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Mother of Ayla Reynolds due for court hearing Thursday seeking formal death finding

Trista Reynolds will go to probate court seeking to have a judge formally declare the child dead so she can file a wrongful death lawsuit later against the girl's father, Justin DiPietro.

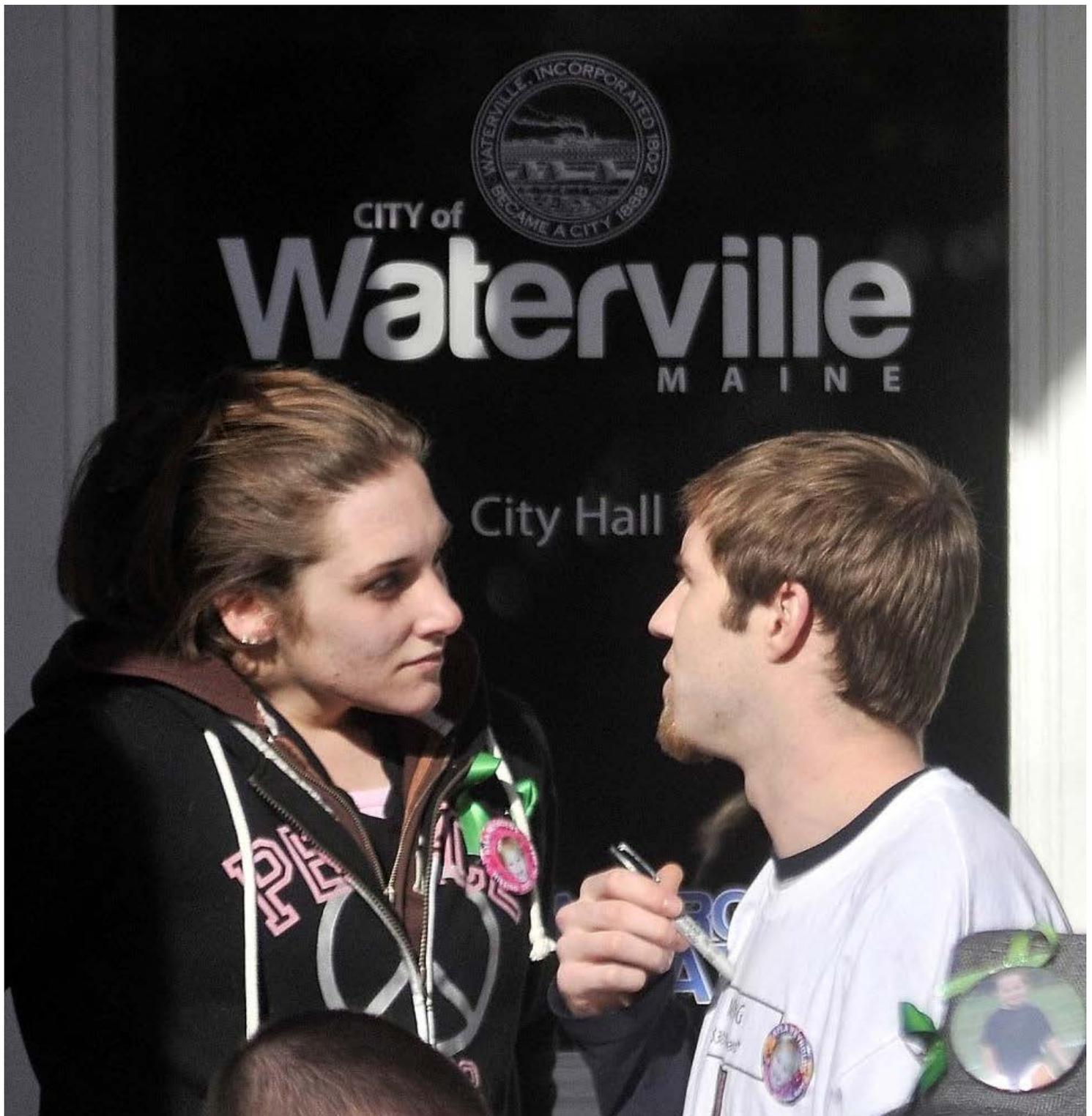
BY [AMY CALDER](#) STAFF WRITER



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Trista Reynolds, left, and Justin DiPietro, right, speak in January 2012 on the steps of City Hall during a vigil in Castonguay Square in Waterville for their missing toddler, Ayla Reynolds. Trista Reynolds is seeking a formal court declaration that Ayla is dead so a wrongful death lawsuit can be pursued against DiPietro. *Staff file photo by Michael G. Seamans*

Ayla's mother, Trista Reynolds, and her family said earlier this year that a court ruling declaring Ayla dead is necessary to "preserve the rights of Ayla's estate" to bring a lawsuit against Justin DiPietro. Under such a civil lawsuit, Reynolds would try to prove DiPietro caused Ayla's death and that the death was wrongful.

