

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

Review of child death of Kelsey Smith-Briggs

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Identifiers:

Child's name: Kelsey Smith-Briggs; a.k.a. Kelsey Shelton Smith
DOB: 12/28/02
DOD: 10/11/05
Age at death: 2 years 9 months 13 days

Stepfather: Michael Lee Porter

Summary of actions taken by the Department of Human Services; actions taken by the district attorney; judicial proceedings; and the rulings of the court:

January 17, 2005

First Referral

Summary of Allegations: Kelsey, a 2 year old child, was identified by reporter with bruises on her face and body and abrasions on her bottom and neck. Reportedly, she was wearing a brace. According to the reporter Kelsey had fallen out of bed on January 8, 2005, while sleeping at home, and had broken her collar bone. Reportedly, a report was called to the Shawnee Police and Kelsey was taken to the emergency room in Shawnee at Unity North Hospital. Reportedly, the Meeker Police were called and took a report. The child was not placed in protective custody due to being with the grandparents over the weekend. Reportedly, the bruises on the child are different ages and some are fading.

Findings: "Confirm – Services Recommended." According to the Report to the District Attorney, the DHS investigation indicated that the mother's stories regarding the night of the incident were conflicting. The facial bruising, noted by the physician on January 14, 2005, was not evident the evening Kelsey

presented with a broken clavicle, January 10, 2005. The physician reported that the bruises were non-accidental and the result of abuse. Based on the injuries received, the mother's denial of seeing the bruising on her child and no plausible explanation of the bruising, Child Welfare confirmed abuse against the mother. Child Welfare recommended that Kelsey not be returned to the custody of her mother as her safety could not be assured. The worker also recommended that a deprived petition be filed in regards to Kelsey with DHS supervision as long as Kelsey is out of the home of her mother and in a guardianship with grandparents, and to require the mother to work a court ordered treatment plan to address the abuse of Kelsey.

This referral was confirmed on February 10, 2005.

Second Referral (Also dated January 17, 2005)

Summary of Allegations: The reporter alleged that Kelsey was covered with bruises and had a broken collar bone. Reportedly, the emergency room staff stated the injuries the child sustained were in various stages of healing and could not have been caused by one fall. Reportedly, the biological mother went to the Meeker police and insisted the child had no marks on her when given to the father's family. Reportedly, the emergency room physician stated the injuries were more consistent of a beating with an object such as a hair brush.

Findings: Second Referral was "Screened Out." The referral was linked to the open First Referral.

January 19, 2005

The emergency room physician was interviewed by DHS staff on January 19, 2005. He was interviewed regarding his examinations of Kelsey on January 10, 2005, and January 14, 2005. (His comments are reported above in reference to the First Referral.)

Child welfare also interviewed Michael Porter (boyfriend of mother). Mr. Porter stated that he was with the mother when they picked up Kelsey from the paternal grandparents on January 1, 2005.

Mother signed a volunteer family service agreement to leave Kelsey with the maternal grandparent for the night to ensure the child's safety.

January 21, 2005

Child welfare interviewed the paternal grandmother. She indicated that she had not seen bruising on Kelsey on any occasion prior to January 14, 2005. (Report to the District Attorney, DHS First Referral)

January 24, 2005

In an interview with the DHS, the mother stated that she took Kelsey to the doctor for a bruising test on January 21, 2005. (Report to the District Attorney, First Referral)

A petition for appointment of guardian of minor was filed and granted at the Lincoln County Court to name paternal grandmother guardian of Kelsey. Other actions:

- Emergency special letters of guardianship; effective until February 4, 2005
- Application to appoint guardian ad litem
- Order appointing guardian ad litem
- Order for hearing petition for appointment of guardian; hearing set for February 4, 2005
- Notice of hearing petition for appointment of guardian

January 28, 2005

Lincoln County District Court appointed a second guardian ad litem for Kelsey.

February 2, 2005

Lincoln County Court ordered “the disclosure of DHS records to court and the appearance of witnesses.”

