

OREGON COURT OF APPEALS

Dept. of Human Services v. T. S.

348 Or. App. 481 (2026) · No. A187516 · Decided April 15, 2026

SUMMARY

The Oregon Court of Appeals affirmed a judgment establishing a permanent guardianship for the child L. D. The court held that the mother was not deprived of a fundamentally fair proceeding despite proceeding without appointed counsel, considering her history with prior attorneys, the circumstances of her request for new counsel, and the interests in finality and permanency. The court also denied as moot a motion to supplement the record and file a late transcript.

CASE DETAILS

COURT	Oregon Court of Appeals
WRITING FOR THE COURT	Powers, J.; Shorr, Presiding Judge; Powers, Judge; O'Connor, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	April 15, 2026
DOCKET	A187516
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed a judgment establishing a permanent guardianship for her child, arguing that the guardianship proceedings were fundamentally unfair because she was not represented by appointed counsel. The Oregon Court of Appeals affirmed and denied as moot the motion to supplement the record and file a late transcript.
STANDARD OF REVIEW	The court applied the Mathews v. Eldridge due-process framework and reviewed the juvenile court's factual findings for support in the record. Unchallenged factual findings were binding on appeal.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	T. S. v. Department of Human Services, L. D.

TOPICS

- guardianship procedure
- guardianships
- procedural due process
- due process
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the juvenile court made an actual ruling that mother's conduct effected an implied waiver of her right to appointed counsel.
2. Whether mother's challenge to the alleged waiver of counsel during the permanency phase was properly before the appellate court when she did not appeal the permanency judgment.
3. Whether due process or Oregon law required the juvenile court to appoint counsel sua sponte or provide mother an absolute right to counsel in the permanent guardianship proceeding despite her repeated disputes with counsel and the court's finding that a request for new counsel was made for purposes of delay.
4. Whether the procedures used to establish the permanent guardianship were fundamentally fair under the Due Process Clause of the Fourteenth Amendment.

HOLDINGS

1. The court rejected the assignment because the record contained no ruling that mother had impliedly waived her right to counsel. The juvenile court had expressly found that it could not determine that mother knowingly and voluntarily waived counsel because she refused to participate in the waiver colloquy.
2. The challenge was not properly before the court because mother did not appeal the permanency judgment that changed the plan away from reunification.
3. The court rejected the propositions that the juvenile court had a sua sponte duty to appoint counsel or that mother possessed an absolute right to counsel that prevented her from proceeding pro se. Under Oregon law, counsel is required in nontermination dependency proceedings when the nature of the proceeding and due process so require, but the right is not unlimited.
4. Mother was not deprived of due process because the procedures were fundamentally fair. Although mother had a significant liberty interest in the guardianship proceeding, the risk of erroneous deprivation and the probable value of appointing another attorney were low in the circumstances, while the state and child had significant interests in finality and achieving permanency.

KEY QUOTATIONS

"Due process requires that parents be provided with "fundamentally fair" procedures such that they have the "opportunity to be heard at a meaningful time and in a meaningful manner." (490)

"Thus, given the entire context, there was a low probability that appointment of another counsel would have added any procedural protections to these particular proceedings. Accordingly, we conclude that mother was provided with "fundamentally fair" procedures." (492-93)

"Considering the flexible nature of due process requirements, and the demands of this particular situation, we conclude that the trial court did not err." (493)

FACTUAL BACKGROUND

The juvenile court had exercised dependency jurisdiction over L. D. since March 2023 and later changed the permanency plan to permanent guardianship. Mother had six different appointed attorneys withdraw because of breakdowns in the attorney-client relationship or because mother no longer wanted their representation; she then proceeded pro se with a legal advisor. The legal advisor withdrew shortly before trial, but mother had not requested new counsel during the intervening month, and the juvenile court found that her request for counsel was not made in good faith and was for purposes of delay. Mother declined to participate in the guardianship trial, left the courtroom during testimony, and the court later entered a permanent guardianship judgment.

PROCEDURAL HISTORY

The Department of Human Services filed a dependency petition in April 2022, and the juvenile court asserted dependency jurisdiction in March 2023. The permanency plan changed to permanent guardianship in July 2024, and the Department filed a guardianship petition in August 2024. Mother had six appointed attorneys withdraw and later proceeded pro se with a legal advisor; the legal advisor ultimately withdrew, and the juvenile court denied mother's last-minute continuance and implicit request for new counsel. After mother declined to participate in the trial, the court found the guardianship allegations proven by clear and convincing evidence and entered a permanent guardianship judgment, which mother appealed.

DISPOSITION

affirmed

CASES CITED

- State ex rel Juv. Dept. v. Geist, 310 Or. 176, 796 P.2d 1193 (1990)
- Dept. of Human Services v. T. L., 358 Or. 679, 369 P.3d 1159 (2016)
- Dept. of Human Services v. J. M., 266 Or. App. 453, 338 P.3d 191 (2014), rev. den., 356 Or. 685 and 356 Or. 689 (2015)
- Dept. of Human Services v. W. S. C., 248 Or. App. 374, 273 P.3d 313, rev. den., 352 Or. 341 (2012)
- Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- Troxel v. Granville, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000)
- Dept. of Human Services v. T. M. D., 365 Or. 143, 442 P.3d 1100 (2019)
- Lassiter v. Dept. of Social Services, 452 U.S. 18, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981)
- Dept. of Human Services v. J. S., 339 Or. App. 695, 568 P.3d 995, rev. den., 374 Or. 379 (2025)
- Dept. of Human Services v. P. G., 348 Or. App. 398, ____ P.3d ____ (2026)