

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH  
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

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Review of child death of Kelsey Smith-Briggs  
Addendum #1  
Court proceedings of June 15 and June 16, 2005

December 15, 2005

Summary of the Transcript of Proceedings held on June 15 and June 16, 2005,  
Before the Honorable Craig S. Key, Associate District Judge,  
In the District Court of Lincoln County, State of Oklahoma,  
In the matter of Kelsey S. Smith-Briggs,  
Deprived Child as Defined by the laws of the State of Oklahoma,  
Case No. JD-05-10,  
and  
In the matter of the Guardianship of Kelsey S. Smith-Briggs, minor child,  
Case No. PG-05-03.

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**Authorization**

Title 10, Chapter 70, Section 7005-1.4, E, states:

E. 1. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death or near death, there shall be a presumption that the best interest of the public will be served by public disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations concerning that child, or other children living in the same household.

2. At any time subsequent to seven (7) days of the date the person responsible for the child has been criminally charged, the Department of Human Services, the Oklahoma Commission on Children and Youth, or the district attorney may release the following information to the public:

a. a confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun,

b. confirmation as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, and any actions taken by the district attorney after submission of any investigative report, and

c. the dates of any judicial proceedings prior to the child's death or near death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

3. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

## **June 15 & 16 District Court of Lincoln County**

The State of Oklahoma was represented by the Lincoln County Assistant District Attorney. The child was represented by a Guardian Ad Litem. The respondent mother and the petitioners (paternal grandparents) were also represented.

- Evidence on behalf of the State of Oklahoma was presented by testimony of a Lincoln County Department of Human Services (DHS) child welfare supervisor (supervisor #1) and testimony of a Lincoln County DHS child welfare intake worker.
- Evidence on behalf of the respondent mother was presented by testimony of a Lincoln County CASA worker, a Lincoln County DHS treatment worker, the maternal grandmother, a Lincoln County DHS supervisor (supervisor #2), the step-father, and the biological mother.
- Evidence on behalf of the petitioners was presented by testimony of three witnesses and the paternal grandmother.
- The transcript of proceedings also documented exhibits that were filed under a separate cover.

## **The Department of Human Services Report to the District Attorney**

Subsequent to a DHS investigation dated April 25, 2005, Lincoln County Child Welfare made the following recommendations to the District Attorney. In an investigation of Kelsey's bi-lateral fractured tibias, the child welfare worker documented that the allegations were being confirmed against an unknown perpetrator. While it was unknown who may have caused the broken bones, they were ruled to be the result of abuse and for that reason Kelsey was removed from the home of the paternal grandmother and placed in DHS custody. Kelsey's father was allegedly deployed to Kuwait; however, the DHS worker could not confirm his location. The DHS supervisor had faxed a written request to the U.S. Military but received no response on how to contact the father or the date of his deployment. The paternal family was not cooperative in providing information on how to locate the father. The worker also documented

concerns that the paternal grandmother was allowing visitation with the mother that was in violation of the court order, both in duration of the visits and in that the step-father was living in the home with the mother. The worker recommended that Kelsey remain in DHS custody and be placed outside both paternal grandmother's and the mother's home.

The investigation was completed on June 10, 2005.

(As reported in the OCCY release, November 1, 2005, "Summary of actions taken by the Department of Human Services; actions taken by the district attorney; judicial proceedings; and the rulings of the court," p. 6.)

### **Summary of each participant's recommendations made at the judicial proceedings**

#### **DHS Child Welfare Supervisor #1**

A DHS child welfare supervisor (#1) appeared on behalf of the State of Oklahoma and the DHS Report to the District Attorney, June 10, 2005.

#### **DHS Child Welfare Intake Worker**

A DHS child welfare intake worker appeared on behalf of the State of Oklahoma and the DHS Report to the District Attorney, June 10, 2005.

#### **CASA Worker**

A CASA worker appeared on behalf of the respondent mother. The worker was asked by legal counsel for the respondent mother, "What's your recommendation as to who the child should be placed with today?"

The CASA worker responded, "Back with her mother."

#### **DHS Child Welfare Treatment Worker**

A DHS child welfare treatment worker appeared on behalf of the respondent mother. The worker recommended that the child remain in her present placement [with maternal grandmother] and continued visitation as present. The placement with the mother would be "phased in" following services provided by Community Home Based Services (CHBS).

When asked, "Is there any indication that the child may be returned to [the paternal grandmother's] home through your recommendation?"

The treatment worker responded, "Not through our recommendation, no."

The Court directed a question to the treatment worker: "If there was an adjudication, are there any additional requirements that you would have of [the mother]?"

She replied, "No, your Honor, there's not."

#### Maternal Grandmother

The maternal grandmother appeared on behalf of the respondent mother. When asked if she wanted to retain custody, the maternal grandmother replied, "I think she needs to go back home with her mother."

#### DHS Child Welfare Supervisor #2

A DHS child welfare supervisor (#2) appeared on behalf of the respondent mother. The child welfare supervisor did not make a recommendation to the court.

#### The Step-father

The step-father appeared on behalf of the respondent mother. Counsel for the respondent mother asked the step-father, "What is your thoughts (sic) on whether Kelsey come live in the home with you and [the mother] and your daughter?"

The step-father answered, "I believe she should, yes, and I would like her to."

#### The Mother

The respondent mother appeared on her own behalf. When asked by her legal counsel, "Are you asking today that the guardianship be terminated?"

She responded, "Yes." She also affirmed that the deprived action should be denied.

When asked, "Are you asking the Court to return the child to you today."

She responded, "Yes."

#### Witness #1

Witness #1 appeared on behalf of the petitioners [paternal grandparents]. The witness indicated that the child should be returned to the mother "when things get straightened out."

#### Witness #2

Witness #2 appeared on behalf of the petitioners [paternal grandparents].  
Witness #2 did not make a recommendation to the Court.

#### Witness #3

Witness #3 appeared on behalf of the petitioners [paternal grandparents].  
Witness #3 did not make a recommendation to the Court.

#### Paternal grandmother

The paternal grandmother appeared on her own behalf. The counsel for the paternal grandparents asked, "So what do you think ought to happen with regard to the guardianship?"

She answered, "I would like to remain as the guardian until there are further classes taken either with [the mother] or [the step-father] or until we get to the bottom of what actually happened to her."

Counsel later asked, "Do you think that the child should be returned to Mother now?"

The paternal grandmother responded, "Not at this time." She continued, "I would eventually like to see [the mother] and Kelsey reunited."

The paternal grandmother later affirmed that she would like Kelsey to go home with her at the conclusion of the hearing.

#### **Adjudication**

After considering testimony and viewing the depositions of two physicians, the Court determined:

- Dissolution of the guardianship set forth in PG-05-3.
- Adjudication in regards to the deprived petition against an unknown perpetrator. The minor child was placed back in the home of the natural mother. Visitation was to be determined by the department [DHS]. CHBS was to be placed in the home. Dispositional hearing was set for July 14, 2005.