



Kids are Different: Centering Child & Youth Perspectives in Juvenile Cases

25TH ANNIVERSARY
THROUGH THE EYES OF A CHILD CONFERENCE

AUGUST 7TH & 8TH 2022



Appellate Update

Hon. Darleen Ortega

Hon. Megan Jacquot

Hon. Valeri Love



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JDIP



JCIP

Juvenile Dependency



Indian Child Welfare Act

Placement



ICWA Placement Standards

25 USC §1915(b): An Indian child must be placed *within reasonable proximity to the child's home*, taking into account any special needs that the child has.

Issue: Is placement with a maternal relative in Texas, which was the only relative placement known to be available and which allowed the children to be placed together, in reasonable proximity to Portland?

Holding: Yes, the use of the word “reasonable” in the statute means that the child must be placed as close to home as is objectively reasonable while also satisfying the other placement requirements in §1915(b).

Dept. of Human Services v. D. E. A., [314 Or App 385 \(2021\)](#)

Motions

Motion to Dismiss

Motion to Set Aside Default

Motion *in Limine* (Juvenile Court Records)

Motion to Restrict Discovery (Child's Medical Records)



Motion to dismiss

Under the procedure outlined in *Dept. of Human Services v. T. L.*, 279 Or App 673, 688, 379 P3d 741 (2016), mother could move to dismiss jurisdiction "at any time" prior to termination of parental rights; therefore, the juvenile court erred in denying her motion as untimely when she filed her motion three days prior to the permanency hearing.

- A juvenile court has authority to postpone a hearing on a motion to dismiss or to allow parties additional time to adequately prepare their opposition to a motion.
- Additionally, in denying mother's motion to dismiss jurisdiction on its merits, and in changing the permanency plan, the juvenile court erred by relying, at least in part, on facts that were neither explicitly stated nor fairly implied by the jurisdictional judgment.

Dept. of Human Services v. V. M., [315 Or App 775](#) (2021) (reversed)

Motion to dismiss

The adjudicated bases of jurisdiction for mother were involvement in criminal activities and residential instability/chaotic lifestyle, both of which interfered with her ability to safely parent.

Juvenile court denied mother's motion to dismiss. Mother argued that she had not been convicted of any new crimes, had lived in a stable home for several months, had a full-time job, that evidence of her drug use was extrinsic to the jurisdictional bases, and that drug use alone is insufficient to support jurisdiction.

Affirmed

Mother's ongoing methamphetamine use (which violated her conditions of probation and risked incarceration) showed lack of insight into the effect of that conduct on her availability to safely parent her children. This lack of insight links directly to the jurisdictional bases and makes the risk of harm current, not speculative: mother has not yet ameliorated the jurisdictional basis related to her chaotic lifestyle. Mother also had two pending criminal cases, for which she has failed to appear, further risking incarceration.

Dept. of Human Services v. M. E. M., [320 Or App 184 \(2022\)](#);

Motion to dismiss

The trial court denied mother's motion to dismiss in a case involving multiple jurisdictional bases of abuse and neglect to siblings of the children in question.

Affirmed

- Mother had made no apparent progress toward ameliorating the underlying causes of the neglect and abuse: she refused to acknowledge her role in their removal, declined services offered to her, exhibited a pattern of not being forthcoming and denying the abuse of her older children, scapegoating one of them, and not meaningfully engaging in the services she did participate in. Mother was narrowly focused on the fact that she did not have specific notice to ameliorate her codependency to father, but the jurisdictional bases were abuse and neglect, regardless of the underlying cause or whomever the primary abuser.
- Mother had been given notice that she needed to ameliorate the concerns involved in the abuse and neglect of her children, the services ordered having fairly implied that codependency or a personality disorder were conditions mother would need to address regarding her role in the abuse and neglect of her children.

➤ *Dept of Human Services v. A.H.*, **320 Or App 511 (2022)**

Motion to set aside default judgment

Evaluating a motion to set aside a judgment under ORS 419B.923(1)(b) entails a two-step process:

- (1) a court must determine whether the parent has established excusable neglect, and if established must
- (2) decide whether to exercise its discretion to grant the motion to set aside.

