

## Office of Juvenile System Oversight

# REVIEW OF THE NEAR DEATH OF W.H. OKLAHOMA COUNTY, OKLAHOMA

Report Release Date: March 15, 2024

## OVERVIEW

The Office of Juvenile System Oversight (OJSO) received a request regarding the near-death of W.H. On January 21, 2022, the Oklahoma County District Attorney filed a felony charge of Child Neglect against the child's mother, Josey Fuller, the mother's ex-boyfriend, Brandon Kappes, and the couple's roommate, Christopher Marshall. On August 2, 2022, Kappes pled guilty and was sentenced to a five-year suspended sentence. On February 24, 2023, Marshall entered a blind plea of no contest and was sentenced to a five-year suspended sentence. On November 15, 2023, Fuller pled guilty and was sentenced to a five-year suspended sentence.

## IDENTIFIERS

Child's Name:	Age at Time of Incident:	Date of Near-Death Incident:
W.H.	Four Months	May 1, 2021
Person Responsible for Child (PRFC):	Additional Identifiers:	
Josey Fuller Brandon Kappes Christopher Marchas	Sibling One, Six Years Old Sibling Two, Two Years Old	

## ACTIONS

The release of the following summary of the actions taken by Oklahoma Department of Human Services (OKDHS) and the proceedings in the district court is authorized by Title 10A O.S. § 1-6-105.

The OJSO did not become aware of this case until after the near death of W.H.

## NEAR-DEATH INCIDENT

On May 1, 2021, the OKDHS office in Oklahoma County received a report that a four-month-old baby was hospitalized in critical condition due to a skull fracture, two brain bleeds, and multiple bruises to the face and body. The OKDHS documented that the child's left eye was swollen, and there was bruising on the child's face with red blood spots around the nose. It was documented that W.H. was crying painfully the night before, and the child's mother, Josey Fuller, instructed her roommate, Christopher Marshall, to give the child medicine for constipation. It was reported that this happened a couple of times while Ms. Fuller assumed Mr. Marshall was tending to W.H. It was further documented that when Ms. Fuller woke up around 7:30 a.m., she checked on W.H., who appeared to be okay. It was further documented that Ms. Fuller stepped out to have a cigarette. When she came back in, she noticed the swollen eye, facial bruising, and red blood spots on W.H. The OKDHS further documented that at this time, Ms. Fuller's ex-boyfriend, Brandon Kappes, was at home. It was reported that Ms. Fuller and Mr. Kappes got dressed and took W.H. to the local hospital. It was further documented that it took the adults an hour to get to the

hospital although it was less than two miles from their home.

## INVESTIGATION

The persons interviewed during the investigation included: Ms. Fuller, the biological mother of W.H., Sibling One and Sibling Two; the biological father of Sibling One; other adults who were in the home (no relation to W.H.) at the time of the near-death incident, law enforcement, medical professionals, and various third parties. W.H.'s biological father is considered an absent parent and could not be located to be interviewed.

While investigating the report, the OKDHS documented that a child abuse pediatric specialist confirmed that W.H. had a skull fracture, a subdural hematoma, and multiple severe bruises. The OKDHS further documented that the detectives investigating the near-death incident reported that the home was deplorable and that the OKDHS worker would not be allowed inside the home without proper protective gear. The OKDHS further documented that an examination of the home showed feces on the floor, an infestation of bugs, and trash and debris scattered throughout the home. The OKDHS documented that the detectives considered everyone in the home a suspect and noted that Ms. Fuller and Mr. Marshall had the most recent access to W.H. The OKDHS documented that neither adult in the home could explain how W.H. sustained the injuries.

- The OKDHS made a substantiated finding of Abuse-Near-Death as to an unknown perpetrator on W.H.
- The OKDHS made a substantiated finding of Abuse-Threat of Harm as to Brandon Kappes, Josey Fuller and Christopher Marshall on Sibling One and Sibling Two.
- The OKDHS made a substantiated finding of Neglect-Failure to Protect as to the biological father of Sibling Two. The OKDHS made a substantiated finding of Neglect-Inadequate or Dangerous Shelter as to Brandon Kappes, Josey Fuller, and Christopher Marshall on all three children.
- The OKDHS made a substantiated finding of Neglect-Failure to Protect as to Josey Fuller, Brandon Kappes, and Christopher Marshall on W.H.
- The OKDHS recommended filing a deprived petition regarding all three children.