In a civil case, if a defendant is found liable for wrongfully causing the death of another, the punishment is monetary damage and there are rules for how one calculates pain and suffering and other damages, according to a University of Maine School of Law professor.

Trista Reynolds, through her stepfather, Jeff Hanson, referred questions on Tuesday about the case to her lawyer, William Childs, who will be in court Thursday for the hearing on Ayla. Hanson also referred questions to Childs, who was not immediately available for comment Tuesday.

Ayla was 20 months old [when she was reported missing Dec. 17, 2011](#), from her grandmother's house at 29 Violette Ave. in Waterville. The child was staying there with her father, Justin DiPietro; his then-girlfriend, Courtney Roberts; and his sister, Elisha DiPietro, while the grandmother was not at home overnight.

A [police dispatch transcript shows that DiPietro called 911](#) at 8:49 a.m. Dec. 17, saying he had put Ayla down to bed in her crib at 8 p.m. the previous night, that his sister checked on her two hours later, and the child was gone when he woke up in the morning.

DiPietro has maintained all along that someone must have abducted Ayla from the home, and Elisha DiPietro said last year in an interview with the television show "Crime Watch Daily" that the DiPietro family believes Ayla "is out there somewhere."

State police have said it is highly unlikely Ayla left the house on her own or that she was abducted during the night while the adults were sleeping — no evidence was ever found suggesting either scenario — and that those who were in the house the night she disappeared withheld information from investigators that is relevant to the case.

Steve McCausland, spokesman for the state Department of Public Safety, has said the abduction theory "doesn't pass the straight-face test."

Maine State Police, who are investigating the case, have said they think foul play was involved in her disappearance and they don't believe she is alive, but there have never been any criminal charges brought in the case or signs of Ayla's whereabouts.

McCausland said state police in the early weeks of the investigation announced that there was little likelihood that she was alive.

On Tuesday, McCausland said the probate process is a legal formality that has nothing to do with the criminal investigation.

“The probate action in court will have no effect on the investigation, which remains open and active,” he said.

Trista Reynolds and her family have spent the last six years raising awareness about Ayla’s case through rallies and television appearances, while also calling on authorities to file charges against DiPietro.

Hanson has written posts on the website aylareynolds.com, a site dedicated to Ayla’s case, urging the judicial system to pursue criminal charges. The site also promoted a petition asking Attorney General Janet Mills to prosecute Justin and Elisha DiPietro, as well as Courtney Roberts.

On May 17 this year, Cumberland County Probate Judge Joseph Mazziotti named Trista Reynolds personal representative of Ayla’s estate and noted that the child is presumed dead, the first step in Trista Reynold’s bid toward getting a formal death declaration.

Under Maine law, someone who has been missing for five years or more is presumed dead. Mazziotti’s May 17 document listed DiPietro’s address as being in Winnetka, California. A phone number or other means of contacting DiPietro could not be found.

In a [petition filed May 24](#) in Cumberland County Probate Court, Childs noted that the court had appointed Trista Reynolds as a personal representative of Ayla’s estate. The petition said no death certificate had been issued and requested a court hearing be scheduled to consider a formal declaration of death.

Hanson said last year that the Reynolds family planned to pursue a civil lawsuit against Justin DiPietro that possibly would include allegations of child endangerment and wrongful death, calling the declaration of Ayla’s death “the first step to hold those accountable for baby Ayla’s demise.”

The statute of limitations for filing a wrongful death lawsuit is six years after [the five-year anniversary](#) of when a person is reported missing, which in this case would be in December 2022.

Jim Burke, a criminal lawyer and clinical professor of law at University of Maine School of Law, said in May that a hearing before a probate judge to determine whether a person is legally dead can be as quick as five or 10 minutes and include the personal representative telling the judge the last time she saw Ayla and producing affidavits, newspaper stories and other information about the case.

“What the personal representative is doing is seeking a finding that Ayla Reynolds is legally dead, and that will be the predication for going forward with a wrongful death suit, if that’s what they’re wanting to do,” Burke said.

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