

COURT OF APPEALS OF OREGON

State v. S. T. S.

236 Or. App. 646 (2010) · Decided August 18, 2010

SUMMARY

The Oregon Court of Appeals held that an appeal from a juvenile court jurisdiction judgment was not moot even though the juvenile court later dismissed jurisdiction, because the findings could affect future DHS investigations and carry social stigma. On the merits, the court affirmed the juvenile court's finding that father's domestic violence against mother created a current risk of harm to the children, supporting jurisdiction.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Landau; Ortega; Schuman
JURISDICTION	Oregon
DECIDED	August 18, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from juvenile court jurisdiction order; motion to dismiss as moot after jurisdiction dismissed.
STANDARD OF REVIEW	Legal conclusions reviewed for errors of law; findings of historical fact binding if any evidence supports them; de novo review declined.
PRECEDENTIAL VALUE	Published
PARTIES	S. T. S. (father) v. State of Oregon

TOPICS

family law appellate procedure mootness standard of review

PRACTICE AREAS

Family law Appellate procedure

QUESTIONS PRESENTED

- Whether the appeal is moot after the juvenile court dismissed jurisdiction.

2. Whether the juvenile court erred in taking jurisdiction over the children based on father's domestic violence, specifically whether the state proved a current risk of harm to the children.

HOLDINGS

1. The appeal is not moot because the juvenile court's finding of jurisdiction has collateral consequences, including effect on father's DHS record and social stigma, which together establish sufficient practical effects on the parties' rights.
2. The juvenile court's finding of jurisdiction was appropriate because there was evidence to support the finding that father's domestic violence created a current risk of harm to the children.

KEY QUOTATIONS

“As to both petitions, there is no reasonable doubt in my mind that [father] has been a perpetrator of domestic violence against [mother], and that he’s done it often, and that it was both physical and verbal. And I do find that it endangers the welfare of both these children.” (651)

“I really have to say [father] that your testimony is very convincing as to the opposite of everything you say. You have very specific recollections of everything except the important stuff. And then [mother], I see her as someone who has been emotionally beat down by you, and Post Traumatic Stress, at least. That’s my ruling.” (651)

“the [juvenile] court did not disturb the findings in its previous judgment asserting jurisdiction” (653)

“negatively affect” (653)

“equally — perhaps, more— significant” (653)

FACTUAL BACKGROUND

Mother and father had a seven-year on-and-off relationship with frequent arguments. Mother reported domestic violence on multiple occasions, including a December 2008 incident where father threw a diaper bag causing a black eye. The couple had two children, aged four and seven weeks at the time of the jurisdiction hearing. At the hearing, parents testified they had been separated for nearly four months with no plans to reunite, but the juvenile court found father had committed domestic violence and that it endangered the children's welfare.

PROCEDURAL HISTORY

The juvenile court took jurisdiction over both children as to father based on domestic violence. Father appealed. After submission, the juvenile court dismissed jurisdiction, and DHS moved to dismiss the appeal as moot. The Court of Appeals denied the motion and affirmed on the merits.

DISPOSITION

affirmed

CASES CITED

- State ex rel Juv. Dept. v. L. B., 233 Or App 360, 226 P3d 66 (2010)
- State ex rel Juv. Dept. v. Vanbuskirk, 202 Or App 401, 405, 122 P3d 116 (2005)
- State ex rel Juv. Dept. v. Smith, 316 Or 646, 652-53, 853 P2d 282 (1993)
- State ex rel Juv. Dept. v. S. A., 230 Or App 346, 347, 214 P3d 851 (2009)
- Emmert v. No Problem Harry, Inc., 222 Or App 151, 159, 192 P3d 844 (2008)
- Ball v. Gladden, 250 Or 485, 487, 443 P2d 621 (1968)