February 3, 2005

Child welfare interviewed the mother. The mother admitted to spanking Kelsey on the diaper with her hand but denied having seen the bruises reported on January 14, 2005. (Report to the District Attorney, First Referral)

February 4, 2005

The biological father consented to the Guardianship Petition filed by paternal grandparents. The document was signed and notarized in another state.

February 10, 2005

DHS confirms the First Referral “Confirm - Services Recommended.” (See documentation of First Referral at January 17, 2005, above.)

February 11, 2005

Lincoln County Court judicial proceedings:

- Guardianship continued until March 11, 2005 pending filing of deprived case by state
- Cases to be heard simultaneously (guardianship and the pending deprived case by state)

- Mother granted supervised visitation with the minor child for every week from 6:00 p.m. Friday to noon, Monday
- Visits to be supervised

February 23, 2005

The District Attorney filed a petition before the Lincoln County Court. The petition sought to establish Kelsey deprived and stated:

The Respondent Juvenile has been physically abused as evidenced by bruising and abrasions on her buttocks, thigh, lower back and face. The Respondent mother and father either perpetrated the acts of abuse or filed [failed] to protect the Respondent Juvenile from said abuse.

Other judicial actions:

- Court was set for March 10, 2005.

March 9, 2005

Lincoln County Court judicial proceedings:

- Affidavit of return of service.

March 11, 2005

Lincoln County Court judicial proceedings:

- The temporary order previously entered shall remain in full force and effect pending further review on June 6, 2005, at 9:30 a.m.
- Previous orders were modified so that:
 - the guardians were granted one weekend per month of visitation with the minor child and, unless other agreement is made between the parties, that weekend shall be the last weekend of each month during the pendency of these proceedings;
 - in the event the natural father is available to travel to the State of Oklahoma prior to his deployment, the minor child shall be allowed to see the father in the State of Oklahoma regardless of whose weekend visitation might normally be scheduled;
 - the natural mother was granted overnight visitation on each Wednesday, beginning March 16, 2005, from noon on Wednesday until noon on Thursday;
 - the visitation previously ordered with regard to the mother may now be unsupervised as long as Michael Porter is not in the home where the child might be residing during the periods of visitation; and
 - the parties may switch weekends by agreement and the weekends be made up as called for and as reflected in this order.

March 24, 2005

Third Referral

Summary of Allegations: DHS received a report that a 2 year old child had been seen at a medical facility for a bruise on her nose and right knee and a closed head injury resulting reportedly from a fall at the mother's house.

Findings: "Services Recommended."* According to the Report to the District Attorney, the child welfare worker indicated that it was unknown if Kelsey's injuries were intentional. Kelsey did not have enough verbal skills to tell what had happened to her, and she did not indicate to DHS that her mother inflicted injuries to her. The worker recommended that all visitations between Kelsey and the mother be supervised in order to prevent any further injuries to Kelsey. Court intervention was not requested.

*Since this referral was not confirmed until June 7, 2005, the visitation orders of March 11 remained in effect until placement was changed on May 3, 2005.

April 14, 2005

Reportedly, Kelsey twisted her foot while visiting the zoo.

Fourth Referral

Summary of Allegations: Reportedly, Kelsey had a sprained ankle, and had bruising on her right and left arm and lower back. The caller also reported "yellowish bruising" on Kelsey's middle back.

The on call child welfare worker contacted the stepmother and the mother, and interviewed the child welfare investigator and the child welfare supervisor. The supervisor reported "that there is a bruise on the child's left arm about a half dollar below the elbow; Kelsey said that she bit herself but can't tell for sure if there are teeth marks. There is another bruise on her right arm about the size of a pencil width, not an inch long, and is black. There is a bruise smaller than a dime on the left side of lower back, one on the spine that is yellowish. The child has a sprained ankle which she got at the zoo and was taken to Unity North."

