

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

C. CASEY FORBES, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

*In re C.S.*

**No. 23-427** (Mercer County CC-28-2022-JA-98)

**MEMORANDUM DECISION**

Petitioner Mother T.S.<sup>1</sup> appeals the Circuit Court of Mercer County’s June 21, 2023, order terminating her parental, custodial, and guardianship rights to C.S.,<sup>2</sup> arguing that the termination was erroneous. Upon our review, we determine that oral argument is unnecessary and that a memorandum decision affirming the circuit court’s order is appropriate. *See* W. Va. R. App. P. 21.

The underlying proceedings were initiated upon allegations related to C.S. and several other children who are not at issue in this appeal.<sup>3</sup> In May 2022, the DHS filed an abuse and neglect petition alleging that the petitioner and her live-in boyfriend, S.B., abused the child. According to the petition, a protective order was entered against the petitioner and S.B. based on allegations of inappropriate sexual behavior by S.B. toward one child in the home and threats to injure another child. C.S. and the other children in the home then participated in forensic interviews which revealed that S.B. abused alcohol and cocaine; physically abused them, including with a belt; sexually assaulted one child in the home; left unsecured firearms around the house; pointed a gun at the petitioner and threatened to shoot her; and shot and burned the family’s sick dog instead of

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<sup>1</sup> The petitioner appears by counsel Patricia Kinder Beavers. The West Virginia Department of Human Services appears by counsel Attorney General Patrick Morrissey and Assistant Attorney General Andrew T. Waight. Counsel Elizabeth Davis appears as the child’s guardian ad litem (“guardian”).

Additionally, pursuant to West Virginia Code § 5F-2-1a, the agency formerly known as the West Virginia Department of Health and Human Resources was terminated. It is now three separate agencies—the Department of Health Facilities, the Department of Health, and the Department of Human Services. *See* W. Va. Code § 5F-1-2. For purposes of abuse and neglect appeals, the agency is now the Department of Human Services (“DHS”).

<sup>2</sup> We use initials where necessary to protect the identities of those involved in this case. *See* W. Va. R. App. P. 40(e).

<sup>3</sup> These additional children were, in fact, the petitioner’s biological children, but her parental rights to them were terminated during a prior proceeding in 2012, from which she did not appeal. The petitioner raises no assignments of error regarding these children in the current matter. As such, they are not at issue in this appeal.

seeking veterinary care. The children also stated that the petitioner was aware of S.B.'s violence towards them but did nothing to stop it.

An adjudicatory hearing was held in December 2022. The DHS presented testimonial evidence from the children's forensic interviewer and case workers that was consistent with the allegations contained in the petition. The petitioner called multiple witnesses who testified that the petitioner was a good mother and denied ever observing any abuse or neglect of the children. The petitioner also testified, denying all allegations and asserting that the children were lying. The petitioner also confirmed that her parental rights to the other children were terminated in 2012 because one of the children was severely injured in her home and the court was unable to determine whether the petitioner or a former boyfriend caused the injuries. Additionally, the circuit court conducted in camera interviews of the children, during which one child recanted statements from his forensic interview and claimed he had been instructed to lie. Meanwhile, the other children, including C.S., confirmed the allegations they made during the forensic interviews. The circuit court concluded the hearing to review the children's forensic interviews. In January 2023, the circuit court held a decision conference and found that the children's statements during the in camera interviews were credible and showed that C.S. had been physically harmed by S.B.; that the petitioner failed to prevent further harm to or otherwise protect C.S. from S.B.; that C.S. was exposed to domestic violence in the home, including "the traumatic killing and disposal of a beloved family pet"; and that the petitioner failed to address S.B.'s sexual abuse of another child in the home. As such, the circuit court found that C.S. was neglected and adjudicated the petitioner "as abusing or neglecting."

On March 13, 2023, the DHS filed a case plan for C.S. recommending termination of the petitioner's parental rights.<sup>4</sup> The dispositional hearing was held on March 16, 2023. At the hearing, the DHS presented testimony from the case worker who explained that the petitioner's prior involuntary termination of her parental rights was based on the petitioner's failure to protect her older children from physical abuse by her former boyfriend. The case worker opined that there had not been a significant change in the petitioner's circumstances as the petitioner again failed to protect C.S. from physical abuse by her current boyfriend. The petitioner did not testify or present witnesses, but she requested that the circuit court incorporate the children's testimony from their in camera interviews.