The excusable neglect standard in ORS 419B.923 must be construed liberally in favor of a parent's fundamental interest in not having their parental rights terminated in their absence. The standard simply requires a showing there are reasonable grounds to excuse the default.

The facts demonstrate that while the hearing was in progress, mother was attempting to call in but could not connect. The court is aware of no basis for precluding a parent who shows up late to court from participating in a termination trial from that point forward.

***Dept. of Human Services v. J. J. J.*, [317 Or App 188 \(2022\)](#) (reversed)**

Motion to set aside default judgment

Mother moved to set aside the jurisdictional judgments under ORS 419B.923, averring—through declaration of counsel—that she had misunderstood that her appearance was required at the status conference. Mother’s understanding was that the status conference was only for attorneys to set a date for an all-day trial.

- Without holding a hearing, the court denied mother’s motions.

Reversed.

The trial court’s bare notation in the upper corner of a document, without more, and without any reasoning expressed on the record, does not sufficiently inform the appellate court where on the two-step process the juvenile court’s decision lies.

Dept. of Human Services v. L. L., [316 Or App 274 \(2021\)](#)

Motion to set aside default judgment

Father moved to set aside a TPR judgment, contending his failure to appear was the product of excusable neglect under ORS 419B.923(1). He claimed his absence was due to the Department of Human Services (DHS) failure to provide him with transportation after he requested it. Juvenile court denied his motion.

Affirmed.

The trial court found father's assertion that DHS failed to provide him with transportation noncredible. Instead, the court found that, had father asked DHS for transportation, it would have been provided. Credibility finding is binding on the appellate court.

Dept. of Human Services v. A. L. S., [318 Or App 665 \(2022\)](#)

Motion *in limine* (juvenile court records)

Mother filed a motion *in limine* to prevent DHS from providing a psychological evaluation from when she was a ward to a psychologist who was conducting a new evaluation. The juvenile court denied mother's motion.

Reversed. The juvenile court erred by interpreting ORS 419A.255(3)(b) as authority for granting DHS access to mother's records, because mother is not the ward in this action.

- In 2013, the legislature amended ORS 419A.255 to identify the location of "history and prognosis" information in either "the supplemental confidential file or the record of the case." ORS 419A.255(2)(a). If any "history or prognosis" material is located in the court's supplemental confidential file or the record of the case, the privilege attaches to this material, and it applies regardless if these materials exist in duplicate elsewhere (such as DHS files).

DHS had the burden to show that the records were not (1) history and prognosis information and (2) that they were not located in the supplemental confidential file or record of the case. The record here fails to establish either.

Dept. of Human Services v. E. J., [316 Or App 537 \(2021\)](#)

Good cause to restrict discovery

Child filed a motion under ORS 419B.881(6), requesting that juvenile court find good cause to relieve DHS from its obligation to provide parents with her medical information, as ORS 419B.881(3) requires.

- Juvenile court found good cause existed based on A's behavior, providing the information would further delay reunification.

COA affirmed, finding juvenile court's decision was guided by the paramount concern for A's well-being and the goal of expediting reunification.

***Dept. of Human Resources v. R. O.*, [316 Or App 711 \(2022\)](#)**

Jurisdiction

Conditions and Circumstances; ORS 419B.100(1)(c)
Failure to Appear, Emergency Jurisdiction (UCCJEA)



Conditions and Circumstances Jurisdiction

General test: 419B.100(1)(c)

- The juvenile court has jurisdiction over a child whose conditions or circumstances are such as to endanger the welfare of the child or of others.
- A child's welfare is endangered if:
 - There is a current threat of serious loss or injury; and
 - There is a reasonable likelihood that the threat will be realized.
- DHS has the burden to establish:
 - A nexus between the allegedly risk-causing conduct or circumstances and the risk of harm to the child, and
 - The risk is present at the time of the hearing and not merely speculative.

Incarceration/criminal history, lack of custody order

Father is incarcerated and made a plan for his kids to live with paternal uncle. DHS considered the uncle to be safe but placed the kids in nonfamily substitute care due to a concern that it could not prevent mother from removing the kids from uncle's care in the absence of a custody order between mother and father.

