

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

In the Matter of S. S.,
a Child.

DEPARTMENT OF HUMAN SERVICES,
Petitioner-Respondent,

v.

K. L.,
Appellant.

Deschutes County Circuit Court
18JU04837; A169358 (Control)

In the Matter of S. S.,
a Child.

DEPARTMENT OF HUMAN SERVICES,
Petitioner-Respondent,

v.

K. L.,
Appellant.

Deschutes County Circuit Court
18JU04838; A169359

Raymond D. Crutchley, Judge.

Argued and submitted March 27, 2019.

Valerie Colas, Deputy Public Defender, argued the cause for appellant. Also on the briefs was Shannon Storey, Chief Defender, Juvenile Appellate Section, Office of Public Defense Services.

Robert M. Wilsey, Assistant Attorney General, argued the cause for respondent. Also on the brief were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Before Ortega, Presiding Judge, and Powers, Judge, and Linder, Senior Judge.

PER CURIAM

Reversed.

PER CURIAM

Mother appeals judgments finding her two children to be within the jurisdiction of the juvenile court, arguing that the court lacked subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)¹ to adjudicate the dependency petitions because Oregon was not the children’s “home state.” The Department of Human Services (DHS) concedes that Oregon was not the children’s home state but argues that we should affirm because the court’s findings and the record support temporary emergency jurisdiction under the UCCJEA. Because nothing in the record suggests that the trial court ordered temporary emergency jurisdiction under ORS 109.751(1), we reverse the jurisdictional judgments.²

The state concedes, and we agree, that Oregon was not the children’s home state, and, therefore, the juvenile court did not have jurisdiction under ORS 109.741(1). Alternatively, the state argues that the juvenile court had subject matter jurisdiction under ORS 109.751(1), which grants states “temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.” The state contends that, even though the juvenile court did not enter an order taking temporary emergency jurisdiction, the court’s findings, as supported by the record, establish that mother endangered the children due to physically abusive and erratic behavior, which is sufficient to satisfy the requirements of ORS 109.751(1). However, we have reversed a jurisdictional judgment under similar circumstances where the

¹ The UCCJEA applies to dependency proceedings in Oregon, ORS 419B.803(2), and is codified at ORS 109.701 to 109.834. ORS 109.701 (“ORS 109.701 to 109.834 may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.”).

² Before oral argument, the juvenile court entered a judgment terminating wardship and dismissing jurisdiction. The parties stipulate that the issue is not moot because the jurisdictional judgments continue to have collateral consequences on mother. We agree. *See Dept. of Human Services v. A. B.*, 362 Or 412, 426, 412 P3d 1169 (2018) (concluding that appeal is not moot unless DHS persuades the appellate court that the collateral consequences identified by the parent are factually incorrect or legally insufficient).

record, like the record here, indicated that the court did not take temporary emergency jurisdiction over the child. *Dept. of Human Services v. T. F.*, 292 Or App 356, 360-61, 360 n 4, 425 P3d 480 (2018) (declining to address the possibility of temporary emergency jurisdiction as an alternative basis for affirmance). The state has not persuasively distinguished this case from *T. F.* Accordingly, we reverse the jurisdictional judgments.

Reversed.