

OREGON COURT OF APPEALS

Dept. of Human Services v. S. L. B.

346 Or. App. 641 (2026) · No. A187882 (Control); A187883; A187884 · Decided January 28, 2026

SUMMARY

The Oregon Court of Appeals affirmed juvenile dependency judgments concerning three children and an order relieving the Oregon Department of Human Services of reasonable reunification efforts. The court assumed that the juvenile court erred by compelling the father to answer questions about another child's death without use and derivative-use immunity under the Fifth Amendment, but held that any evidentiary error was harmless because the juvenile court relied on other evidence. The court also declined to address an Oregon constitutional claim because it was not preserved.

CASE DETAILS

COURT	Oregon Court of Appeals
WRITING FOR THE COURT	Aoyagi, Presiding Judge; Egan, Judge; Pagán, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	January 28, 2026
DOCKET	A187882 (Control); A187883; A187884
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed juvenile court judgments establishing dependency jurisdiction over his three children and relieving the Oregon Department of Human Services of its obligation to make reasonable reunification efforts. He argued that the juvenile court violated the Fifth Amendment by compelling him to answer questions concerning the death of another child without granting immunity.
STANDARD OF REVIEW	The court reviewed the juvenile court's decision to compel testimony over a Fifth Amendment objection for legal error. It reviewed the assumed evidentiary error for harmlessness, asking whether there was little likelihood that admission of the testimony affected the outcome.
PRECEDENTIAL VALUE	published and precedential
PARTIES	S. L. B. v. Department of Human Services

TOPICS

privilege

evidence

harmless error

appellate procedure

family law procedure

PRACTICE AREAS

juvenile dependency

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the juvenile court violated the Fifth Amendment by compelling father to answer questions that could incriminate him in a future criminal prosecution without granting use and derivative-use immunity.
2. If the juvenile court erred, whether the error was harmless in the dependency proceeding.
3. Whether father preserved a claim under Article I, section 12, of the Oregon Constitution.

HOLDINGS

1. Father did not preserve an Article I, section 12, claim because he invoked only his Fifth Amendment right to remain silent in the juvenile court.
2. A court may not compel testimony from a witness who has properly invoked the Fifth Amendment privilege when the answers may incriminate the witness in a future criminal prosecution unless the court grants use and derivative-use immunity.
3. Any error in compelling father to answer the four questions about M was harmless in the dependency proceeding, and the dependency judgments were affirmed.

KEY QUOTATIONS

“The privilege can be claimed in any type of proceeding, but it protects a person from self-incrimination only in criminal prosecutions.” (at 645)

“Granting “use and derivative-use immunity is constitutionally sufficient to compel testimony over a claim of the privilege.”” (at 646)

“An evidentiary error is “harmless” if there is “little likelihood” that it affected the outcome.” (at 648)

FACTUAL BACKGROUND

The Department of Human Services received information that father and mother had failed to obtain necessary medical care for baby M, who was born on the parents' property and later died and was buried there. The parents were arrested for criminal mistreatment of D, K, and W, and father later pleaded guilty to two counts. At the dependency hearing, father stipulated to five jurisdictional bases but contested the allegation that he caused M's death by neglect. The juvenile court discredited father's testimony that M was stillborn and relied on other evidence to find that M was born alive and died from neglect.

PROCEDURAL HISTORY

The Klamath County Circuit Court established dependency jurisdiction over D, K, and W on five stipulated bases and an additional contested basis that father caused the death of another child, M, by abuse or neglect. The court also relieved the Department of Human Services of reasonable-efforts obligations based on that aggravating circumstance. During the jurisdictional hearing, the court initially compelled father to answer four questions about M without immunity, later sustaining his renewed objection. The Oregon Court of Appeals assumed that compelling the testimony was error but held the error harmless and affirmed.

DISPOSITION

affirmed

CASES CITED

- Dept. of Human Services v. K. L. R., 235 Or. App. 1, 5, 10, 230 P.3d 49 (2010)
- State v. Rodriguez, 301 Or. App. 404, 410, 414, 456 P.3d 312 (2019)
- Hoffman v. United States, 341 U.S. 479, 488, 71 S. Ct. 814, 95 L. Ed. 1118 (1951)
- Empire Wholesale Lumber Co. v. Meyers, 192 Or. App. 221, 227, 85 P.3d 339 (2004)
- Kastigar v. United States, 406 U.S. 441, 453, 458, 92 S. Ct. 1653, 32 L. Ed. 2d 212 (1972)
- Dept. of Human Services v. F. T. R., 306 Or. App. 697, 703-04, 475 P.3d 931 (2020)
- Chavez v. Martinez, 538 U.S. 760, 767, 123 S. Ct. 1994, 155 L. Ed. 2d 984 (2003)
- Redwine v. Starboard, LLC, 240 Or. App. 673, 682-83, 251 P.3d 192 (2011)
- Dept. of Human Services v. G. D. W., 353 Or. 25, 39, 292 P.3d 548 (2012)
- State v. Jones, 296 Or. App. 553, 570-71, 439 P.3d 485 (2019), rev. denied, 365 Or. 557 (2019)
- Lefkowitz v. Turley, 414 U.S. 70, 78, 94 S. Ct. 316, 38 L. Ed. 2d 274 (1973)
- Garrity v. New Jersey, 385 U.S. 493, 500, 87 S. Ct. 616, 17 L. Ed. 2d 562 (1967)
- Chavez v. Robinson, 12 F.4th 978, 994 (9th Cir. 2021)