

Court of Appeals denied state's motion to dismiss appeal as moot after dismissal of juvenile court's jurisdiction due to the effect of the underlying jurisdictional judgment, which includes findings of substance abuse and neglect against mother, on a pending custody matter between mother and father in which father seeks sole legal custody.

Standard of Review

1. *Dept. of Human Services v. N.P.*, [257 Or App 633 \(2013\)](#).

The Court of Appeals may decline to review a juvenile court's determination of jurisdiction predicated on ORS 419B.100(1)(c) de novo. Court has discretion to review "non-de novo", allowing the court to view the evidence, as supplemented and buttressed by permissible derivative inferences, in the light most favorable to the trial court's disposition and assess whether the record was legally sufficient to permit that outcome. The opinion sets forth a three part analysis for reviewing the trial court's determination.

Termination of Parental Rights

1. *Dept. of Human Services v. J.L.H.*, [258 Or App 92 \(2013\)](#).

On de novo review, the Court of Appeals affirmed the trial court's decision, finding beyond a reasonable doubt that mother's long time emotional and mental condition and her continued inability to engage in healthy relationships or disassociate herself from father and unsafe men

made it improbable she would be able to adjust her life circumstances to make her able to safely parent the child within a reasonable time.

2. *Dept. of Human Services v. K.M.M.*, [260 Or App 34 \(2013\)](#).

On de novo review, the Court of Appeals found the record demonstrated by clear and convincing evidence that mother's untreated schizophrenia is harmful to the child and mother is unable to provide the child with proper care, and that because she continues to refuse to take medication, her condition is unlikely to change so as to allow the child to be integrated into her home within a reasonable time. The court further concluded termination was in the child's best interest due to her need for permanency and stability, and her preference to live permanently with her adoptive parents.

3. *Dept. of Human Services v. F.J.S.*, [259 Or App 565 \(2013\)](#).

On de novo review, the Court of Appeals found there was clear and convincing evidence that father's anger problem constituted a condition that was seriously detrimental to F, and that F could not be reintegrated into father's home within a reasonable time after father had almost three years to address his anger problem, and F was at risk for attachment issues.

4. *Dept. of Human Services v A.D.G.*, [260 Or App 525 \(2014\)](#).

ORS 419B.819(7) does not allow a default when the parent is not "absent" at the hearing in which the default judgment is entered. The court rejected DHS's contention that the statute allows the juvenile court to terminate a parent's rights without further notice and without the parent's participation once the parent fails to appear, regardless of when the hearing occurs and whether the parent appears at a later date. ORS 419B.923(1) grants the juvenile court broad discretion to set aside any order or judgment made by the court.