

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

**FILED**

March 14, 2011

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

**In Re: C.M.:**

**No. 11-0111**  
**(Calhoun Co. 09-JA-40)**

**MEMORANDUM DECISION**

This appeal arises from the Circuit Court of Calhoun County, wherein the Petitioner Mother's parental rights to her child, C.M., 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 his response on behalf of the children, and the Department of Health and Human Resources has filed a summary response. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

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. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. 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.

The Petitioner Mother appeals the circuit court's termination of her parental rights, arguing that the circuit court erred in denying Petitioner Mother a post-adjudicatory improvement period. The petition in this matter was filed after C.M. disclosed that he was sexually abused to a psychologist. However, the record shows that Petitioner Mother refused to acknowledge this sexual abuse throughout the proceedings, even after the circuit court found by clear and convincing evidence that C.M. was in fact sexually abused. In order to receive an improvement period, the parent must demonstrate, by clear and convincing evidence, that he or she is likely to fully participate in the improvement period. *See* W.Va. Code 49-6-12. This Court has stated that "in order to remedy the abuse and/or neglect problem, the problem must first be acknowledged. Failure to acknowledge the existence of the problem, i.e., the truth of the basic allegation pertaining to the alleged abuse and neglect,

results in making the problem untreatable and in making an improvement period an exercise in futility at the child's expense.” *WV DHHR ex rel. Wright v. Doris S.*, 197 W.Va. 489, 475 S.E.2d 865, 874 (1996). The circuit court denied Petitioner Mother's request for a post-adjudicatory improvement period, finding that Petitioner Mother refused to acknowledge the abuse and therefore an improvement period was futile. The circuit court terminated Petitioner Mother's parental rights, finding that because Petitioner Mother refused to acknowledge the abuse, there was no reasonable likelihood that she would correct the conditions of abuse and neglect which led to the filing of the petition. The guardian ad litem and DHHR both argue that termination was proper in this matter and is in the best interests of the child.

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:** March 14, 2011

**CONCURRED IN BY:**

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

**DISSENTING:**

Justice Menis E. Ketchum