

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re D.C.

No. 25-714 (Kanawha County CC-20-2024-JA-146)

MEMORANDUM DECISION

Petitioner Mother M.B.¹ appeals the Circuit Court of Kanawha County’s September 26, 2025, order terminating her parental rights to D.C., arguing that the court erred in denying her an improvement period before terminating her parental rights.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.

The DHS filed an initial petition in April 2024,³ alleging that the petitioner was incapable of taking care of D.C. due to mental impairment, as she was not “in sound mind” and had been briefly hospitalized for delusions. The DHS further alleged educational neglect, that the petitioner abused alcohol, and that she failed to provide D.C. with necessary supervision or food due to her frequent absences from the home. Witnesses also reported that the petitioner physically abused D.C., subjected him to odd punishments, and talked to people who were not there.

At a preliminary hearing in May 2024, the circuit court ordered the DHS to provide services, including supervised visitation, parenting and adult life skills classes, and a psychological evaluation. However, the DHS moved to terminate services in July 2024, citing safety concerns due to the petitioner’s hostile and threatening behavior. Following a hearing later that month, the court found that supervised visits and services in the home could not be provided because “service providers had a reasonable fear for their safety while working with [the petitioner] because of [her] words and actions.” The court therefore granted the DHS’s motion, in part, but still required the petitioner to undergo a psychological evaluation.

¹ The petitioner appears by counsel Joseph H. Spano Jr. The Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Andrew T. Waight. Counsel Jennifer R. Victor 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 Later that month, the DHS filed an amended petition to include additional allegations regarding D.C.’s father.

At a hearing in November 2024, the circuit court admitted into evidence the report from the petitioner’s psychological evaluation. The evaluator observed that the petitioner presented with psychotic symptoms, including “significant persecutory delusions” (i.e., that the allegations of abuse and neglect were a “frame job” initiated by the police), but displayed “no insight as to the existence of her mental health issues.” The petitioner maintained that she was not mentally ill and, confusingly, claimed that her friend was the one who “run[s] around drunk, talking to voices.” The evaluator concluded that the petitioner, who was likely suffering from schizophrenia, was not capable of meaningful participation in services until she addressed her mental health. The evaluator recommended inpatient psychiatric treatment but opined that the petitioner’s prognosis for improved parenting was “extremely poor” given that she was “highly unlikely to voluntarily enter treatment or . . . comply with a medication regimen” and her untreated psychosis could put the child in “significant danger.”

In February 2025, the petitioner moved for a post-adjudicatory improvement period. After numerous continuances, the circuit court held an adjudicatory hearing in June 2025.⁴ The investigating DHS worker testified to the various disclosures made by the child and the petitioner’s neighbors. A Kanawha County Schools employee then testified to the child’s absences, and the child’s guardian asked the court to consider the petitioner’s past positive alcohol screens. The petitioner denied the petition’s allegations, stating that she had “not failed to do anything as a parent,” and continued to insist she was being framed. The petitioner specifically averred that she was “[a]lways home,” did not drink excessively, and did not experience hallucinations. When asked about a positive fentanyl screen in May 2024, the petitioner denied using the drug, but admitted to testing positive for alcohol “once or twice.” The petitioner testified that, in the past, she was diagnosed with attention deficit hyperactivity disorder and bipolar disorder. She reported that she was not taking her prescribed medication because it “ma[de] [her] sick” and was not seeking mental health treatment.

Based on this evidence, including the previously admitted psychological evaluation, the circuit court found that the petitioner had substance abuse and mental health problems that negatively affected her parenting abilities and failed to provide the child with adequate food, education, or supervision. The court further found that the petitioner “subjected [the] child to excessive, bizarre, and inappropriate discipline.” On this basis, the court adjudicated the petitioner of abusing D.C. The court did not rule on the petitioner’s motion for a post-adjudicatory improvement period but again ordered the DHS to provide services, so long as they “[could] be conducted safely.” The court also ordered the petitioner to sign a release permitting the DHS to obtain her medical records. At the hearing’s conclusion, the parties discussed the petitioner voluntarily committing herself to inpatient psychiatric treatment, and the child’s guardian proffered that the petitioner had been informed how to do so, but—to date—had “refused.” Ultimately, the petitioner agreed to seek treatment but stated she “ha[d] to pay [her] bills first” so she would not be evicted while in residential care.

⁴ Earlier in the proceedings, the circuit court appointed a guardian ad litem for the petitioner. At the outset of the adjudicatory hearing, the petitioner’s guardian ad litem indicated that the petitioner was aware of the petition’s allegations and understood the purpose of the hearing.

In September 2025, the petitioner moved for a post-dispositional improvement period. At a dispositional hearing that same month,⁵ a DHS worker testified that the petitioner had not sought inpatient psychiatric treatment, despite the DHS's attempts to assist her; nor did she participate in random drug screening. The worker stated that the petitioner reported participating in "some therapy" but the DHS had no records to confirm this, nor had the petitioner signed a medical release as ordered by the court. The DHS was unable to provide other services, including visitation with the child, due to the petitioner's behavior. For example, the worker reported that the petitioner had disrupted D.C.'s initial placement multiple times by going to the home, beating on the door, and yelling profanities. This behavior scared the child such that he did not desire visitation. Ultimately, the DHS worker recommended termination. A second DHS worker testified and corroborated her colleague's testimony. The petitioner then testified in a disorganized, stream-of-consciousness fashion, averring—among other things—that she did sign a medical release, was never offered services, was "physically sick, not mentally sick," and had been receiving mental health treatment since November 2024.