- Juvenile court found jurisdiction based on father's incarceration and criminal history.

Reversed.

- Father arranged for care for his kids with an appropriate caregiver when he couldn't care for them. Evidence of father's criminal history, without more, was insufficient. Lack of a custody order is not alone sufficient to establish jurisdiction.

Dept of Human Services v. R. D., 316 Or App 254 (2021)

Sex abuse (unrelated child)

Father and stepmother were sexually abusing teen girls in the home while father's children were at home, but were unaware of what was happening

Mother was a safe resource but located out of town and child and father objected to the children being placed there.

Juvenile court found children in father's class of victims, noting it didn't have to wait for them to be abused to take jurisdiction.

Reversed.

- No nexus between father's sexual abuse of nonrelative children and his own.
- A person's status as a sex offender doesn't *per se* create risk of harm.
- No evidence of risk of harm to the children in the record.

***Dept. of Human Services v. Z. M.*, 316 Or App 327 (2021)**

Parenting skills and abilities

Juvenile court established jurisdiction over 14-year-old child on the basis that mother's parenting skills and abilities are insufficient to safely provide for the child's particular needs.

- Mother used inappropriate physical discipline during an argument with the child, causing the child to run away from home. Child testified she would run away again if returned to mother's care.

Affirmed.

- The conclusion that, absent jurisdiction, there was a reasonable likelihood of harm to the child's welfare due to mother's inability to care for the child's particular needs was legally permissible.

Dept. of Human Services v. A. H., 316 Or App 126 (2021)

Domestic Violence (Volatile Relationship)

Juvenile court found jurisdiction based on “ongoing volatile and/or unsafe relationship”

Reversed.

The court found the evidence was insufficient to show a non-speculative threat of serious loss or injury to the children that was reasonably likely to occur.

- The incidents involved verbal disputes and pushing and shoving. Father was bit by mother in at least one of the incidents, his arms were scratched in another, during one incident father pushed mother and she fell, lightly scuffing her knee or elbow, and there was broken glass in the driveway.
- The court found no evidence that the children were ever the objects of their parents’ volatile and/or unsafe conduct nor that they were close enough to be endangered by it.
- The court found no evidence that would lead it to conclude that these specific children had, or would, attempt to intervene. On the contrary, on those occasions where the children observed fighting, they had not attempted to intervene. (The children witnessed at least two of the incidents.)

Dept. of Human Services v. T. B. L., [320 Or App 434 \(2022\)](#)

Substance abuse and domestic violence

Father of one-year-old child argues the evidence was inadequate to support the court's finding that father has a substance abuse problem and subjects mother to domestic violence, and that there is a nexus between father's behavior and a current, nonspeculative risk of serious harm to the child.

Affirmed.

- There was evidence in the record that father had used meth 3 weeks prior to trial, that his use makes him paranoid and contributed to past violent behaviors, and that he subject mother to DV with their child in the immediate vicinity 6 months before trial. This was sufficient evidence to support the court's findings.

Dept. of Human Services v. M. E. S., [317 Or App 817 \(2022\)](#)

Substance abuse, volatile and erratic household

Juvenile court asserted jurisdiction over infant based on mother's alcohol abuse and that she subjects x to a volatile and erratic household.

Reversed.

- Although mother has history of alcohol abuse, there's no evidence that mother drank to the point of intoxication since X's birth or that it prevented her from providing minimally adequate care to X.
- There was evidence of only one instance of DV – well over a year before X was born – when mother hit father and burned him with a cigarette lighter. Both mother and father testified this was an isolated incident.
- Mother and father's verbal arguing at DHS office not sufficient.

Dept. of Human Services v. S. G. T., 316 Or App 442 (2021)

Substance abuse, parenting skills, residential instability, volatile and erratic behavior

Substance abuse (mother)– affirmed.

- Court could infer mother still suffered from a current substance abuse disorder, considering her long history of recurring relapse, lack of interest in drug treatment, and inconsistent statements regarding her last use of meth. Inference permissible that continued substance abuse would interfere with mother's ability to parent a child who was already high needs.

Residential instability – **reversed**.

