

**STATE OF WEST VIRGINIA**  
**SUPREME COURT OF APPEALS**

**FILED**

February 14, 2011  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**In Re: V.P.:**

**No. 101587**  
**(Roane Co. 10-JA-09)**

**MEMORANDUM DECISION**

This appeal arises from the Circuit Court of Roane County, wherein the Petitioner Mother's parental rights to V.P. were terminated. The appeal was timely perfected by counsel, with the complete record from the circuit court accompanying the Petition. The Guardian-ad-litem has filed her response on behalf of the child, V.P. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

The Petitioner Mother challenges the circuit court's order terminating her parental rights to her child, arguing that the circuit court erred in finding abuse and neglect, and in terminating her parental rights. Aggravated circumstances as to the Petitioner Mother exist, as she has previously had her parental rights to four other children terminated. When an abuse and neglect petition is brought based solely upon a previous involuntary termination of parental rights to a sibling pursuant to West Virginia Code § 49-6-5b(a)(3) (1998), prior to the lower court's making any disposition regarding the petition, it must allow the development of evidence surrounding the prior involuntary termination(s) and what actions, if any, the parent(s) have taken to remedy the circumstances which led to the prior termination(s). Syl. Pt. 4, *In Re George Glen B.*, 205 W.Va. 435, 518 S.E.2d 863 (1999). Although the requirement that such a petition be filed does not mandate termination in all circumstances, the legislature has reduced the minimum threshold of evidence necessary for termination where one of the factors outlined in West Virginia Code § 49-6-5b(a) (1998) is present. Syl. Pt. 2, *In Re George Glen B.*, 205 W.Va. 435, 518 S.E.2d 863 (1999). In the present case, Petitioner Mother offered no evidence as to any improvement in her intellectual deficiencies or ability to care for her child. Further, the Father offered testimony corroborating Petitioner Mother's deficiencies, and also highlighting instances of domestic violence between the two. The circuit court found that the Mother had made no improvement in her ability to care for a child. Petitioner raises an additional argument that the circuit court erred in refusing a continuance of the adjudicatory hearing because she received voluminous discovery the week prior to the hearing. The Court finds that this denial

was within the circuit court's discretion and concludes that there was no error in relation to the denial of continuance.

Having reviewed the record and the relevant decision of the circuit court, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review and the record presented, the Court determines that there is no prejudicial error. This case does not present a new or significant question of law. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

For the foregoing reasons, we find no error in the decision of the circuit court and the termination of parental rights is hereby affirmed.

Affirmed.

**ISSUED:** February 14, 2011

**CONCURRED IN BY:**

Chief Justice Margaret L. Workman  
Justice Robin Jean Davis  
Justice Brent D. Benjamin  
Justice Menis E. Ketchum  
Justice Thomas E. McHugh