

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re A.W.

No. 24-276 (Marshall County CC-25-2022-JA-40)

MEMORANDUM DECISION

Petitioner Mother M.W.¹ appeals the Circuit Court of Marshall County’s April 24, 2024, order terminating her parental rights to A.W., although she fails to allege any specific error in the proceedings below.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.

Given that the petitioner’s appeal before this Court raises no specific challenge to any act by the circuit court, it is unnecessary to belabor the procedural history of the proceedings below. The DHS filed a petition in July 2022 alleging that the petitioner engaged in domestic violence and that the home in which the child resided was in deplorable condition, among other allegations.³

In September 2023, the petitioner stipulated to the allegations, and the circuit court entered an order adjudicating her of neglecting the child. Ultimately, the court held a final dispositional hearing in April 2024, which the petitioner did not attend despite notice.⁴ Based upon earlier

¹ The petitioner appears by counsel Tyler L. Cline. The West Virginia Department of Human Services appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Lee Niezgoda. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel. Counsel Kevin L. Neiswonger 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).

³ The DHS later filed an amended petition to include an additional child who is not at issue in this appeal.

⁴ The petitioner was represented by counsel at this hearing.

testimony in which the petitioner “denie[d] she has any issues that need to be corrected,” in addition to her inability or unwillingness “to participate in drug screenings and mental health services despite her child being in the custody of the DHS for almost [two] years,” the court concluded that there was no reasonable likelihood that the petitioner could correct the conditions of abuse and neglect. Further citing the child’s need for continuity of care and caretakers and the time needed to integrate the child into a stable home, the court terminated the petitioner’s parental rights.⁵ The petitioner appeals from the dispositional order.

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). As noted above, the petitioner fails to challenge any act of the circuit court in her petition for appeal. In the brief counsel filed pursuant to Rule 10(c)(10)(B) of the West Virginia Rules of Appellate Procedure, although he sets forth an assignment of error and asserts generally that the court erred in finding that the DHS made reasonable efforts to reunify the family and in terminating the petitioner’s parental rights instead of imposing a less restrictive disposition, counsel fails to present any substantive argument on these issues or assert exactly how the court’s actions constituted error. Counsel simply notes that “[p]etitioner’s argument and reasoning for this assignment of error will be further advanced through [p]etitioner’s pro se supplemental brief.” However, in the petitioner’s supplemental brief, she fails to advance this assignment of error in any meaningful way. Instead, she alleges without citation to any evidence or other support, that *subsequent to disposition*, she has ceased abusing drugs and become stable. We refuse to accept these unsupported claims, and, in any event, developments that have allegedly occurred since disposition have no bearing on whether the circuit court erred.

As we have explained, “[a] skeletal ‘argument,’ really nothing more than an assertion, does not preserve a claim Judges are not like pigs, hunting for truffles buried in briefs.” *State v. Kaufman*, 227 W. Va. 537, 555 n.39, 711 S.E.2d 607, 625 n.39 (2011) (quoting *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir.1991)). Accordingly, this Court is left with no assignment of error to address in affirming the circuit court’s dispositional order. As we have explained, “[t]here is a presumption of regularity of court proceedings that remains until the contrary appears, and the burden is on the person who alleges such irregularity to show it affirmatively.” Syl. Pt. 2, in part, *State v. J.S.*, 233 W. Va. 198, 757 S.E.2d 622 (2014) (quoting Syl., in part, *State ex rel. Smith v. Boles*, 150 W. Va. 1, 146 S.E.2d 585 (1965)). Because the petitioner has failed to establish any irregularity in the proceedings below, we must affirm the circuit court’s order.

For the foregoing reasons, we find no error in the decision of the circuit court, and its April 24, 2024, order is hereby affirmed.

Affirmed.

⁵ The father’s parental rights were also terminated, and the permanency plan for the child is adoption in the current placement.

ISSUED: March 19, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton
Justice Elizabeth D. Walker
Justice Tim Armstead
Justice C. Haley Bunn
Justice Charles S. Trump IV