- Trailer was ready and equipped; parents had received an award letter that would allow them to receive subsidized housing in the near future. DHS concerns about parents' refusal to allow DHS to inspect trailer not enough to show risk to M.

Dept. of Human Services v. T.N.M., [315 Or App 160 \(2021\)](#)

Volatile and erratic behavior; parenting skills

Mother and father appeal from a jurisdictional judgment of the trial court that included, among other findings: 1) father's erratic and/or volatile behavior interferes with his ability to safely parent and 2) father unwilling or unable to learn parenting skills necessary to safely parent the child.

Reversed re these two allegations.

- Erratic/volatile behavior: a neighbor had obtained a civil stalking order against father for shooting a BB gun in her direction and other unwanted contact. He had several sharp objects in his backpack at the hospital. But no evidence that father had used, or threatened to use, a BB gun, a sharp object, or anything else to harm A or any other child.
- Parenting skills: father was cooperative with medical staff at the hospital, asked appropriate questions and was receptive to suggestions. He admitted to both mother's methamphetamine use while pregnant and his own use. The court found that, although father lacked basic parenting skills, like many first-time parents, there was no evidence that he was unable or unwilling to learn the parenting skills necessary to safely parent the child.

Dept. of Human Services v. C. A. C., 319 Or App 625 (2022)

Failure to Appear

Father failed to appear for a jurisdictional hearing after being provided required order under ORS 419B.816. Court set case over for a prima facie hearing, giving father a second chance to appear (father's counsel agreed to plan). Father failed to appear again. Court entered judgment; father moved to set it aside; court denied motion.

Affirmed.

- Once a parent has appeared in response to a summons and the court has ordered the parent to appear personally at a later hearing under ORS 419B.816, the court may adjudicate the dependency petition in the parent's absence, either at that hearing or on a future date. ORS 419B.815(7).

Dept. of Human Services v. C. C., [315 Or App 459 \(2021\)](#)

Temporary Emergency Jurisdiction

Under ORS 109.751(2), a juvenile court exercising temporary emergency jurisdiction has authority to enter dependency judgments making children wards of the court and continuing their placement in foster care, if the circumstances giving rise to the emergency continues to exist at the time the court enters those orders.

However, the juvenile court lacks authority to order actions that are not necessary to protect the children in an emergency and does not have authority to order a parent to engage in specified activities to regain custody of the children.

Dept. of Human Services v. J. S., [368 Or 516 \(2021\)](#); *Dept. of Human Services v. P. D.*, [368 Or 627 \(2021\)](#)

Petition Amended at Trial

Petition alleged the child suffered emotional trauma in her mother's care; at trial, the juvenile court informed the parties that it would make some "slight changes...to include both parents" and issued a jurisdictional judgment reflecting that the allegation had been amended and proven as to both parents. Father did not object at the time but asserted on appeal that the juvenile court had committed plain error.

Affirmed

- ORS 419B.809(6) allows a juvenile court to direct that a petition be amended. The court recently concluded that the statute does not preclude a juvenile court from amending a petition;
- The juvenile court told the parties at the close of the hearing that it was amending the petition to include both mother and father in the allegation;
- The juvenile court then issued a judgment that explicitly affirmed that the allegation had been amended and proven as to both parents.

Based on these findings, the juvenile court did not commit plain error.

***Dept. of Human Services v. M. H.*, 320 Or App 51 (2022)**

Order for Psychological Evaluation

— New Test (*W.C.T.* and application)



New test under ORS 419B.337(2) and 419B.343(1)(a)

After an evidentiary hearing, a juvenile court may order a psychological evaluation when finding that:

- (a) the evaluation is rationally related to the jurisdictional findings,
 - (b) it serves as a predicate component to the determination of treatment and training,
 - (c) there is a need for treatment or training to ameliorate the jurisdictional findings or to facilitate the child's return, and
 - (d) the parent's participation in needed treatment or training is in the best interests of the child.
- ***Dept. of Human Services v. W. C. T.***, [314 Or App 743 \(2021\)](#) (court's order affirmed as to mother, **reversed** as to father)

Application

Juvenile court's order for a psychological evaluation **reversed** when the stated reason for the evaluation was to better understand mother and father's relationship and that this understanding might help in making a parenting plan.