Findings: This referral was "Screened Out." In the findings narrative, the worker documented, "There is a current ongoing investigation addressing the same allegations." (Third Referral)

April 25, 2005

Fifth Referral

Summary of Allegations: Kelsey was brought into the DHS office by her mother on April 25, 2005. DHS staff noticed that Kelsey whimpered and would not walk

or crawl. DHS staff recommended that the mother take the child to the emergency room right away.

DHS was notified by the emergency room that Kelsey had bi-lateral fractures on her left and right tibias.

Findings: "Confirmed-Court Intervention Requested."* In recommendations to the District Attorney, 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 worker could not confirm his location. The 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 Mr. Porter 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 worker and supervisor signed off on this report on June 10, 2005.

April 29, 2005

Sixth Referral

Summary of Allegations: A caller reported injuries to the bridge of Kelsey's nose. Reportedly, her nose was purple up to her eyebrows and she had a knot the size of a quarter by her right eye. Allegedly, Kelsey was sleeping in bed with her stepsister when the stepsister elbowed her in the nose.

The reporter also stated that there were little bruises on Kelsey's cheeks. Reporter stated that it looked like someone grabbed her by the face with their fingers and that these bruises are light purple and are not very dark.

Findings: "Services Recommended."* In recommendations to the District Attorney, the child welfare worker documented seeing a faint bruise on the child's nose. According to the worker, it was not possible to determine the cause of the bruise and the reason for injury reported by the mother was plausible. During the course of this investigation, another investigation had been completed with physical injuries confirmed and the child had already been placed in DHS custody. Therefore, services were offered to the mother and the worker recommended that the mother continue to work her court ordered treatment plan.

*The worker and supervisor signed off on this report on July 14, 2005.

May 3, 2005

In an affidavit filed in Lincoln County on May 3, 2005, DHS recommended emergency protective custody of Kelsey into DHS custody and documented the following reasons:

- 1.) It was alleged that on April 14, 2005, the child sprained her right ankle while visiting the zoo with her aunt. On April 18, 2005*, the mother brought the child to the DHS office and the child was observed to not walk and wanting to be carried. The worker instructed the mother to take the child to the doctor. On April 18, 2005, the child was taken to a physician in Shawnee for examination. The physician reported to the worker that the child had two bilateral fractures of the tibia. The physician reported that she felt it was over compensation from the right sprained ankle in which was a fracture instead of a sprain. The physician recommended bone genetics testing. The physician reported that a blood test was completed on Kelsey and the blood work came back normal.
- 2.) On April 29, 2005, the worker received allegations that Kelsey's nose was purple up to her eyebrows and that she had a knot the size of a quarter by her right eye. The worker observed the bruise to Kelsey's nose the same day, and pictures were taken. It was alleged that Kelsey got the bruise from being elbowed by another child while sleeping on the night of April 27, 2005.
- 3.) On May 3, 2005, the worker received information from an orthopedic surgeon at OU Medical Center in Oklahoma City. The orthopedist saw the child on May 2, 2005. The physician reported that Kelsey was brought to him for a second opinion and not physician referred. He reported that Kelsey's injuries (the broken bilateral fracture of the tibia) were caused from abuse. He reported that a great amount of force was required to cause a fracture to the tibia.

*The date appears to be incorrect as other DHS documentation showed the office visit occurred on April 25, 2005.

Lincoln County Court judicial proceedings:

- Kelsey was placed in the emergency protective custody of DHS.
- Show cause hearing ordered for May 5, 2005.

DHS placed the child with the maternal grandmother.

May 4, 2005

Seventh Referral

Summary of Allegations: A medical report of suspected child abuse was filed with DHS stating that the injuries to Kelsey's legs were inconsistent with the explanation given by the family.

Findings: "Screened Out." The DHS linked this referral to the open Fifth Referral. The DHS reported that this referral was regarding the same allegations of the Fifth Referral.

(See April 25 above and June 10 entries)

May 5, 2005

The mother's attorney filed application to terminate guardianship previously awarded to the paternal grandmother. The application stated that the mother had completed her "guardianship plan."

