

**SC93649**

**IN THE  
MISSOURI SUPREME COURT**

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**IN THE INTERESTS OF J.A.R., D.K.R. and A.E.R.**

**D.G.R.**

**Appellant,**

**v.**

**THE GREENE COUNTY JUVENILE OFFICE,**

**Respondent**

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Appeal from the Judgment and Order Terminating Parental Rights  
Circuit Court of Greene County  
For the 31<sup>st</sup> District of Missouri  
Juvenile Division

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**APPELLANT'S SUBSTITUTE REPLY BRIEF**

**MANN, WALTER, BISHOP & SHERMAN**  
KRISTOFFER R. BAREFIELD, #55090  
1112 E. WALNUT  
P.O. BOX 1072  
SPRINGFIELD, MO 65801-1072  
Tel: (417) 877-9138  
Fax: (417) 877-0469  
krb@mannwalterlaw.com  
*Counsel for D.G.R, Appellant*

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## **ARGUMENT**

- I. Appellant's status as an indigent person is relevant to whether grounds for termination of his parental rights were proven and Respondent's argument based upon materials not appearing in the Record on Appeal should be ignored.**

The record in this case is clear that the trial court determined the Father to be indigent for purposes of appointing counsel to represent him at trial and for purposes of prosecuting this appeal. (L.F. at 1, 6, 11, 143, 145 and 147). At page 35 of Respondent's Substitute Brief, Respondent attempts to vitiate Father's indigent status by asserting that Father failed to comply with an order to produce tax returns in another case. There is no citation to the Record on Appeal to support this factual assertion. A challenge to Father's status as an indigent appears nowhere in the Trial Transcript or Legal File. It appears that Respondent is raising this issue for the first time here, on transfer to this Court.

Accordingly, it should be ignored.

Moreover, Father's status as an indigent is relevant to whether insufficient financial contributions should serve as grounds for termination of parental rights. As Respondent admits, Father made financial contributions for the support of the children up until the time the children came into the custody of the State. (Respondent's Reply Brief at 24-25). Thereafter, there is no evidence that the State ever requested financial assistance or contribution from Father via a child support order. Accordingly, and as argued in Appellant's Substitute brief, this case compares favorably to the Southern District case In re C.J.G., 358 S.W.3d 549 (Mo.App. 2012).

Contrary to Respondents assertion at page 26 of its Substitute Brief, C.J.G. is not materially distinguishable from the case at bar in any way that militates toward affirmation of the termination judgment in this case. The father's incarceration in that case ended in 2004, some eight years prior to the Court's opinion. Id at 551-552, 557. Essentially ignoring the period of incarceration, the Court found that the indigent father's failure to meet the child support obligation established by the state was not grounds for termination. Id at 556-557. Here, there was no evidence presented that a child support obligation was ever requested or established. Accordingly, and for the reasons expressed in Appellant's Substitute Brief, Appellant's failure to pay money to the State of Missouri cannot serve as grounds for terminating his parental rights.

### **CONCLUSION**

For the reasons set forth above, Appellant prays that this Court reverse the trial court's judgment terminating Father's parental rights over his child, and for such other and further relief as the Court deems appropriate under the circumstances.

Respectfully Submitted,

MANN, WALTER, BISHOP  
& SHERMAN, P.C.

/s/ Kristoffer R. Barefield

Kristoffer R. Barefield  
Mo Bar No. 55090  
1112 E. Walnut  
P.O. Box 1072  
Springfield, MO 65801  
Tel: (417) 877-9138  
Fax: (417) 877-0469  
krb@mannwalterlaw.com  
*Counsel for D.G.R., Appellant*

**Certificate of Compliance**

I, Kristoffer R. Barefield, hereby certify as follows:

To the best knowledge and belief of the undersigned attorney, Appellant's Reply Brief complies with the limitations contained in special rule 1(d) and specifically, pursuant to the word processing system of Appellant's counsel, there are 1,032 words contained in Appellant's Reply Brief.

/s/ Kristoffer R. Barefield  
Kristoffer R. Barefield

**Certificate of Service**

This certifies that on December 27, 2013, a true and accurate copy of Appellant's Reply Brief was filed with the Clerk of the Court by using the Missouri Courts eFiling System, which will send a notice of electronic filing to the following:

Brittany O'Brien, Esq.  
1111 N. Robberson  
Springfield, MO 65802  
Attorney for Respondent

and a copy e-mailed to:  
Marilyn A. Braun, Esq. (marilybraun@juno.com)  
8248 N. Farm Road 193  
Fair Grove, MO 65648  
Guardian ad Litem

/s/ Kristoffer R. Barefield  
Kristoffer R. Barefield