

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re A.S.

No. 25-623 (Kanawha County CC-20-2024-JA-304)

MEMORANDUM DECISION

Petitioner Mother S.S.¹ appeals the Circuit Court of Kanawha County’s August 27, 2025, order terminating her parental rights to A.S., arguing that the circuit court erred by terminating her parental rights without first granting her 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.

In September 2024, the DHS filed an abuse and neglect petition after A.S. tested positive for amphetamines and fentanyl at birth. The DHS alleged that the petitioner tested positive for amphetamines, fentanyl, heroin, and opiates upon admission to the hospital to give birth and admitted to using heroin one day prior. The DHS asserted that the petitioner’s substance abuse harmed and threatened the life, health, and welfare of A.S. and impaired the petitioner’s ability to parent. The petitioner waived the preliminary hearing later that month, and, at her request, the court ordered the DHS to provide her with services, including parenting and adult life skills classes, random drug and alcohol screening, and supervised visitation (conditioned upon two consecutive clean drug screens). Following several continuances, the circuit court held an adjudicatory hearing in April 2025, where it found that the petitioner abused and neglected A.S. based upon her substance abuse. Shortly thereafter, the petitioner filed a written motion for a post-adjudicatory improvement period.

The circuit court held a dispositional hearing in July 2025, where it heard testimony from both a Child Protective Services (“CPS”) worker and the petitioner establishing that the petitioner knowingly failed to participate in any of the services offered to her. The petitioner further admitted that she was “not ready” to participate in services and that she would likely test positive for methamphetamine if drug tested at that time. In the resulting dispositional order, the court found that there was no reasonable likelihood that the petitioner could substantially correct the conditions of abuse and neglect in the near future due to her knowing failure to participate in offered services

¹ The petitioner appears by counsel Sandra K. Bullman. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Carl E. Hostler. Counsel Bryan B. Escue appears as the child’s guardian ad litem.

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

and her continued use of methamphetamine. The court further found that the petitioner did not have a bond with A.S. due to her conduct and that termination was in the child's best interests, especially given the child's young age and need for permanency. Accordingly, the court terminated the petitioner's parental rights to A.S.³ It is from this 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 substantive rulings for abuse of discretion, factual findings are reviewed for clear error, and issues of law are reviewed de novo. Syl. Pt. 1, *In re K.S.*, -- W. Va. --, 930 S.E.2d 400 (2026). Before this Court, the petitioner raises a single assignment of error arguing that the circuit court erred by terminating her parental rights without first granting her a post-adjudicatory improvement period. We disagree. Under West Virginia Code § 49-4-610(2)(B), a parent may be granted an improvement period if they "demonstrate[], by clear and convincing evidence, that [they are] likely to fully participate in the improvement period." This Court has made it clear that "a parent charged with abuse and/or neglect is not unconditionally entitled to an improvement period. Where an improvement period would jeopardize the best interests of the child, for instance, an improvement period will not be granted." *In re Charity H.*, 215 W. Va. 208, 216, 599 S.E.2d 631, 639 (2004). The record shows that the petitioner knowingly failed to participate in any of the services offered to her during the underlying proceedings, even though the DHS offered such services *at her request*. As the petitioner acknowledges in her brief, this failure clearly shows that she "did not meet the standards for the granting of an improvement period." Accordingly, we conclude that the circuit court did not abuse its discretion in not granting the petitioner a post-adjudicatory improvement period prior to terminating her parental rights.

The same evidence supports the circuit court's finding that there was no reasonable likelihood that the petitioner could substantially correct the conditions of abuse and neglect in the near future. *See* W. Va. Code § 49-4-604(d) ("No reasonable likelihood that conditions of neglect or abuse can be substantially corrected' means that . . . the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help."). Further, the court found that termination was in the child's best interests, which the petitioner does not challenge on appeal. As such, we conclude that the circuit court did not abuse its discretion in terminating the petitioner's parental rights to A.S. *See* W. Va. Code § 49-4-604(c)(6) (permitting circuit courts to terminate parental rights upon finding that there is no reasonable likelihood that the conditions can be substantially corrected in the near future and when necessary for child's welfare).

For the foregoing reasons, we find no error in the decision of the circuit court, and its August 27, 2025, dispositional order is hereby affirmed.

Affirmed.

ISSUED: July 28, 2026

³ The circuit court also terminated the father's parental rights. The child's permanency plan is adoption in the current placement.

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