In April 2023, the circuit court held a decision conference as to the petitioner's disposition. The circuit court found that the petitioner's "history with abusive or neglectful romantic partners [led] to prior terminations" and that she "failed to make any necessary corrections by continuing the same behaviors" with S.B. The circuit court further found that the petitioner failed to recognize or take responsibility for the danger S.B. posed to C.S. Thus, the circuit court concluded that the petitioner was incapable "of rectifying the issues which gave rise to the case at hand and all past cases." As such, the circuit court found that the conditions of abuse or neglect could not be substantially corrected in the near future and that it was in the child's best interest to terminate the petitioner's parental rights. Accordingly, the circuit court terminated the petitioner's parental,

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<sup>4</sup> A second, albeit identical case plan was also filed by the DHS on the day of the dispositional hearing.

custodial, and guardianship rights to C.S.<sup>5</sup> It is from the dispositional order that the petitioner appeals.

On appeal from a final order in an abuse and neglect proceeding, this Court reviews the circuit court's findings of fact for clear error and its conclusions of law de novo. Syl. Pt. 1, *In re Cecil T.*, 228 W. Va. 89, 717 S.E.2d 873 (2011). Before this Court, the petitioner argues that it was error to terminate her parental rights.<sup>6</sup> West Virginia Code § 49-4-604(b)(6) permits a circuit court to terminate a parent's parental rights upon finding that "there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child." Furthermore, we have acknowledged that "the minimum threshold of evidence necessary for termination" of parental rights is reduced when a parent's parental rights to another child were previously involuntarily terminated. Syl. Pt. 2, in part, *In re George Glen B., Jr.*, 205 W. Va. 435, 518 S.E.2d 863 (1999). However, "prior to the [circuit] court's . . . 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)." *Id.* at 437, 518 S.E.2d at 865, syl. pt. 4, in part.

Here, the evidence established that the petitioner failed to remediate the circumstances that led to the prior involuntary termination of her parental rights. The circuit court explained that the petitioner again involved herself with an abusive partner and allowed him to physically abuse C.S., in addition to exposing C.S. to domestic violence and sexual abuse. Nevertheless, the petitioner denied all of the allegations made by the children, claimed they were lying, and maintained her relationship with S.B. See *In re Timber M.*, 231 W. Va. 44, 55, 743 S.E.2d 352, 363 (2013) (explaining that "[i]n 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."). Based upon the petitioner's failure to acknowledge the problems of abuse and neglect, the circuit court properly concluded that there was no reasonable likelihood that the conditions of abuse or neglect could be substantially corrected in the near future and that

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<sup>5</sup> The permanency plan for C.S. is to remain with his nonabusing father.

<sup>6</sup> The petitioner also argues that the DHS did not develop a family case plan for her and failed to conduct an appropriate investigation. However, the petitioner fails to provide any analysis or apply any controlling authority in support of these arguments. In addition, the petitioner asserts that the guardian failed to fulfill her responsibilities under Rule 47(e) of the West Virginia Rules of Practice and Procedure for Family Court and the Guidelines for Guardians Ad Litem in Family Court. However, these rules and guidelines are not applicable in child abuse and neglect proceedings. See generally W. Va. R. P. Child Abuse & Neglect Proc. (establishing the minimum responsibilities of appointed guardians ad litem in abuse and neglect proceedings). Therefore, we decline to address these assignments of error. See W. Va. R. App. P. 10(c)(7) (requiring clear citations to points of fact and law presented); *State v. Larry A.H.*, 230 W. Va. 709, 716, 742 S.E.2d 125, 132 (2013) ("Although we liberally construe briefs in determining issues presented for review, issues . . . mentioned only in passing but [that] are not supported with pertinent authority, are not considered on appeal." (quoting *State v. LaRock*, 196 W.Va. 294, 302, 470 S.E.2d 613, 621 (1996))).

termination was necessary for C.S.'s welfare. We find no error in the circuit court's decision to terminate the petitioner's parental rights to C.S.

For the foregoing reasons, the circuit court's June 21, 2023, order is hereby affirmed.

Affirmed.

**ISSUED:** August 27, 2024

**CONCURRED IN BY:**

Chief Justice Tim Armstead  
Justice Elizabeth D. Walker  
Justice John A. Hutchison  
Justice William R. Wooton  
Justice C. Haley Bunn