



COURT OF APPEALS

Media Release

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MESSAGE FROM THE CHIEF JUDGE

A little over five years ago, just as the cherry blossoms were overtaking the Capitol Mall, the Court of Appeals closed its doors to in-person proceedings, committed to ensuring the safety of the bar, the public, and court employees in the face of a virus we didn't yet understand. Although we couldn't see around the corner at the time, that closure to combat a virus brought the Court new tools to ensure access to appellate justice on equal terms for all Oregonians across the state, regardless of geographic barriers and monetary resources to pay for travel to Salem to participate in oral arguments. Now, with few exceptions, parties who wish to argue a case can appear for argument in the manner that best meets their needs because the court is now fully equipped to accommodate those needs through in-person arguments, remote arguments, and hybrid arguments where some people appear remotely and others in-person. And now, the Court's ability to conduct its oral argument transparently is no longer bounded by geography. Arguments in nonconfidential cases are streamed and then stored on the Court's website, so that people across all of Oregon easily can witness oral proceedings in Oregon's statewide intermediate appellate court at any time. That this is where we are is a result of the willingness of the Oregon bar to try new processes with the aim of minimizing geographic and other barriers to equal access to appellate justice. The Court remains grateful for the cooperation in this ongoing endeavor.

This message comes with a reminder and a request.

The reminder:

At the beginning of 2025, I issued a Chief Judge Order adopting temporary rules amending Oregon Rules of Appellate Procedure addressing the process for requesting and conducting oral argument in the Court of Appeals. As explained both in the Court's media release of December 18, 2024, and the rules themselves, the temporary rules adopted a phase-in process for implementing the change. This is a reminder that the second phase of the phase-in process begins next week, on April 1, 2025.

The court's December 18, 2024, media release explains the phased-in change in process and the rationale for it and can be viewed here:

[Chief Judge Message, COA Media Release 12-18-24.pdf](#)

The Chief Judge Order adopting the temporary rules can be viewed here:

[CJO25-01AdoptingTemporaryORAPAmendments.pdf](#)

The current Oregon Rules of Appellate Procedure, which include the operative temporary rules regarding oral argument in the Court of Appeals can be viewed here:

[ORAP2025FullPermanentTempAmendments.pdf](#)

The request:

Over the course of the last five years, the technology supporting remote oral arguments has improved significantly, including with respect to sound quality. Nevertheless, as it has from the start, the Court continues to advise the use of headsets or earbuds with built-in microphones for lawyers and self-represented attorneys arguing cases remotely to ensure optimal sound quality for remote arguments. At a minimum, the Court requests that persons arguing cases remotely have such devices on hand and the ability to agilely transition to the use of them, should a presiding judge request that they do so.

For a refresher, the Court's tips for remote arguments are viewable here:

[VideoArgumentTips.pdf](#)

Erin C. Lagesen
Chief Judge
Oregon Court of Appeals



Salem Capitol Mall, March 16, 2020

The Court of Appeals issued these precedential opinions:

Gregory L. Clark and E. A. C.*
(A178311 - Klamath County Circuit Court)
Chantha Kim and Daniel Kinnersley
(A180803 - Multnomah County Circuit Court)
Department of Human Services v. L. B.
(A185358 - Umatilla County Circuit Court)
State of Oregon v. James Stilson Kropf III
(A179182 - Washington County Circuit Court)
Department of Human Services v. J. L. D., Jr.
(A185199 - Yamhill County Circuit Court)
State of Oregon v. Philip Joseph Rodriguez
(A178690 - Grant County Circuit Court)

The Court of Appeals issued these nonprecedential memorandum opinions:

Michael Anthony Baker and Linda Lee Childress-Baker
(A178779 - Linn County Circuit Court)
State of Oregon v. Craig Anthony Jackson
(A179559 - Klamath County Circuit Court)
State of Oregon v. Victoria Elizabeth Barbara Hill
(A180742 - Coos County Circuit Court)
State of Oregon v. Brian Lee Neal
(A181675 - Lane County Circuit Court)
Kelly Barnett v. Connie Koeneman
(A181908 - Crook County Circuit Court)
Gibbs and Moore
(A183405 - Yamhill County Circuit Court)

The Court of Appeals affirmed these cases without opinion:

State of Oregon v. Alan Dwayne Jackson
(A180105 - Lane County Circuit Court)
State of Oregon v. Joey Lee Whittaker
(A181041 - Lane County Circuit Court)
State of Oregon v. Kenneth McCormick
(A181534 - Multnomah County Circuit Court)
State of Oregon v. Lester Wilburn Lyles
(A182200 - Douglas County Circuit Court)

*This case title has been redacted in this media release and in the online version of the opinion, in compliance with 18 USC section 2265(d)(3).

P. V. v. Srinath Reddy Mandadi*
(A182233 - Washington County Circuit Court)
Robert Haden King v. Board of Parole and Post-Prison Supervision
(A182400 - Board of Parole and Post-Prison Supervision)
State of Oregon v. Morgan Joanne Grandy
(A182440 - Tillamook County Circuit Court)
State of Oregon v. Jose Fernando Weldon
(A182464 - Lincoln County Circuit Court)
State of Oregon v. Timothy Lee Taylor
(A182918 - Lane County Circuit Court)
Hawthorne v. Clackamas County
(A183102 - Clackamas County Circuit Court)
State of Oregon v. Mendoza-Ceja
(A183360 - Washington County Circuit Court)
State of Oregon v. Wolfinger
(A183395 - Lane County Circuit Court)
State of Oregon v. M. G.
(A183515 - Lane County Circuit Court)
State of Oregon v. A. T.-M.
(A183626 - Marion County Circuit Court)
State of Oregon v. R. B.
(A184521 - Clackamas County Circuit Court)
State of Oregon v. S. R.-N.
(A184726 - Marion County Circuit Court)
Department of Human Services v. J. F. R.
(A185515 - Coos County Circuit Court)

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Gregory L. Clark and E. A. C.
(Ortega, Presiding Judge)

Wife appeals the trial court's dissolution judgment awarding custody of her two children and child support to husband, who is not the children's biological father. Wife assigns error to the following rulings: (1) that husband rebutted the presumption under ORS 109.119(4)(b) that wife acted in the children's best interest and (2) awarding husband custody. As to the second ruling, wife argues that the court did not properly weigh the factors under ORS 107.137(1) to determine the best interest and welfare of the child because it did not explicitly find that husband received the preference as the primary caregiver, and that wife's underlying restraining order against husband should have constituted evidence of abuse. Held: First, the Court of Appeals held that the record was sufficient to support the trial court's determination that husband rebutted the presumption. Second, the trial court did not abuse its discretion in awarding custody to husband because it weighed the factors consistently with an implicit finding that husband received the preference as the primary caregiver. Additionally, the trial court's conclusion that the restraining order was another illegitimate attempt to separate children from husband, while not the only possible inference, is supported by evidence in the record. Affirmed.

Chantha Kim and Daniel Kinnersley
(Ortega, Presiding Judge)

Father petitions for reconsideration of the decision in Kim and Kinnersley, 337 Or App 503, ___ P3d ___ (2025). Father contends that the court should clarify and reconsider its opinion to address whether the vacated "unreimbursed medical expenses" other than for Wasatch qualify as "medical" expenses and to correct factual and/or procedural errors in footnotes 1 and 4. Held: Having considered father's petition and mother's response, the Court of Appeals orders that the petition for reconsideration be denied because father has not identified a factual or procedural error in the disposition of the appeal. Reconsideration denied.

Department of Human Services v. L. B.
(Ortega, Presiding Judge)

Mother appeals from the permanency judgment changing the case plan for her child, M, from reunification to adoption. In two assignments of error, mother contends that the juvenile court plainly erred in ruling that no compelling reason existed to forgo adoption for M and that the court therefore erred in changing the permanency plan to adoption. Held: The Court of Appeals concluded that the juvenile court did not plainly err by ruling that there were no compelling reasons to relieve the Department of Human Services of its obligation to file a petition to terminate mother's parental rights, because mother did not present affirmative evidence that a guardianship was better suited to meet M's needs and does not explain on appeal why the evidence DHS presented compels such a conclusion. Affirmed.

State of Oregon v. James Stilson Kropf III
(Shorr, Presiding Judge)

Defendant appeals from a judgment of conviction for several counts of first-degree unlawful sexual penetration and first-degree sexual abuse against his minor daughter, raising four assignments of error. His first and second assignments of error relate to evidence that he had moved out of state in violation of his post-prison supervision requirements for an unrelated criminal matter. First, he argues that the trial court erred in rejecting his motion in limine to exclude that evidence. Second, he challenges the trial court's denial of his motion for mistrial after evidence was discovered supporting his contention that his out-of-state move was innocently undertaken. In defendant's third assignment, he argues that the trial court erred in overruling an objection to a statement that the prosecutor made in closing. Finally, in his fourth assignment, defendant challenges the proportionality of his sentence. Held: On the evidentiary issue, the Court of Appeals concluded that the evidence was admissible as evidence of consciousness of guilt because it was relevant and not unfairly prejudicial. With respect to the motion for mistrial, the court determined that defendant had not demonstrated that he could not have received a fair trial, and that whether defendant left Oregon to evade criminal investigation or for unrelated reasons was a factual issue for the jury to decide. The court concluded that defendant's third assignment was not preserved and defendant did not request plain error review. Finally, the court determined that defendant's prison sentence was not unconstitutionally disproportionate. Affirmed.

Department of Human Services v. J. L. D., Jr.
(Powers, Judge)

In this juvenile dependency proceeding, father appeals from a judgment asserting dependency jurisdiction over his child. In two assignments of error, father asserts that DHS failed to adduce sufficient evidence for the

juvenile court to assert jurisdiction over child. The allegation at issue on appeal is father's failure to maintain a safe environment for child because drug paraphernalia and controlled substances were found within child's reach and child was exposed to controlled substances. Held: The evidence in the record established that child had been in danger at the time she was removed from the home. The focus of the juvenile court's inquiry, however, was on the condition of the home at the time of the jurisdictional trial. Based on a review of the entire record, there was insufficient evidence that the condition of the home as it related to the particular allegation at the time of trial posed a risk of harm to child that was reasonably likely to occur. Reversed.

State of Oregon v. Philip Joseph Rodriguez
(Hellman, Judge)

Defendant appeals a judgment of conviction for sex offenses committed against his daughter, raising three assignments of error. In his third assignment of error--the dispositive issue on appeal--defendant asserts that the trial court erred in denying his motion to suppress statements obtained in violation of Article I, section 12, of the Oregon Constitution and the Fifth Amendment to the United States Constitution. Held: The trial court erred when it denied defendant's motion to suppress statements made during a custodial interrogation. Defendant unequivocally invoked his right to counsel and the state did not meet its burden to demonstrate that defendant validly waived that right when it was the law enforcement officer, not defendant, who re-initiated contact after that unequivocal invocation. Defendant's statements were thus obtained in violation of Article I, section 12. Further, the error was not harmless. The Court of Appeals thus did not need to address defendant's arguments under the Fifth Amendment or his first and second assignments of error. Reversed and remanded.

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