From the bench, the circuit court denied the petitioner's motions for a post-adjudicatory and a post-dispositional improvement period, finding "that [her] behavior . . . during the pendency of the[] proceedings"—which had been "erratic" and "dangerous"—demonstrated that she "would not benefit from an improvement period and could not comply with one." The court additionally found that the petitioner would not acknowledge her mental illness or seek treatment—"although various options were identified for her by the DHS"—and also "made it very clear that she [was] not going to follow [the court's] orders." While consideration of D.C.'s wishes was not statutorily mandated, the court found that the then-eleven-year-old child was "wise beyond his years," had been significantly traumatized, and clearly indicated that he did not desire further contact with the petitioner. In a subsequent written order, the court found that the petitioner demonstrated an inadequate capacity to solve the problems of abuse on her own or with help because she had not responded to or followed through with rehabilitative efforts as evidenced by the continuation of the conditions threatening the child's welfare. Therefore, the court found that there was no reasonable likelihood that the conditions could be substantially corrected in the near future. After finding that termination was "the most reasonable [dispositional] alternative" and necessary for D.C.'s welfare, the court terminated the petitioner's parental rights.⁶ The petitioner now appeals from this dispositional order.

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 for clear error, and issues of law de novo. Syl. Pt. 1, *In re K.S.*, -- W. Va. --, 930 S.E.2d 400 (2026). The petitioner asserts that the circuit court erred in terminating her parental rights because it denied her the opportunity to participate in either a post-adjudicatory or a post-dispositional improvement period. We disagree. A circuit court may grant an improvement period when the requesting parent

⁵ At the outset, the petitioner's guardian ad litem indicated that she had no objection to proceeding to disposition.

⁶ The circuit court also terminated the father's parental rights. The child's permanency plan is adoption.

“demonstrates, by clear and convincing evidence, that [she] is likely to fully participate.” W. Va. Code § 49-4-610(2)(B), (3)(B). The petitioner argues that her mental health issues prevented her from meeting this standard below and attributes this failure to the DHS because it did not provide her with mental health treatment—or, more specifically, because it did not place her in a psychiatric facility “either voluntarily or involuntarily.” We are unpersuaded by this argument. Although the petitioner agreed to seek inpatient care after being adjudicated, and the DHS attempted to assist her in obtaining the same, she ultimately declined to submit to treatment. To the extent that the petitioner argues that the DHS should have sought to have her involuntarily committed (presumably by filing a mental hygiene petition), she cites no authority indicating that the DHS was required to take this drastic step.⁷ Ultimately, circuit courts have 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). Here, the record supports the circuit court’s determination that improvement was unlikely, given the petitioner’s combative behavior, denial of her mental health issues, and failure to sign a medical release or participate in drug screening. 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 and a best interests analysis”). The record supports the circuit court’s determination that granting the petitioner an improvement period would have been contrary to D.C.’s welfare, especially as the court found that the child had been significantly traumatized by the petitioner’s conduct and did not desire any future contact. As such, we discern no abuse of discretion in the circuit court’s denial of an improvement period.

To the extent that the petitioner challenges the termination of her parental rights, we again disagree. West Virginia Code § 49-4-604(c)(6) permits the termination of parental rights upon findings that “there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future” and that termination is “necessary for the welfare of the child.” There is no such likelihood when “[t]he abusing parent . . . [has] not responded to or followed through with . . . rehabilitative efforts . . . designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation . . . of conditions which threatened the [child’s] . . . welfare.” W. Va. Code § 49-4-604(d)(3). Here, the circuit court made both statutory findings based upon ample evidence that the petitioner would not acknowledge or treat her serious mental illness, which continued unabated throughout the proceedings and resulted in erratic behavior that traumatized the child. Therefore, the court did not err. See *In re J.C.*, No. 23-436, 2024 WL 4275761 at *3 (W. Va. Sept. 24, 2024) (memorandum decision) (affirming termination

⁷ On appeal, the petitioner argues that she was unable to place herself in inpatient psychiatric treatment “due to [her] diagnosis”; however, she cites to nothing in the record that supports this assertion. Instead, the record indicates that the petitioner was instructed how to seek treatment and failed to do so. (At adjudication, the child’s guardian proffered that “all [the petitioner] needs to do is go to an emergency room and seek mental health services.”) And while the petitioner’s counsel initially asked the court to order the petitioner to go to the emergency room to seek mental health services, he later retracted this request, stating, “We’ll ask it not to be ordered, and I’ll tell her what she needs to do.” We further note that the petitioner’s appointed guardian ad litem did not advocate for her to be involuntarily committed.

of parental rights, noting that a parent’s “steadfast denial of her mental health issues [which included schizoaffective disorder and psychotic symptoms] and need for appropriate treatment demonstrate[d] that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future”); *see also In re D.M.-D.*, No 19-0716, 2020 WL 2735528 at *5 (W. Va. May 26, 2020) (memorandum decision) (affirming termination of parental rights when a parent’s mental illness, which included delusions resulting from paranoid schizophrenia, continued unabated and “she remain[ed] unwilling to accept responsibility for addressing her severe mental illness or the consequences of her actions”).

For the foregoing reasons, we find no error in the decision of the circuit court and its September 26, 2025, order is affirmed.

Affirmed.

ISSUED: July 28, 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