

Bond Case Briefs

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Sherman v. State by and through Department of Human Services

Supreme Court of Oregon, En Banc - July 29, 2021 - P.3d - 368 Or. 403 - 2021 WL 3204726

Former foster child brought action against Department of Human Services, alleging that the Department failed to protect her from abuse while she was a child in foster care by negligently certifying her foster parents and failing to appropriately investigate and respond to alleged abuse, and also alleging violation of the Vulnerable Person Act.

The Circuit Court granted Department's motion to dismiss, ruling that claims were time-barred by the statute of ultimate repose. Former foster child appealed. The Court of Appeals reversed and remanded, and Department appealed.

The Supreme Court, en banc, held that:

- Statutory two year limitations period for Oregon Tort Claims Act (OTCA) claims does not render statute, exempting child abuse claims from the statute of ultimate repose, completely ineffective;
- Statute, exempting child abuse claims from the statute of ultimate repose, applies to all child abuse claims, including claims for child abuse brought against public bodies; and
- Child abuse claims brought against Department should not have been dismissed.