

# In re Keisha G.

## Caselaw No.

A-14-942

Not Designated for Permanent Publication

## Filed on

Tuesday, April 28, 2015

**Summary:** The father, Michael G., appealed the termination of his parental rights under 43-292(2) & (7), arguing that there was insufficient evidence and that the court erred in finding that the formal rules of evidence did not apply. The Court of Appeals found that case law is clear that formal rules of evidence do not apply at termination hearings and there is no exception when there is no underlying adjudication. Further, even without considering the evidence upon which the father appeals, there was clear and convincing evidence that the father substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary care and protection.

Keisha was removed from her mother's care in 2011 and her mother has relinquished her parental rights. This case was previously before the Court of the Appeals, which reversed termination of the father's rights under 43-292(4) &(6) because the underlying adjudication was deficient. Upon remand, the State filed a new motion to terminate parental rights pursuant to 43-292(2), (4) and (7). The State may terminate parental rights without a prior adjudication pursuant to 43-291. In re Interest of Joshua, 256 Neb. 596 (1999). The father argued that in such a case, due process requires fundamentally fair procedures and the trial court erred when it allowed depositional testimony. The father and his attorney were present at the depositions and the Court of Appeals found that this satisfied due process requirements. The Court of Appeals also found that even without the depositions, there was sufficient evidence to terminate the father's rights under 43-292(2).

The State must show clear and convincing evidence to support termination of parental rights. The Court of Appeals pointed to the father's repeated incarcerations, inconsistent participation in visitation, drug and alcohol abuse and lack of safe and stable housing to support the termination finding. In addition, the father acknowledged that he never provided financial support for Keisha and has never provided consistent financial support for his other two children. Further, Keisha was thriving at the foster home where she has been placed since 2012, which led the Court of Appeals to affirm the trial court's findings that termination was proper under 43-292(2) and that termination was in Keisha's best interests.

## Tags

Keisha,

43-292(2),

due process,

clear and convincing,

incarceration,

father,

inconsistent,

best interests

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