- The psychological evaluation ***was not rationally related to the jurisdictional findings*** (mother's substance abuse and inability to protect the child from the unsafe environment that caused her to test positive for meth).
- ***Dept. of Human Services v. T. L. M., 316 Or App 39 (2021)***

Application

With regard to the second *W. C. T.* requirement – that the psychological evaluation is a predicate component of treatment or training of a parent – there is evidence to support the juvenile court’s findings regarding mother’s lack of progress in ordered services for domestic violence and substance abuse.

A growing body of our case law establishes that, when a parent has failed to sufficiently engage in services over time, at some point the court may find a psychological evaluation to have become a necessary component of the ordered services.

- *Dept. of Human Services v. N. S. C.*, [316 Or App 755 \(2022\)](#)

Reasonable Efforts

Timing

- Efforts must focus on ameliorating the adjudicated bases for jurisdiction and give a parent a reasonable opportunity to demonstrate the ability to adjust their conduct and become a minimally adequate parent.
- Finding of reasonable efforts **reversed** when:
 - DHS moved to change C's plan four months after court asserted jurisdiction as to father. Several of the services that DHS identified as being necessary were unavailable.
 - Over the next 14 months before the court ruled on the permanency plan change, the services continued to be insufficient.

Dept of Human Services v. L. M. K., [319 Or App 245 \(2022\)](#)

Institutional Barriers

- Finding of reasonable efforts **reversed** when:
 - Basis of jurisdiction was mother's substance abuse and anger control issues
 - The court had instructed DHS to offer mother an opportunity to participate in a dual-diagnosis residential treatment program.
 - Mother was at OSH and needed to get a mental health evaluation to assess her eligibility for the dual-diagnosis programs DHS had referred her to.
 - OSH had not provided the evaluation by the time of the permanency hearing – mother had no opportunity to participate in treatment.
 - Institutional barriers do not categorically excuse DHS from meeting its obligation under ORS 419B.476(2)(a).

Dept. of Human Services v. M. W., [319 Or App 81 \(2022\)](#)


Sufficient Progress, Incarcerated Parent

Court affirmed trial court's change of plan from reunification to adoption, with incarcerated father.


- Reasonable efforts:
 - Despite COVID 19 restrictions, DHS had offered a broad scope of services and father had fully engaged in them.
 - The record contained no evidence about any specific additional efforts that would have made a material improvement.
- Sufficient progress: the length of time remaining on father's sentence, lengthy criminal history, recent fight (which extended father's release date).
- Reasonable time: Record supports 17 months as too long, with evidence of greater need for permanency due to prenatal substance exposure and vulnerability in early adaptive skills.

➤ *Dept. of Human Services v. R. C.*, [320 Or App 762](#) (2022) Affirmed

Permanency



Compelling Reasons
ORS 419B.498(2) Determinations
Reasonable Efforts
Sufficient Progress



ORS 419B.498(2) determination: Compelling Reason

The trial court changed the plan from reunification to adoption, finding that neither parent had made sufficient progress to allow the children to return home safely now, nor that further efforts would make it possible for them to return home safely within a reasonable amount of time. The trial court also found no compelling reason to relieve DHS of its obligation to file a petition to terminate mother's parental rights to the child.

Affirmed

The court agreed that any delay, to be reasonable, must be for a very short period. Doctor and other providers testified that mother must acknowledge and take accountability for her role in the harm done to her children and in their removal. Mother did not successfully participate in services, denied causing any harm to any of her children, and did not prove that she had participated in additional services that would allow the child to safely return to her in a reasonable period of time.

➤ ***Dept of Human Services v. A.H., [320 Or App 65 \(2022\)](#)***

ORS 419B.498(2) determination: Permanent placement with a relative

Parents challenged the juvenile court's judgment changing their daughter's permanency plan from reunification to adoption, arguing that their daughter was being cared for by a relative in a placement that was intended to be permanent.

Reversed and remanded to determine whether durable guardianship, permanent guardianship, or some other plan was the most appropriate plan for the child.

