

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

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

***In re F.S.***

**No. 24-540** (Kanawha County CC-20-2022-JA-404)

**MEMORANDUM DECISION**

Petitioner Mother K.T.<sup>1</sup> appeals the Circuit Court of Kanawha County’s August 19, 2024, order terminating her parental rights to F.S., arguing that the circuit court erred in terminating her rights.<sup>2</sup> 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 DHS filed a petition in September 2022, alleging that the petitioner tested positive for controlled substances upon giving birth to F.S., who was treated with methadone due to withdrawal symptoms. Further, the petitioner admitted to using heroin every day for years and had several positive drug tests during her pregnancy. The DHS further alleged that the petitioner’s parental rights to two other children were involuntarily terminated in 2019.

The court held the adjudicatory hearing in December 2022, during which it found that the case concerned aggravated circumstances due to the previous involuntary termination of the petitioner’s parental rights. The DHS then put on evidence consistent with the allegations in the petition regarding the petitioner’s substance abuse throughout her pregnancy and the impact on the child. Based on the evidence, the circuit court found that the petitioner’s substance abuse interfered with her ability to parent F.S. Therefore, the court found clear and convincing evidence that the petitioner had abused and neglected F.S. At the conclusion of the adjudicatory hearing, the

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<sup>1</sup> The petitioner appears by counsel Jason S. Lord. The West Virginia Department of Human Services appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Wyclif Farquharson. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel. Counsel Catherine Bond Wallace 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”).

<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).

petitioner moved the court to direct the DHS to provide her with services, which the court denied. However, it ordered the DHS to assist the petitioner in obtaining inpatient substance abuse treatment.

The court held the dispositional hearing in April 2023. The petitioner testified that she had been in inpatient drug treatment for eleven days and requested more time to finish the program. She further testified that she planned to enter treatment earlier but was arrested in February 2023 on an outstanding warrant in Georgia. According to her testimony, her arrest stemmed from criminal charges in 2021 for felony possession of methamphetamine and misdemeanor possession of utensils to use drugs, to which she pled guilty and received three years of supervised probation. She stated that her last drug use was in late March 2023, when she violated her probation by using THC, fentanyl, and ecstasy. The petitioner also testified that she planned to continue living with the father of F.S., even though she believed his parental rights had already been terminated. At the close of disposition, the court found that the petitioner had not demonstrated a likelihood of compliance with an improvement period and that it was in the best interests of F.S. to terminate the petitioner's parental rights. Accordingly, the court terminated the petitioner's parental rights.

The petitioner subsequently appealed, and this Court vacated and remanded for entry of a sufficient dispositional order that complied with the requirements set forth in West Virginia Code § 49-4-604(c)(6). *In re F.S.*, No. 23-292, 2024 WL 2206538, at \*2 (W. Va. May 13, 2024) (memorandum decision). On remand, the circuit court held a hearing in August 2024 and issued an amended dispositional order finding that, contrary to the petitioner's claims, her entrance into inpatient treatment was not done on her own volition, but as part of her probation. Further, the court found that the petitioner had not made any progress since her involuntary termination five years prior. Ultimately, the court found that there was no reasonable likelihood that the petitioner could substantially correct the conditions of abuse and neglect, and that termination was necessary for the welfare of F.S. Based on these findings, the circuit court terminated the petitioner's parental rights.<sup>3</sup> It is from the amended 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 the circuit court erroneously terminated her parental rights without allowing her additional time to continue inpatient treatment.<sup>4</sup> The petitioner correctly notes that "[c]ourts are not required to

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<sup>3</sup> The father's parental rights were also terminated. The permanency plan for the child is adoption in the current placement.

<sup>4</sup> The petitioner also asserts that it was error to deny her an improvement period. However, the petitioner cites to no portion of the appendix record demonstrating that she filed a written motion for an improvement period. This is in violation of Rule 10(c)(7) of the Rules of Appellate Procedure, which requires a petitioner's brief to "contain appropriate and specific citations to the record on appeal, including citations that pinpoint when and how the issues in the assignments of error were presented to the lower tribunal." Further, this Court has previously held that "[a] circuit court may not grant a[n] . . . improvement period under W. Va. Code § 49-4-610 . . . unless the respondent to the abuse and neglect petition files a written motion requesting the improvement

exhaust every speculative possibility of parental improvement . . . where it appears that the welfare of the child will be seriously threatened.” *In re Cecil T.*, 228 W. Va. at 91, 717 S.E.2d. at 875, Syl. Pt. 4 (quoting Syl. Pt. 1, in part, *In re R.J.M.*, 164 W. Va. 496, 266 S.E.2d 114 (1980)). Further, this case is one of aggravated circumstances due to the petitioner’s prior involuntary terminations. *See* W. Va. Code § 49-4-604(c)(7)(C) (relieving the DHS of its obligation to make reasonable efforts to preserve the family when a parent’s parental rights to another child have been involuntarily terminated). Although the DHS was not required to make reasonable efforts in this case, the circuit court ordered the DHS to assist the petitioner with obtaining inpatient drug treatment. Instead of accepting the DHS’s assistance, the evidence revealed that the petitioner continued to use drugs throughout the proceedings, as she admitted to abusing THC, fentanyl, and ecstasy roughly one month prior to disposition, and only entered inpatient treatment after violating her probation. Given the petitioner’s continued drug use across two abuse and neglect proceedings, the circuit court found that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected. *See* W. Va. Code § 49-4-604(d)(1) (establishing that there is no reasonable likelihood of improvement when “[t]he abusing parent . . . [has] habitually abused or [is] addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and . . . [has] not responded to or followed through the recommended and appropriate treatment”). The circuit court also found that termination was necessary for the child’s welfare, a finding the petitioner does not challenge on appeal. Courts are permitted to terminate parental rights on such findings. *See* W. Va. Code § 49-4-604(c)(6); *see also* Syl. Pt. 5, *In re Kristin Y.*, 227 W. Va. 558, 712 S.E.2d 55 (2011) (“Termination of parental rights . . . may be employed without the use of intervening less restrictive alternatives when it is found that there is no reasonable likelihood . . . that conditions of neglect or abuse can be substantially corrected.” (quoting Syl. Pt. 2, *In re R.J.M.*, 164 W. Va. 496, 266 S.E.2d 114 (1980))). As such, we decline to disturb the circuit court’s decision.

For the foregoing reasons, we find no error in the decision of the circuit court, and its August 19, 2024, order is hereby affirmed.

Affirmed.

**ISSUED:** September 10, 2025

**CONCURRED IN BY:**

Chief Justice William R. Wooton  
Justice C. Haley Bunn  
Justice Charles S. Trump IV  
Justice Thomas H. Ewing  
Senior Status Justice John A. Hutchison

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period.” Syl. Pt. 4, *State ex rel. P.G.-1 v. Wilson*, 247 W. Va. 235, 247 S.E.2d 730 (2021). Accordingly, the petitioner is entitled to no relief.