Lincoln County Court judicial proceedings:

- Objection entered as to placement of juvenile
- The deprived petition is stale (filed on February 23, 2005)
- Amended petition must be filed by May 11, 2005
- Continue legal custody with the DHS
- Court allows the DHS to determine placement
- Each party to receive 4 hours of visitation (mother and paternal grandparents)
- Visitation to occur at the DHS office
- Hearing set for June 6, 2005

May 10, 2005

Lincoln County Court judicial proceedings:

- Judge appoints a Court Appointed Special Advocate (CASA)
- CASA to complete investigation
- Next hearing set for June 6, 2005

May 11, 2005

The District Attorney filed an amended petition before the Lincoln County Court. The petition (amended from February 23, 2005) sought to establish Kelsey deprived. The petition contained all the same information as in the February 23 petition but was amended to include:

The Respondent Juvenile has been physically abused as evidenced by her two broken legs. The respondent mother and [paternal grandmother] either perpetrated the acts of abuse or failed to protect the respondent juvenile from [from] the abuse.

May 31, 2005

The mother's Individualized Services Plan, created by the DHS on May 31, 2005, and signed in July, addressed risk factors within the home identified by the DHS.

June 1, 2005

Child welfare recommended Community Home Based Services to "provide better supervision to improve parenting skills, so that Kelsey will not sustain any other injuries." (CHBS referral screen and DHS paper file)

The CASA Report to the Court recommended:

- Kelsey be returned to her mother's custody
- The paternal grandparents can have supervised visitation one hour every other Saturday
- Kelsey can spend time at the maternal grandmother's home including spending the night
- If this arrangement does not work out, Kelsey was to be placed in the maternal grandmother's home until the court decides otherwise.
- Kelsey should be enrolled in Head Start and have a speech therapist help her with her language
- A request for a 90 day review, due to "having this case such a short time."

June 3, 2005

The Lincoln County District Attorney filed a motion for continuance to allow the DHS additional time to complete their report.

June 6, 2005**Eighth Referral**

Summary of Allegations: The caller alleged neglect of Kelsey's stepsister and stepbrother (Michael Porter's children) by their father and stepmother. Reportedly, [the stepsister] told someone that she wasn't supposed to talk about "what went on in her home." The caller reported that there was a history of domestic violence prior to their marriage. Reportedly, the stepmother recently renewed her license following a DUI conviction. Reportedly, the stepmother had a history of drug use.

Findings: "Screened Out." DHS reported that the reporter could not provide collaterals and would not give the names of those to whom she/he has spoken.

Lincoln County Court judicial proceedings:

- The Court heard arguments regarding the continuance (filed on June 3, 2005)
- The Court ordered the state and attorneys into chambers
- Back on record

- Continuance granted
- The DHS report was ordered to be filed by Friday, June 10, 2005
- An adjudication hearing was scheduled for June 14, 2005, to hear amended petition

June 14 and June 15, 2005 – Adjudicatory Hearing

- Testimony heard 13 witnesses, exhibits

Rulings:

- Court appoints attorney for respondent juvenile
- Juvenile to be adjudicated deprived with the perpetrator unknown
- Court orders placement with mother
- Custody with DHS
- CHBS in the home
- Visitation to be handled through DHS
- Guardianship dissolved
- Disposition set for July 14, 2005

July 7, 2005

KIDS documentation indicated the first CHBS home visit. The CHBS visit was delayed due to delays by child welfare, as documented by CHBS. This is the first documented home visit since June 16, 2005.

July 12, 2005

The CASA report to the court recommended:

- That Kelsey stay with her mother
- That the biological father and stepmother have one hour of supervised visitation every 30 days or as determined by DHS
- That Kelsey can spend the night with the maternal grandmother
- “If this arrangement does not work out, Kelsey is to be placed with the maternal grandmother with monthly supervised visits with the paternal grandparents after naptime.”