The court disagreed with the trial court's finding that placement with the great-grandmother was not intended to be permanent. While she did express hope that the child could someday live with mother, she also testified that her intention was to permanently care for the child. As the record compels a finding that the child is in a permanent placement with a relative, the exception to adoption under ORS 419B.498(2)(a) applies.

Dept. of Human Services v. J.H., 320 Or App 658 (2022)

Termination of Parental Rights

Best Interest and Reasonable Time
Relinquishment



Best interest

Mother argued continuing a relationship with her and with grandmother was in the child's best interest, and that a permanent guardianship would allow for that, while allowing the court to determine whether the child should have continuing contact with mother.

- At trial, caseworker and psychologist testified adoption was in child's best interest, but they equated permanency with adoption. Also emphasized that child's siblings had been adopted and speculated that child would suffer if he didn't have same legal status as siblings. Juvenile court accepted this framing and terminated mother's rights.

Reversed.

- A parent can't seek to vacate a permanent guardianship, so the plan does provide the child with permanency.
- The court gives significant weight to the importance of preserving the child's relationship with his biological parents where it is possible to do consistent with his best interests.
- *Dept. of Human Services v. D. F. R. M.*, [313 Or App 740 \(2021\)](#)

Best interest

Mother has history of co-occurring substance abuse disorders and major depressive disorder that cause her to become emotionally dysregulated, out of touch with reality, and neglectful of her children's needs.

- Visits are problematic and cause harm to S. S often asks to end visits early and appears withdrawn and distant following visits.
- S's foster parents and mother do not have a good relationship and have concerns about keeping S safe with mother involved. During one incident, mother charged at the foster mother's car.

Juvenile court judgment terminating mother's rights affirmed.

Dept. of Human Services v. J. S. E. S., [315 Or App 242 \(2021\)](#)

Best interest

Mother has a history of drug use and is a victim of DV. She participated in visits but missed visits for months at a time, which was troubling for B.

B and her siblings were strongly bonded to mother and wanted to live with her. Majority of witnesses recognized that maintaining a relationship with mother would be beneficial to B.

Juvenile court TPR judgment **reversed**.

- The court gives significant weight to the importance of preserving a child's relationship with her biological parent where it is possible to do so consistent with her best interests.
- Even though it was assumed that B's adoptive parent would allow further contact, that does not substitute for the required evidence that B's best interest requires termination of mother's rights.
- Given child's attachment to mother and the availability of permanent guardianship, the juvenile court erred in finding that terminating mother's rights was in B's best interests.

Dept. of Human Services v. D. E. P., 315 Or App 566 (2021)

Best interest

Father will be incarcerated until 2024.

The children's current caretaker where they had lived for the last three years was designated as the adoptive placement and was not willing to agree to permanent guardianship.

Juvenile court judgment terminating father's rights affirmed.

- It was in the children's best interests to terminate parental rights to allow them to maintain their stability and permanency with their current caretaker who was also willing to agree to post-adoption contact.

Dept. of Human Services v. D. T. P., 317 Or App 810 (2022)

Relinquishment Revocation

Mother asked for a review hearing about 10 months after she signed relinquishment documents, stating that she had revoked her relinquishment.

- The trial court erred in finding that mother had “irrevocably” relinquished the child when it based its decision on the language of the *release and surrender* and *certificate of irrevocability* documents.
- A *release and surrender* and *certificate of irrevocability* are subject to ORS 418.270(4) and become irrevocable *as soon as* the child is placed for adoption, not before. (The documents may not then be revoked unless fraud or duress is affirmatively proved)
- Under ORS 109.381(3), though the child’s adoption was final, it was not yet conclusively binding irrespective of any defects because one year had not passed from the date the judgment was entered.

Review judgment and judgment terminating jurisdiction and wardship vacated and remanded to determine whether mother revoked her relinquishment before the child was placed for adoption.

➤ *Dept. of Human Services v. K. J. V.*, [320 Or App 56 \(2022\)](#)

Juvenile Delinquency



Evidence

OEC 803(18a)(b) provides a hearsay exception for a statement made by a person concerning an act of abuse as defined in ORS 107.705 or 419B.005 if the declarant is unavailable as a witness but was chronologically or mentally under 12 years of age when the statement was made. If the declarant is unavailable, the rule requires certain indicia of reliability. To be admitted in a criminal trial, there must also be corroborative evidence of the act of abuse.

