

IN THE COURT OF APPEALS OF IOWA

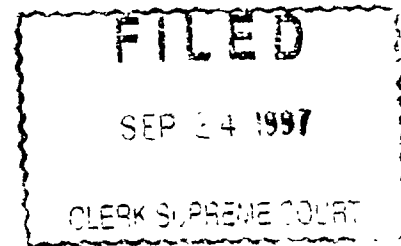
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No. 7-391 / 97-36

IN THE INTEREST OF M.A., Minor Child,

D.A., Father,  
Appellant,

G.A., Mother,  
Appellant.



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Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Associate Juvenile Judge.

A mother and father appeal the termination of their parental rights to their minor child. **AFFIRMED.**

Kellyann M. Lekar of Randall, Nelson & Hawbaker, P.L.C., Waterloo, for appellant father.

R. Allen Corzine of Pieters, Pieters & Corzine, Waterloo, for appellant mother.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Jack Lammers, Assistant County Attorney, for appellee State.

Timothy D. Ament of Gartelos, Wagner & Ament, Waterloo, for minor child.

Considered by Cady, P.J., and Streit and Vogel, JJ.

**VOGEL, J.**

A mother and father appeal the termination of their parental rights. They both challenge the sufficiency of the evidence to support the terminations and the father claims the termination of his rights was not in the best interests of the child. We affirm the decision of the juvenile court.

Geneva and Dirk are the parents of Malinda, who was born on September 4, 1994. They are also the parents of another child who is not a subject of this appeal. The parents are married, but live separately. The children lived with Geneva. Malinda has some developmental delays.

The family came to the attention of the Iowa Department of Human Services (DHS) in January 1995 due to the following concerns: (1) Geneva's unstable mental condition; (2) Geneva's outbursts of anger; (3) Dirk's use of marijuana and methamphetamine; and (4) domestic abuse. Geneva agreed to receive family therapy and parent skill development services, but was not cooperative with social workers. Dirk did not participate in any services.

In March 1995, DHS issued a founded report Geneva had physically abused Malinda. ~~In April 1995~~, there was a founded report of denial of critical care of Malinda ~~by Geneva~~. In July 1995, Geneva was involuntarily hospitalized for a psychological examination. She was diagnosed as having delusional thoughts, paranoia, and depression. She was placed on medication for her condition.

When Geneva was discharged from the hospital she quit taking her medication. Due to concerns that Geneva's mental illness interfered with her ability to care for Malinda, on July 24, 1995, the State obtained a temporary removal order to place Malinda in foster care. Malinda was adjudicated a child in need of assistance.

Geneva continued to express delusional thoughts and was resistant to services until she moved to a women's shelter in December 1995. While at the shelter, she began to take her medication on a regular basis. After she left the shelter in August 1996 she moved in with her sister. She made no progress in establishing her own home or obtaining employment.

In November 1995, Dirk became involved with DHS. He began receiving skill building services, which focused on finding employment and adequate housing. Dirk obtained a psychological evaluation in December 1995, which found he was generally non-assertive, but when overwhelmed, he would lose control. Dirk continued to have problems with substance abuse. In July 1996, Dirk attended an inpatient substance abuse treatment program. He quickly relapsed, and returned to the program in August 1996. He was later successfully discharged from the program.

In September 1996, the State filed a petition to terminate the parental rights of Geneva and Dirk. After the petition was filed Dirk obtained employment with a temporary employment agency. He lives with his parents. They have stated they do not want Malinda to live in their home.

On December 20, 1996, the juvenile court terminated Geneva's parental rights under Iowa Code sections 232.116(1)(c), (g), (h), and (j). Dirk's parental rights were terminated under sections 232.116(1)(c), (g), (h), and (k). Both parents have appealed. The guardian ad litem has joined in the State's resistance.

## 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 R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

## II. GENEVA

A. Geneva contends there was not clear and convincing evidence in the record to support the termination of her parental rights under section 232.116(1)(g). She believes the evidence shows Malinda could be returned to her care because she is accepting treatment for her mental illness and she lives in an adequate home with her sister.

We ~~there is clear~~ and convincing evidence in the record to show Malinda could not be returned to Geneva's care at the present time. At the termination hearing Geneva showed she had not recovered from one of her delusional ideas. Geneva had an anger outburst in July 1996, after she started taking her medicine on a regular

basis. We also note Geneva does not have a home of her own, or any source of income. We determine Geneva's parental rights to Malinda were properly terminated under section 232.116(1)(g).

**B.** Geneva has also raised arguments concerning the termination of her parental rights under sections 232.116(1)(c), (h), and (j). We find Geneva failed to preserve error on her claims challenging services under section 232.116(1)(c).

The State admits there was insufficient evidence to support the termination of her rights under section 232.116(1)(j). However, when the juvenile court terminated parental rights on more than one statutory ground, we need only find grounds 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). We have already found Geneva's parental rights were properly terminated under section 232.116(1)(g). Therefore, we do not need to address her claims involving sections 232.116(1)(h) and (j).

### **III. DIRK**

**A.** Dirk also claims there was not clear and convincing evidence to show Malinda could not be returned to his care within the near future. He agrees that he needed to **establish an independent residence**. Dirk believes this was his only obstacle before he would be ready to assume the care of Malinda, and testified it would take him a few weeks to save enough money for a rent deposit.

On our ~~our~~ de novo review, we find there was clear and convincing evidence Malinda could not be returned to Dirk's care at the present time. Although Dirk had recently addressed his problems with substance abuse, he had made little or no progress in addressing other issues until shortly before the termination hearing. There was no evidence to show Dirk understood the problems domestic violence could cause for the children. The family therapist who had worked with Dirk testified that Dirk was struggling to care for himself and that he would have problems caring for a young child.

B. As with Geneva, because we determine Dirk's parental rights should be terminated under section 232.116(1)(g), we need not address his arguments regarding other code sections.

C. Dirk contends termination was not in Malinda's best interests. He asks for more time to obtain adequate housing. He believes it would be more harmful for Malinda to be placed with a new family, than it would be for her to wait for him to be in a position to care for her.

We ~~must~~ reasonably limit the time for parents to be in a position to assume care of the ~~child~~ because patience with parents can soon translate into intolerable hardship for the child. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1994). A child should not be forced to endlessly suffer the parentless limbo of foster care. *In re J.P.*, 499 N.W.2d 334, 339 (Iowa App. 1993). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In*

*re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). Children simply cannot wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

We determine it is not in Malinda's best interests to wait any longer for stability in her life. We believe Dirk needs to address more than just his housing situation before he would be in a position to care for Malinda. As noted above, Dirk needs to address the issues of domestic abuse. We also consider the fact that Dirk waited for a year after Malinda was taken from Geneva's home before he sought treatment for his substance abuse problems. We conclude termination of Dirk's parental rights is in Malinda's best interests.

We affirm the decision of the juvenile court terminating the parental rights of Geneva and Dirk to Malinda.

**AFFIRMED.**