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

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

***In re* W.M.**

No. 24-259 (Randolph County CC-42-2023-JA-53)

MEMORANDUM DECISION

Petitioner Mother P.T.[1] appeals the Circuit Court of Randolph County's April 8, 2024, order terminating her parental rights to W.M., arguing that termination was erroneous.[2] 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.

In July 2023, the DHS filed a petition alleging that the petitioner abused and neglected then-newborn W.M. by failing to correct or acknowledge the deplorable living conditions and medical neglect that led to the prior termination of her parental rights to seven other children. The petition further alleged that the petitioner lied to the child's father and hospital staff by claiming that W.H. was her first child and, when confronted by a Child Protective Services worker, refused to discuss the prior terminations. The petition recounted the prior abuse and neglect proceeding, noting that after the children were removed, they underwent medical examinations which indicated that one child suffered an ear infection so severe her eardrum ruptured. Another child had a diaper rash so severe that she was missing an entire layer of skin, leaving her "horribly raw." Another child suffered an ear infection, influenza, molluscum contagiosum, and a fever; this same child has also previously been diagnosed with craniosynostosis, a condition that, without treatment, can lead to severe brain damage. Finally, two other children had influenza. During the pendency of the prior proceeding, the petitioner gave birth to another child for whom she received no prenatal care;

[1] The petitioner appears by counsel Timothy H. Prentice. The West Virginia Department of Human Services appears by Attorney General John B. McCuskey and Assistant Attorney General Lee A. Niezgoda. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel. Counsel Heather M. Weese appears as the child's guardian ad litem.

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").

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

thus, the DHS filed an amended petition as to that child. She was granted an improvement period, but failed to demonstrate improvement and, ultimately, her parental rights to those children were terminated.

In December 2023, the petitioner underwent a parental fitness evaluation during which she was unable to explain why the current petition had been filed or why her rights to the other children were previously terminated. She claimed that the prior case was initiated due to a "medical mishap" and that she was not granted an improvement period. The evaluator noted that there were "no cognitive difficulties with parenting" but that the petitioner's presentation "suggested little recognition of her faults as a parent," indicated "magical thinking," a tendency to avoid her emotional life, and a dependent personality. Ultimately, the evaluator concluded that the petitioner's prognosis for improved parenting was poor to guarded "as there is no evidence that she had gained any insight or skills related to parenting since her prior termination[s]."

In February 2024, the circuit court held an adjudicatory hearing. The petitioner stipulated to the allegations in the petition, and the court adjudicated her of abusing and neglecting the child. After the DHS filed a motion to terminate the petitioner's parental rights, the circuit court held a dispositional hearing in April 2024. The petitioner testified that her prior terminations were "supposedly" solely due to medical neglect, and she did not remember any of the services provided to her during the prior proceedings. She admitted that she was not successful in gaining the skills needed to parent her children during her improvement period in the earlier case. When asked if she completed any services in an effort to change her circumstances before W.M.'s birth, she simply stated "no."

In the resulting dispositional order, the court found that, even at disposition, the petitioner still could not identify why her rights to seven other children were terminated and that she failed to take responsibility for her conduct that necessitated those terminations, as evidenced by her testimony. The court further found that she demonstrated no change in circumstances and failed to remedy the conditions that led to her prior terminations. As such, the court determined that there was no reasonable likelihood that the conditions of abuse and neglect could be remedied in the near future and the child's welfare necessitated termination of the petitioner's parental rights. Ultimately, the court terminated the petitioner's parental rights to the child. It is from this order that the petitioner appeals.[3]

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 the circuit court erroneously terminated her parental rights.[4] Upon our review, we conclude that the

[3] The father's parental rights were also terminated. The permanency plan for the child is adoption in the current placement.

[4] The petitioner also argues that the court erred by not affording her an improvement period. However, the petitioner fails to provide any analysis or apply any controlling authority in support of this argument. *See* W. Va. R. App. P. 10(c)(7) (requiring clear citations to points of fact and law presented); *see also State v. LaRock*, 196 W. Va. 294, 302, 470 S.E.2d 613, 621 (1996) ("Although

circuit court did not err, given that the petitioner's refusal to acknowledge the basis of her prior terminations left her unable to correct the conditions that led to the prior terminations of her parental rights. As we have explained, when a petition is based upon a prior involuntary termination of parental rights, "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)." Syl. Pt. 4, in part, *In re George Glen B., Jr.*, 205 W. Va. 435, 518 S.E.2d 863 (1999). Moreover, "[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 . . . results in making the problem untreatable." *In re Timber M.*, 231 W. Va. 44, 55, 743 S.E.2d 352, 363 (2013) (quoting *In re Charity H.*, 215 W. Va. 208, 217, 599 S.E.2d 631, 640 (2004)). Here, the circuit court found that the petitioner could not identify why her rights to seven other children were terminated, failed to take responsibility for those prior terminations, and could not identify any actions or services she undertook to correct the conditions that existed during those prior cases. While the petitioner asserts that the circuit court did not fully consider the ability of the petitioner and the father to jointly parent the child, the petitioner's refusal to acknowledge the underlying issues rendered them untreatable, regardless of whether the child's father was able to help co-parent the child. Additionally, the court expressed concern that the petitioner lied to the father of the child about her prior terminations, further undermining her assertion that the two could successfully parent the child together.[5] The court had ample evidence upon which to find that there was no reasonable likelihood that the petitioner could substantially correct the conditions of neglect and that termination was necessary for the child's welfare. *See* W. Va. Code § 49-4-604(c)(6) (permitting termination of parental rights upon these findings). Accordingly, we conclude that the circuit court did not err in terminating the petitioner's parental rights.

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we liberally construe briefs in determining issues presented for review, issues . . . mentioned only in passing but . . . not supported with pertinent authority, are not considered on appeal."). The petitioner further appears to claim that her abuse and neglect of the child was based, in part, upon intellectual incapacity. *See* Syl. Pt. 4, in part, *In re Billy Joe M.*, 206 W. Va. 1, 521 S.E.2d 173 (1999) ("Where allegations of neglect are . . .based on intellectual incapacity . . . , termination of rights should occur only after the social services system makes a thorough effort to determine whether the parent(s) can adequately care for the children with intensive long-term assistance."). However, the record does not support the petitioner's assertion, as her psychological evaluation clearly indicated that she had "no cognitive difficulties with parenting." Accordingly, we decline to address these issues.

[5] The petitioner also asserts that her parental rights to the older children were terminated, in part, upon the deplorable conditions of her home and that she improved these conditions. However, we need not discuss the housing issue, as affirmation is adequately supported by the petitioner's failure to acknowledge or take any actions to remedy the medical neglect upon which her rights to her other children were terminated and which continued to threaten the health and wellbeing of W.M. *See* W. Va. Code § 49-1-201 (defining neglected child as a child whose "physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent . . . to supply the child with necessary . . . medical care").

For the foregoing reasons, we find no error in the decision of the circuit court, and its April 8, 2024, order is hereby affirmed.

Affirmed.

ISSUED: March 19, 2025

CONCURRED IN BY:

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

DISSENTING:

Justice Charles S. Trump IV