In the Matter of S. H. P., aka S. T., aka S. T., a Child, --- P.3d ---, 2023 WL 3988072 (Oreg. Ct. App., June 14, 2023).

- **Holding**: The State Department of Human Services made active efforts to reunify Indian children with their mother prior to seeking to alter the permanency plan from reunification to "tribal customary adoption."
- **Summary**: In a juvenile dependency hearing, mother appealed from two judgments changing the permanency plans for S and P (who qualified as Indian children under ICWA) from reunification to tribal customary adoption (TCA), defined in Oregon statutes to be "the adoption of an Indian child, by and through the tribal custom, traditions or law of the child's tribe, and which may be effected without the termination of parental rights." The mother asserted that the juvenile court erred in determining that the Department of Human Services (DHS) had made active efforts to maintain or reunite the children with their Indian family, that her progress toward reunification was insufficient, and that the permanency plans should be changed. In a largely fact-driven opinion, the court of appeals found that the mother had repeatedly failed to follow through with services to address her drug addiction and domestic violence issues, and was repeatedly terminated from programs. DHS consulted with mother's tribe, the Pit River Tribe, and made additional referrals to mother for services, but mother did not follow through, and DHS began the process of moving S and P to Illinois to reside with mother's cousin, who had begun the process of enrolling in the Pit River Tribe and had obtained the Tribe's approval of the placement. The juvenile court entered permanency judgments for both children changing their plans to TCA.

  The court of appeals concluded that DHS had made "active efforts" to reunify the family by, among other things, conducting a comprehensive assessment of the circumstances of the Indian child's family with a focus on reunification, by identifying appropriate services, and by inviting representatives of the Indian child's tribe to participate in providing support and services, ORS 419B.645(5), and further concluded that the juvenile court did not improperly rely on extrinsic facts in changing the permanency plan from reunification to adoption.
- **Relevant (2023) Deskbook Section**: 13:24