The CASA reported that the mother had completed her program.

August 17, 2005

The CASA report to the court recommended:

- Continued placement in the mother and step father’s home
- One hour unsupervised visitation every other Saturday at father and stepmother’s home
- Kelsey can spend time at maternal grandmother’s home including spending the night

August 18, 2005

At the disposition hearing (passed from July 14, 2005), the Lincoln County Court established visitation rights as follows:

- The stepmother to have visitation on alternating weekends beginning August 20, 2005, for five hours from 9:00 a.m. to 2:00 p.m., no supervision required
- The father shall have visits when he returns
- If child needs medical attention the custodial parent shall be notified immediately

August 24, 2005

Child welfare documented the CHBS critical incident reports dated August 2, 2005, August 19, 2005, and August 23, 2005. The reports indicated that on August 2, Kelsey was demonstrating self-injurious behaviors and night terrors; on August 19, Kelsey was involved in a car accident (confirmed by police report); and on August 23, Kelsey was refusing food.

August 29, 2005**Ninth Referral**

Summary of Allegations: The reporter stated that Kelsey had bruises on her face and a mark on her nose. In addition she looked like she had lost weight. Reportedly, Kelsey was acting timid.

Findings: "Screened Out." Child welfare documented that the injuries were from a car wreck and had been documented by child welfare and CHBS. The child's physician saw the child on August 25, 2005, and documented the injuries.

August 30, 2005

Child welfare initiates a referral for Kelsey to the Child Study Center in Oklahoma City for play therapy counseling.

Lincoln County Court received a letter from Kelsey's physician recommending that the child remain in one home in order to evaluate the child for "tonic seizure activity."

September 2, 2005

Application for emergency order was filed by Lincoln County District Attorney. The application requested that unsupervised visits with the stepmother be discontinued due to a letter from the child's physician. The letter recommended placement in one home in order to evaluate the child for seizure activity.

September 6, 2005

Child welfare documented a CHBS report of an incident concerning Kelsey's eye. The mother had washed Kelsey's hair with an adult shampoo. It was reported that some of the shampoo entered Kelsey's eye. In an attempt to rub the shampoo out, Kelsey rubbed a blister on her eyelid. The worker observed Kelsey's eye after the mother had applied some cream to the eyelid. The worker asked Kelsey about her eye, and Kelsey indicated that she "got shampoo in it." CHBS also documented an unsupervised moment when Kelsey was able to walk into the middle of the street.

September 8, 2005

Lincoln County Court judicial proceedings:

- No unsupervised visits except for father (in order to monitor for seizures; See September 2, 2005, entry)
- CASA to be able to talk to CHBS
- A review is set for January 12, 2006

A letter is attached to the court minute from the child welfare worker outlining Kelsey's doctor appointments. The letter indicated that the last doctor appointment was on August 31, 2005.

September 23, 2005

The child welfare supervisor reported in contact notes a telephone contact with the father. The father asked numerous questions regarding the health and safety of his daughter.

October 6, 2005

The child welfare supervisor documented in contact notes that the father called and reported that he was currently stationed in another state.

October 11, 2005

The CHBS worker documented a contact note indicating a house visit on October 11, 2005, between the hours of noon and 1:30 p.m. The worker observed the child and noted that Kelsey had a small purple bruise about the size of a nickel and a band aid on one finger. The worker conducted the baseline session of the eco-behavioral home safety and cleanliness training/assessment in the living room, kitchen, Kelsey's room and bathroom.

The next home visit was scheduled for October 18, at 11:00 a.m.

October 11, 2005

Tenth Referral

Summary of Allegations: A referral was received indicating Kelsey Smith-Briggs was taken to Prague Hospital as she was not breathing. Reportedly, the family stated that the child may have suffered a seizure. According to the reporter, the child later died.

October 12, 2005

Eleventh Referral

Summary of Allegations: Inquiry regarding the death of Kelsey Smith.

Findings: "Screened Out." The file was associated with the current open tenth referral.