On May 5, 2021, emergency custody of W.H. and Sibling Two was sought by the OKDHS, resulting in the children being placed into an out-of-home safety plan with a relative. Sibling One was placed with the child's biological father and did not come into state custody. After a child safety meeting, Sibling Two was placed with the biological father of Sibling One, as he is also the legal (not biological) father of Sibling Two. W.H. was placed in a traditional foster home. On May 14, 2021, the Oklahoma County District Attorney filed a petition requesting the immediate termination of parental rights of Josey Fuller due to the alleged shocking and heinous abuse regarding W.H. On November 15, 2023, W.H. was adopted, thus terminating the parental rights of Josey Fuller. Siblings One and Two remain in their current placement as it was deemed safe.

## PRIOR INVOLVEMENT OF THE PRFC WITH OKLAHOMA DEPT. OF HUMAN SERVICES

### Pertinent Investigation 1:

On February 20, 2018, the first pertinent report was received by OKDHS. The report stated that Josey Fuller was in the car with her boyfriend (the biological father of Sibling Two), and the boyfriend began assaulting her. It was reported that Sibling One was with her at the time. Upon breaking free, Ms. Fuller ran down the street with the child in her arms. It was further reported that the boyfriend caught up to her and tried to suffocate her. She broke free, ran to her sister's home with Sibling One, and called the police.

On February 24, 2018, the report was accepted by OKDHS as a Priority Two Investigation. On February 23, 2018, the OKDHS initiated contact with the family, and the investigation was initiated on February 24, 2018.

The persons interviewed during the investigation included Ms. Fuller, her boyfriend, Sibling One's biological father, and third-party friends and relatives of the family.

The OKDHS documented that when the police arrived on the scene, the boyfriend was arrested. It was further documented that he had a prior history of criminal behavior. The OKDHS further documented that Ms. Fuller

would file a protective order and that she and Sibling One had checked into a battered women's shelter. The OKDHS documented that the boyfriend claimed Ms. Fuller was the aggressor and that he was pursuing her to keep the child out of the cold weather. It was further documented that Sibling One made no disclosures regarding the incident.

The OKDHS substantiated the allegation of Neglect-Exposure of Sibling One to Domestic Violence as to the boyfriend. The OKDHS documented that Ms. Fuller was willing to protect her child from potential safety threats by removing herself from a domestic violence relationship and seeking services for herself and Sibling One. The OKDHS recommended services for the family; however, the suggested services were not listed in the report.

### **Pertinent Investigation 2:**

On June 15, 2018, the second pertinent report was received. The OKDHS received a report alleging that Josey Fuller was residing in a tent at a lake with Sibling One and a boyfriend with a child welfare history of exposing children to domestic violence. In a prior report to the OKDHS, Ms. Fuller had removed herself and Sibling One from the violent situation and went to a shelter. At the same time, the boyfriend was arrested and incarcerated.

The report was accepted as a Priority One Investigation, to be initiated by June 15, 2018. The OKDHS initiated contact with the family on June 15, 2018.

The persons interviewed during the investigation included the biological parents of Sibling One, the boyfriend, and various personal collaterals for the family.

During the investigation, the OKDHS documented that the boyfriend (from the first pertinent report on February 20, 2018) lived with Ms. Fuller in a tent for some nights. The OKDHS further documented that Ms. Fuller arranged for Sibling One to stay with relatives during this time and that Sibling One had not had contact with the boyfriend since the prior incident. The OKDHS was able to verify this placement arrangement through third-party interviews. The OKDHS documented that Ms. Fuller was pregnant with her boyfriend's baby at the time of this incident and was in the process of finding permanent housing. The OKDHS further documented that Ms. Fuller and Sibling One were staying with the family at the conclusion of the investigation and that Ms. Fuller was seeking counseling and parenting classes.

- The OKDHS ruled out the allegations of Neglect-Threat of Harm to Sibling One as to Ms. Fuller and the boyfriend.
- The OKDHS ruled out the allegation of Neglect-Inadequate or Dangerous Shelter for Sibling One as to Ms. Fuller.
- The OKDHS did not request that a deprived petition be filed.

## **JUDICIAL PROCEEDINGS PRIOR TO THE CHILD'S NEAR-DEATH**

The OJSO identified no prior judicial proceedings that were pertinent to the near-death incident.