

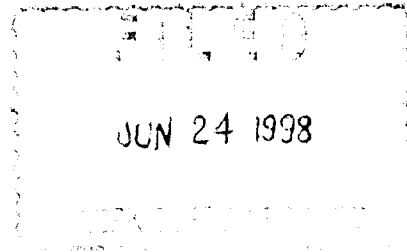
IN THE COURT OF APPEALS OF IOWA

No. 8-246 / 97-2249

**IN THE INTEREST OF D.D.P. and T.M.,
Minor Children,**

**B.L.P., Mother,
Appellant,**

**T.M., Father,
Appellant.**



Appeal from the Iowa District Court for Woodbury County, Mary L. Timko,
Associate Juvenile Judge.

A mother and father appeal from the termination of their parental rights.

AFFIRMED.

Douglas L. Roehrich, Sioux City, for appellant mother.

John C. Nelson of Molstad & Thomas, Sioux City, for appellant father.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney
General, and Dewey Sloan, Assistant County Attorney, for appellee State.

Joseph W. Kertels, Sioux City, for minor children.

Considered by Sackett, P.J., and Streit and Mahan, JJ.

MAHAN, J.

Brenda is the mother of Derek, born in July 1990, and Tegan, born in January 1994. Dana is the father of Derek. Thomas is the father of Tegan. The present case involves appeals by Brenda and Thomas of the termination of their parental rights. We affirm.

The children came to the attention of the Department of Human Services (DHS) in July 1995. Brenda was involved in a physical altercation with another woman while she was holding Tegan. Tegan fell from her arms and sustained a severe bruise on his forehead. DHS issued a founded report of denial of critical care against Brenda. The children were removed from her care for about two weeks.

The children were adjudicated to be children in need of assistance. Brenda participated in family preservation services. In September 1995, social workers became concerned about unsanitary conditions in the home. Tegan was diagnosed as having scabies and cockroach bites. Brenda had a drug test which showed positive for marijuana and amphetamines. The children were removed from her home for a second time and placed in foster care.

In October 1995, Brenda was accepted into a substance abuse treatment program where the children could stay with her. The court agreed to place the children in her care when she entered the program. Brenda quit the program within a few days, and the children were never actually returned to her care.

In November 1995, Derek was placed with his father, Dana. Derek has remained in this placement and has had no problems. Derek does receive individual counseling. Dana and his wife have been cooperative with DHS.

Brenda completed an outpatient substance abuse treatment program and became involved in an after-care program. She obtained part-time employment. Brenda also participated in family strengthening services and individual therapy. She had a psychological evaluation which showed she had an adjustment disorder and a dependent personality disorder.

In February 1996, Tegan was placed with his father, Thomas, who lived in Wisconsin. We affirmed this placement on appeal. *In re D.P.*, No. 6-667/96-0489 (Iowa App. Nov. 27, 1996). Thomas received services from a family skills specialist in Wisconsin. He attended parenting classes. In June 1996, Tegan was found unattended in a pickup by a police officer. Thomas stated he had run into a bar to make a few telephone calls. In February 1997, Tegan was removed from Thomas's care and placed in foster care because Thomas had started drinking heavily. Thomas lost his job and was evicted from his apartment.

The juvenile court placed Tegan in Brenda's care in March 1997. The court noted she had been sober for a period of time. Brenda received skill development services and individual therapy. Brenda attended a substance abuse treatment program in May 1997. She did not follow through with the discharge

recommendations. In July 1997, Brenda lost her job. She had a drug test which showed positive for amphetamines. Tegan was again removed from her care and placed in foster care.

Thomas entered a substance abuse treatment program and then went to a half-way house. Thereafter, he obtained a construction job which required him to travel. Thomas did not have contact with DHS for about six months.

In July 1997, the State filed a petition for termination of the parental rights of Brenda and Thomas. The court found Brenda and Thomas had failed miserably to take advantage of the opportunities presented to place themselves in a position to be parents to the children. The court terminated Brenda's parental rights to Derek and Tegan under Iowa Code sections 232.116(1)(c), (e), (g), and (k). The court terminated Thomas's parental rights to Tegan under sections 232.116(1)(c), (d), (g), and (k). Brenda and Thomas have each appealed.

I. SCOPE OF REVIEW. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. BRENDA. Brenda contends termination of her parental rights is not in the best interests of the children. She admits she has a history of substance abuse, but

states she has dealt with this problem. Brenda states she would be willing to cooperate with DHS and work for reunification.

We determine termination of Brenda's parental rights is in the children's best interests. Brenda has had several chances to demonstrate a change in lifestyle, but continues to place a priority on illegal substances rather than the best interests of the children. Brenda has not shown a dedication to placing the children's needs first. We conclude the juvenile court properly terminated Brenda's parental rights to Derek and Tegan.

III. THOMAS.

A. Thomas claims the State failed to present sufficient evidence to show his parental rights should be terminated. Thomas asserts he made only one mistake, drinking heavily from November 1996 until February 1997, which he has now corrected by attending a substance abuse treatment program. Thomas states there were no problems with his parenting skills.

We find there is clear and convincing evidence Tegan could not be returned to Thomas's care. Thomas testified the stress of being a single parent caring for Tegan was such that he began drinking heavily. Thomas was receiving family skills services at the time. There is no evidence Thomas is any better prepared at the present time to parent Tegan. We conclude Thomas's parental rights were properly terminated under section 232.116(1)(g).

B. When the juvenile court terminates parental rights on more than one statutory ground, we need only find ground to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). Since we have already found Thomas's parental rights were properly terminated under section 232.116(1)(g), we need not address his claims regarding sections 232.116(1)(c), (d), and (k).

C. Thomas contends termination of his parental rights is not in Tegan's best interests. He points out there is no guarantee Tegan will be adopted. He also asserts he and Tegan have a strong bond.

We determine termination is in Tegan's best interests. It is not clear Thomas will be able to maintain long-term sobriety. Thomas was not attending AA meetings at the time of the termination hearing. Tegan deserves a permanent placement and more stability than Thomas is able to provide.

D. Thomas claims the State did not engage in reasonable efforts to reunite him with Tegan. He asserts the State did nothing to attempt to reunify him with Tegan after Tegan was removed from his care in February 1997.

While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa App. 1997). There was no

evidence Thomas requested additional services prior to the termination hearing. Thus, we conclude Thomas has not preserved this issue for our review.

We affirm the decision of the juvenile court terminating Brenda's parental rights to Derek and Tegan and terminating Thomas's parental rights to Tegan.

AFFIRMED.

Streit, J., concurs; Sackett, P.J., specially concurs.

SACKETT, J. (specially concurring)

I concur with the majority in all respects except one. Derek is in the custody of his biological father. I find no reason why Brenda in this termination should be relieved of her obligation to contribute to his support. Derek's interests dictate his father should retain the right to collect child support from Brenda.