

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re J.M.

No. 25-750 (Randolph County CC-42-2024-JA-61)

MEMORANDUM DECISION

Petitioner Mother A.M.¹ appeals the Circuit Court of Randolph County’s October 6, 2025, order terminating her parental rights to J.M., arguing that the court erred in failing to impose a less restrictive alternative.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.

On December 23, 2024, the DHS filed a petition alleging that the petitioner abused and neglected J.M. The DHS alleged that the petitioner had a history of substance abuse and untreated mental health issues (including schizophrenia and depression) and that, upon learning of her pregnancy in April 2024, she threatened to “kill the baby when it was born.” The DHS also alleged that, shortly after a safety plan was implemented following J.M.’s birth, the petitioner hid all of the child’s diapers in a moment of psychosis and later attempted to flee with J.M. following a doctor’s appointment. The DHS further alleged that, following this attempt to flee, the petitioner lunged at her aunt and the aunt’s niece, causing the aunt to call law enforcement. The petitioner was then taken to a local hospital for mental health treatment, which she declined.

Although the petitioner attempted to waive her preliminary hearing in January 2025, this was rejected by the circuit court due to concerns about the petitioner’s ability to make such a waiver voluntarily and the hearing was continued. The court further appointed a guardian ad litem for the petitioner and granted her supervised visitation with J.M. At a subsequent preliminary hearing in February 2025, the court directed the petitioner to submit to a competency and parental fitness evaluation and ordered that supervised visitations continue so long as the petitioner participated in drug screening. At an adjudicatory hearing in July 2025, the petitioner’s counsel proffered that the petitioner was competent and the court received evidence in support of the DHS’s allegations, including the testimony of a Child Protective Services (“CPS”) worker and the petitioner’s aunt. The court subsequently found that the petitioner’s mental health issues continued

¹ The petitioner appears by counsel Morris C. Davis. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Katica Ribel. Counsel Heather M. Weese 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).

during and after the child's birth and that the petitioner continued to be noncompliant with taking her medications to treat these issues. Based upon these findings, the court adjudicated the petitioner of abusing and neglecting J.M.

The circuit court held a dispositional hearing in August 2025, for which the petitioner did not appear but was represented by counsel. The court first heard from the psychologist who conducted the petitioner's competency and parental fitness evaluation and admitted the report into evidence. The psychologist testified that, during the evaluation, the petitioner's responses to questioning were consistent with schizophrenia, although the petitioner expressed skepticism with that diagnosis. The psychologist further testified that the petitioner had a poor prognosis for improving her parental capacity due to her severe mental health issues and history of substance use. In addition to the psychologist's testimony, the report indicated that the petitioner admitted to not taking her prescribed medication for her mental health issues. A CPS worker then testified that she had reminded the petitioner of the hearing during a supervised visit the previous day. The worker stated that it was difficult to get the petitioner to participate in services; for example, the petitioner's initial competency and parental fitness evaluation had to be rescheduled because she refused to answer the door when transportation arrived. The worker also testified that, while supervised visits often went well, the petitioner frequently exhibited erratic behavior when given feedback to improve her parenting. Ultimately, the court found that the petitioner failed to participate in the services offered to her, demonstrated that she had no desire to improve her parenting, and failed to appear for the dispositional hearing despite having notice. The court also found that it would be contrary to J.M.'s welfare to return him to the petitioner's care and that termination of the petitioner's rights was in the child's best interests, as a less restrictive alternative would jeopardize the child's permanency. Accordingly, the court entered an order terminating the petitioner's parental rights to J.M.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 argues that the circuit court erred in terminating her parental rights instead of imposing a less restrictive alternative. We disagree. We have consistently held that "[t]ermination 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." Syl. Pt. 5, *In re Kristin Y.*, 227 W. Va. 558, 712 S.E.2d 55 (2011) (quoting Syl. Pt. 2, *In re R.J.M.*, 164 W. Va. 496, 266 S.E.2d 114 (1980)). According to West Virginia Code § 49-4-604(d), "[n]o reasonable likelihood that conditions of neglect or abuse can be substantially corrected" means that . . . the abusing adult . . . ha[s] demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help." Courts are expressly permitted to make such a finding in circumstances where "[t]he abusing parent . . . ha[s] not responded to or followed through with . . . rehabilitative efforts . . . designed to reduce or prevent the abuse or neglect of the child." *Id.* § 604(d)(3). Here, the circuit court was presented with evidence that the petitioner rejected services other than supervised visitation, reacted in a volatile manner to constructive feedback regarding her parenting, and had

³ The child's permanency plan is reunification with his father, who was granted an improvement period.

a poor prognosis for improved parenting. Still, the petitioner asserts that the court should have granted her a less restrictive alternative because there was “some possibility that [she] could have taken her medication and been able to be a positive influence.” As we have explained, “[c]ourts are not required to exhaust every speculative possibility of parental improvement . . . where it appears that the welfare of the child will be seriously threatened” before terminating parental rights. Syl. Pt. 4, in part, *In re Cecil T.*, 228 W. Va. 89, 717 S.E.2d 873 (quoting *In re R.J.M.*, 164 W. Va. at 496, 266 S.E.2d at 114, Syl. Pt. 1, in part). As such, the court was presented with sufficient evidence to conclude that there was no reasonable likelihood that the petitioner could correct the conditions of neglect and abuse. The record also supports the circuit court’s findings that it would be contrary to J.M.’s welfare to return him to the petitioner’s care and that termination of the petitioner’s rights was in the child’s best interests. We therefore conclude that the circuit court did not abuse its discretion in terminating the petitioner’s parental rights to J.M. *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 of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child”).

For the foregoing reasons, we find no error in the decision of the circuit court, and its October 6, 2025, order is hereby 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