

**FILED: May 02, 2012**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of  
D. K., a Child.

DEPARTMENT OF HUMAN SERVICES,  
Petitioner-Respondent,

v.

R. S.,  
Appellant.

Klamath County Circuit Court  
1100170JV1

Petition Number  
1100170M

A149739

Roxanne B. Osborne, Judge.

Submitted on March 13, 2012.

Peter Gartlan, Chief Defender, and Valerie Colas, Deputy Public Defender, Appellate Division, Office of Public Defense Services, filed the brief for appellant.

John R. Kroger, Attorney General, Anna M. Joyce, Solicitor General, and Tiffany Keast, Assistant Attorney General, filed the brief for respondent.

Before Armstrong, Presiding Judge, and Haselton, Chief Judge, and Duncan, Judge.

PER CURIAM

Reversed.

1                   PER CURIAM

2                   Father appeals a judgment finding his eight-year-old child within the

3 jurisdiction of the juvenile court under ORS 419B.100(1)(c). Jurisdiction was based on

4 allegations that father had left the child with his paternal grandmother without

5 communicating with the Department of Human Services (DHS)--which had "temporary

6 custody" of the child--and that he was unwilling to work or communicate with DHS.

7 Father argues, *inter alia*, that the court erred in asserting jurisdiction because the state

8 failed to prove that the child was endangered as a result of those conditions or

9 circumstances. The state concedes the error. We agree and accept the state's concession.

10 ORS 419B.100(1)(c) (authorizing jurisdiction where the juvenile's "condition or

11 circumstances are such as to endanger the welfare of the [juvenile] or of others").

12 Accordingly, we reverse on that basis and do not address father's other arguments.

13                   Reversed.