- Youth sought to exclude the statements of the 5-year-old victim via the victim's mother unless the state provided corroborative evidence of the act of abuse, relying on the rule's requirement of such in a criminal trial. The juvenile court denied youth's motion and the court agreed, finding that the corroboration requirements do not apply to juvenile court proceedings.

State v. R. J. S., 318 Or App 351 (2022)

Former Jeopardy

While on juvenile probation, youth failed to report to his probation officer that he had been contacted by law enforcement, as required by the terms of his probation. Youth was found in violation for the failure to report. The state subsequently filed a juvenile delinquency petition alleging theft, which was the subject matter of the law enforcement contact.

- The act by the youth that formed the basis for the probation violation was the failure to report law enforcement contact. Although the theft is what prompted police to contact youth, youth's decision not to report the contact to his probation officer is not related to the act of theft. The two adjudications, therefore, did not arise from the same conduct within the meaning of ORS 419A.190.

State v. G. E. S., 316 Or App 294 (2021)

Detention (post-adjudication and pre-disposition)

ORS 419C.145 authorizes detention of a youth only before “adjudication on the merits,” to mean holding a youth in detention only before the trial-like adjudication stage of a juvenile proceeding, which does not encompass detention after adjudication, including the period between adjudication and disposition.

State v. J. R., [318 Or App 21](#) (2022)

Disposition (consecutive terms of commitment)

The juvenile court does not have the authority to impose consecutive terms of commitment because the juvenile code does not explicitly authorize the court to do so (construing ORS 419C.501).

Juvenile court's consecutive terms of commitment **reversed**.

- The court conducted a comprehensive analysis construing ORS 419C.501, looking to the text of the statute, context, relevant legislative history, and canons of construction, addressing shifts in the adult criminal code, the legislature's unlinking of criminal sentencing and juvenile commitments, and the rehabilitative purpose of the juvenile code.

***State v. B. Y.*, 319 Or App 208 (2022)**

COMMITMENT TO OREGON YOUTH AUTHORITY

If a juvenile court enters a dispositional order that places a youth in the legal custody of OYA, the order must include written findings describing *why* it is in the best interests of the youth to be placed with OYA and not with youth's family or community, as required by ORS 419C.478(1).

Vacated in part and remanded for written findings under ORS 419C.478(1); otherwise affirmed.

- The juvenile court's recitation that the youth violated his probation and failed to follow the rules of a program is insufficient.

State v. S. D. M., 318 Or App 418 (2022)

SEX OFFENDER REPORTING

It is the legislature's prerogative to place the high evidentiary burden imposed by ORS 163A.030 on youth and it would "perhaps be rare" for the Court of Appeals to reverse a juvenile court's findings under the statute.

Juvenile court's denial of youth's request for relief from reporting as a sex offender is affirmed.

- Youth had argued that he was the "epitome of the rehabilitated youth" for whom the legislature provided relief from registration under ORS 163A.030.
- The court noted that it would only disturb the juvenile court's findings if the record would compel *every* reasonable juvenile court to be persuaded that the youth had met that burden.

State v. A. R. H., 314 Or App 672 (2021)

SEX OFFENDER REPORTING

Youth failed to preserve his statutory construction argument that “rehabilitated and does not pose a threat to the safety of the public” refers to the specific threat of a future sex offense, rather than general threats to public safety under ORS 163A.030(7)(b). Youth also failed to request review as a matter of plain error.

Juvenile court’s denial of youth’s request for relief from reporting as a sex offender is affirmed.

- To be considered on appeal, a claimed error must be preserved in the lower court: the party must provide the trial court with an explanation of its objection that is specific enough to ensure the court can identify the alleged error with enough clarity to permit it to consider and correct the error immediately.
- Youth bore the burden to prove by clear and convincing evidence that he was rehabilitated and did not pose a threat to the safety of the public. The court will only reverse the juvenile court’s finding if the record would compel every reasonable juvenile court to be persuaded that the youth had met that burden.

State v. M. R. G.-E., [317 Or App 535 \(2022\)](#)

Discussion/Questions

