

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re N.W.

No. 25-601 (Kanawha County CC-20-2024-JA-400)

MEMORANDUM DECISION

Petitioner Father S.R.¹ appeals the Circuit Court of Kanawha County’s August 8, 2025, order terminating his parental rights to N.W., arguing that the court erred in denying his motion for a post-adjudicatory improvement period.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.

Prior to the petitioner’s involvement in the proceedings, the DHS filed a petition in November 2024, shortly after N.W.’s birth, listing the child’s father as unknown and alleging that the mother tested positive for amphetamine and methamphetamine at delivery.³ Paternity testing subsequently confirmed that the petitioner was N.W.’s father. In April 2025, the DHS amended the petition to include allegations that the petitioner abused illegal drugs, provided drugs to the mother, and perpetrated domestic violence against the mother during the pregnancy. The DHS noted that the child was born prematurely and drug affected.

At an adjudicatory hearing in April 2025, the petitioner admitted to testing positive for methamphetamine and stipulated that his use of controlled substances negatively affected his ability to parent. On this basis, the circuit court adjudicated the petitioner as an abusive and neglectful parent and found N.W. to be an abused and neglected child. The petitioner moved for a post-adjudicatory improvement period, which the court held in abeyance. However, the court ordered the DHS to provide services (including parenting and adult life skills classes) to the petitioner and that the petitioner enroll in substance abuse treatment and submit to a drug and alcohol assessment to better identify his treatment needs.

¹ The petitioner appears by counsel Jason S. Lord. The Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General A. Tyler Reseter. Counsel Bryan B. Escue appears as the child’s guardian ad litem (“guardian”).

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 mother passed away in December 2024.

The circuit court considered the petitioner's motion for a post-adjudicatory improvement period at a dispositional hearing in June 2025. A DHS worker testified that the petitioner had not participated in adult life skills and parenting classes, as the provider's attempts to reach him went unanswered. The worker also testified that the petitioner missed numerous drug screens, tested positive for amphetamine and methamphetamine in May 2025, and advised the worker that he did not need substance abuse treatment. Accordingly, the worker recommended that the court deny the petitioner's motion and terminate his parental rights. The petitioner testified that the parenting and adult life skills provider had never contacted him and that his work schedule often prevented him from drug screening. The petitioner denied being addicted to methamphetamine, stating that his May 2025 test results must "have been a false positive," and indicated that he was not seeking substance abuse treatment because working "is my treatment." The petitioner also denied using drugs with the mother or being aware that she abused substances while pregnant. The petitioner testified that he did not remember stipulating that he abused substances to the detriment of his parenting abilities and averred that he could properly parent the child. In closing, the guardian argued that the petitioner was in active addiction, had not shown that he would comply with the terms of an improvement period or otherwise seek substance abuse treatment, and was a danger to the child.

The circuit court found that the petitioner did not participate in the ordered services and that his testimony regarding the mother's drug use was not credible. In addition to the petitioner's positive screen for amphetamine and methamphetamine in May 2025, the court noted that he missed over fifteen screens "which are presumed positive." The court further found that the petitioner knew his substance abuse "was going to be an issue in the case" and was given opportunities to seek treatment, and that it was "not sufficient for [him] to claim he is pursuing employment in lieu of treatment." The court concluded that it was unlikely that the petitioner would successfully complete the terms and conditions of an improvement period and denied his motion. The court also concluded that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future. Having considered the dispositional alternatives, the court terminated the petitioner's parental rights to N.W., finding this to be in the child's best interests, given her tender years and need for permanency.⁴ The petitioner now appeals from this dispositional order.

"We review a circuit court's decision to grant or deny a post-adjudicatory improvement period under an abuse of discretion standard." Syl. Pt. 1, *In re K.A.*, 251 W. Va. 626, 915 S.E.2d 520 (2025). The petitioner asserts, in his sole assignment of error, that the circuit court erred in denying his motion for a post-adjudicatory improvement period. We disagree. West Virginia Code § 49-4-610(2)(B) permits a circuit court to grant a post-adjudicatory improvement period when a parent "demonstrates, by clear and convincing evidence, that [he] is likely to fully participate." A circuit court has discretion to deny an improvement period when no improvement is likely. *See In re Tonjia M.*, 212 W. Va. 443, 448, 573 S.E.2d 354, 359 (2002). Moreover, a court should only grant an improvement period when doing so will not jeopardize a child's best interest. *See Syl. Pt. 3, in part, State ex rel. W. Va. Dep't of Health & Hum. Res. v. Dyer*, 242 W. Va. 505, 836 S.E.2d 472 (2019); *see also In re S.S.*, -- W. Va. --, --, 928 S.E.2d 577, 582 (2026) (recognizing that a parent's "improvement period request requires a two-fold inquiry of both statutory compliance

⁴ The child's permanency plan is adoption.

and a best interests analysis”). We have explained that a parent’s “[f]ailure to acknowledge the existence of the problem . . . results in making the problem untreatable and in making an improvement period an exercise in futility at the child’s expense.” *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, despite his admissions at adjudication, the petitioner denied having a substance abuse problem and admitted that he did not seek (or believe he needed) rehabilitative treatment. The circuit court also noted the petitioner’s failure to participate in parenting and adult life skills services. As such, it was proper for the court to conclude that the petitioner’s problem was untreatable and that an improvement period would prove futile and only delay permanency for the then seven-month-old N.W. As the record supports the lower court’s finding that the petitioner was unlikely to fully participate in an improvement period, and that granting one would not be in the child’s best interests, we find that the circuit court did not abuse its discretion in denying the petitioner’s motion.

For the foregoing reasons, we find no error in the decision of the circuit court and its August 8, 2025, order is affirmed.

Affirmed.

ISSUED: June 24, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan