

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

***In re* L.B.-1, L.B.-2, and G.B.**

No. 25-397 (Kanawha County CC-20-2023-JA-416, CC-20-2023-JA-417, and CC-20-2023-JA-418)

MEMORANDUM DECISION

Petitioner Mother T.B.¹ appeals the Circuit Court of Kanawha County’s April 24, 2025, order terminating her parental rights to L.B.-1, L.B.-2, and G.B., arguing that the court erred by not granting her a post-dispositional 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.

On November 13, 2023, shortly after L.B.-1’s birth, the DHS filed a petition alleging that that petitioner abused and neglected the children as a result of substance abuse that negatively affected her ability to parent. Specifically, the DHS alleged that the petitioner tested positive for THC and cocaine upon her admission to the hospital to give birth and later admitted to regularly using both substances during an interview with a Child Protective Services (“CPS”) worker. The DHS further alleged that, when asked whether she intended to stop using the substances, the petitioner repeatedly answered “no” and indicated that they “helped her cope.” The DHS then alleged that the petitioner had two other children at home, L.B.-2 and G.B., and relied on her grandmother to assist with caring for them.

At the preliminary hearing on November 21, 2023, the circuit court ordered the DHS to provide the petitioner with services including parenting and adult life skills classes, random drug screening, and supervised visitation. In December 2023, the court adjudicated the petitioner of abusing and neglecting the children after the petitioner admitted to abusing cocaine.

At a February 2024 hearing, the DHS represented that the petitioner was participating in an outpatient substance abuse program but continued to test positive at drug screens, which the

¹ The petitioner appears by counsel Timbera C. Wilcox. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Andrew T. Waight. Counsel Elizabeth Davis appears as the children’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). Additionally, because two children share the same initials, we use numbers to differentiate them.

petitioner asserted were caused by her sexual partner. Additionally, the petitioner advised the court that she had previously been diagnosed with bipolar disorder and that she was not receiving treatment. As a result, the court ordered the petitioner to undergo a psychological evaluation. However, at an August 2024 hearing, the court noted that it had not received a copy of the psychological evaluation's results and ordered the petitioner to obtain a copy immediately following the hearing's conclusion. At a December 2024 hearing, the court received reports that the agency assigned to provide services sent the petitioner a letter of noncompliance in October 2024, indicating that services would be suspended until either the petitioner contacted them or the court ordered that services resume. In February 2025, the court ordered the resumption of services. The petitioner subsequently moved for a post-dispositional improvement period.

The circuit court held the final dispositional hearing in April 2025, where the DHS presented testimony from service providers and a CPS worker regarding the petitioner's level of participation in services during the pendency of the proceedings. This testimony established that, although the petitioner was generally compliant with parenting and adult life skills classes, she tested positive for cocaine and marijuana on multiple occasions—including the four most recent screens following the February 2025 hearing. One service provider testified that the petitioner's mental health issues, for which she was not receiving any treatment or taking medication, hindered her ability to improve. The service provider further reported that the petitioner claimed she could not receive treatment because her previous doctor had been arrested and, when questioned about her positive drug screens, denied using cocaine. Based upon the evidence presented, the court denied the petitioner's motion for a post-dispositional improvement period, finding that the petitioner was not likely to fully participate as she had not made significant progress in addressing her substance abuse issues that led to her adjudication and noting the substantial duration of the proceedings. The court further noted that the petitioner never provided the results of the psychological evaluation ordered in February 2024. Ultimately, the court found that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination of the petitioner's rights was in the children's best interests. Accordingly, the court entered an order terminating the petitioner's parental rights to the children.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). Further, “[w]e review a circuit court’s decision to grant or deny a[n] . . . 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). Before this Court, the petitioner raises a sole assignment of error and argues that the circuit court erred by not granting her a post-dispositional improvement period.⁴ We disagree.

³ The court also terminated the parental rights of the children's fathers. The permanency plan for the children is adoption in their current placements.

⁴ Although the petitioner argues that the circuit court erred in terminating her parental rights, she has not developed this argument beyond that conclusory statement. *See* W. Va. R. App. P. 10(c)(7) (requiring that a petitioner's brief “cit[e] the authorities relied on” and contain “appropriate and specific citations to the record on appeal, including citations that pinpoint when

Pursuant to West Virginia Code § 49-4-610(3)(B), parents 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 established 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 before this Court shows that the petitioner continued to test positive for cocaine and marijuana throughout the underlying proceedings and failed to provide the results of her psychological evaluation more than a year after this evaluation was ordered. As the petitioner acknowledges in her brief, “she is, at a minimum, very likely unable to . . . demonstrate, by clear and convincing evidence, that she would . . . fully participate in [an improvement period].” Accordingly, we conclude that the circuit court did not abuse its discretion in denying the petitioner’s motion for a post-dispositional improvement period.

For the foregoing reasons, we find no error in the decision of the circuit court, and its April 24, 2025, dispositional order is hereby affirmed.

Affirmed.

ISSUED: August 25, 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

and how the issues in the assignments of error were presented to the lower tribunal”). Instead, her argument with respect to the circuit court’s dispositional order is that termination was improper only because she had not been afforded an improvement period.