

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In re L.T.

No. 25-621 (Berkeley County CC-02-2025-JA-68)

MEMORANDUM DECISION

Petitioner Father D.T.¹ appeals the Circuit Court of Berkeley County’s September 2, 2025, order terminating his parental rights to L.T., arguing that the circuit court erred by failing to expressly adjudicate him and by failing to make required findings in its dispositional order.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 April 2025, the DHS filed a petition alleging that the petitioner abused drugs and alcohol to the detriment of his parenting ability, engaged in domestic violence with the mother in the child’s presence, and failed to protect the child from the domestic violence.³ The DHS recounted that the petitioner and the child were involved in a prior proceeding during which the petitioner successfully completed an improvement period and was reunified with the child. That proceeding concluded in May 2024, but in January 2025 a domestic violence incident between the petitioner and the mother resulted in the entry of a domestic violence protective order against the petitioner on behalf of the child. The DHS alleged that the petitioner spoke with a Child Protective Services worker and admitted that he intermittently struggled with alcohol use and had a “little slip” after the conclusion of the prior proceeding.

In May 2025, the circuit court held an adjudicatory hearing at which the petitioner waived his right to a contested adjudication and admitted that his alcohol use affected his ability to parent the child and that he exposed the child to domestic violence. The court engaged in a colloquy to ensure that the petitioner understood that he was waiving his right to a contested adjudicatory hearing and admitting to the allegations in the petition. On the record, the court found that the petitioner abused the child. In the resulting adjudicatory order, the court found that the petitioner

¹ The petitioner appears by counsel Jason T. Gain. The West Virginia Department of Human Services (“DHS”) appears by Attorney General John B. McCuskey and Assistant Attorney General Katika Ribel. Counsel Erin A. Clark 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).

³ The petition also concerned another child who is not at issue here and has since reached the age of majority. Further, the DHS filed an amended petition containing additional allegations against the mother in June 2025.

knowingly and intelligently waived his right to a contested adjudicatory hearing and, based upon his admissions, concluded that the child was abused and neglected.

In June 2025, the circuit court held a dispositional hearing. The mother testified that she contacted law enforcement numerous times over the past thirteen years because of the petitioner's alcohol problem. The petitioner testified that he completed an improvement period in the prior proceeding, the terms of which included wearing a remote alcohol monitoring device, attending Alcoholics Anonymous ("AA") and Narcotics Anonymous meetings, participating in domestic violence classes, attending an intensive outpatient program, and participating in individual therapy. He admitted, though, that shortly after the prior proceeding concluded, he quit attending AA, ceased taking other measures to support his recovery, and relapsed. However, he was unable to identify his relapse date. The petitioner further testified that the domestic violence incident between him and the mother in January 2025 resulted in him pleading guilty to charges of domestic assault and brandishing a weapon. Despite this, the petitioner expressed his intention to remain in a relationship with the mother and characterized the domestic violence between them as "misusing" emergency services and "tattling" on each other. A DHS worker testified that if the petitioner were to be granted an improvement period, the services would be the same as those provided in his last improvement period. The worker recommended termination of the petitioner's parental rights, especially in light of the then-three-year-old child's need for stability. In the resulting dispositional order, the court found that "there is no substantial likelihood that [the petitioner] would make the necessary changes to address the problems which led to the filing of the [p]etition" and noted that in a matter of months after the dismissal of the prior proceeding, the petitioner was again abusing alcohol and engaging in domestic violence with the mother in the presence of the then-three-year-old child. Thus, the court found that there was no less restrictive alternative to termination of the petitioner's parental rights. Accordingly, the court terminated the petitioner's parental rights. It is from the dispositional order that the petitioner appeals.⁴

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 by failing to explicitly adjudicate him as an abusing parent in its adjudicatory order. However, Rule 27 of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings requires the court to "make findings of fact and conclusions of law, in writing *or on the record*, as to whether the child is abused and/or neglected in accordance with W. Va. Code § 49-4-601(i)" and "enter an order of adjudication, including findings of fact and conclusions of law, within ten (10) days of the conclusion of the hearing." (emphasis added). Similarly, West Virginia Code § 49-4-601(i) provides, in relevant part, "[a]t the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected . . . which shall be incorporated into the order of the court." In analyzing these requirements, this Court has explained that "it is the requisite finding of whether a child is abused or neglected that is determinative as to whether a child abuse and neglect

⁴ The mother's parental rights were terminated. The permanency plan for the child is adoption in the current placement.

case continues to disposition.” *In re J.W.*, No. 23-712, 2025 WL 1262342, at *3 (W. Va. May 1, 2025) (memorandum decision) (finding no reversible error where the court failed to enter an adjudicatory order but made sufficient findings on the record). Here, the court found, on the record, that the petitioner abused the child. The court then entered an adjudicatory order in which it found that the child was abused, underscoring its findings on the record. Thus, the court fulfilled the requirements to proceed to disposition. Moreover, the petitioner’s argument ignores the fact that the petitioner waived his right to a contested adjudicatory hearing and admitted to abusing the child at the adjudicatory hearing. Accordingly, we decline to disturb the circuit court’s decision in this regard.⁵

The petitioner also argues that the circuit court’s dispositional order lacks requisite statutory findings because the court found that “there [wa]s no substantial likelihood that [the petitioner] would make the necessary changes to address the problems which led to the filing of the [p]etition.”⁶ However, the petitioner ignores that we have upheld terminations where “[t]he dispositional order entered by the circuit court . . . does not track the language of West Virginia Code [§ 49-4-604]” when the Court was convinced that “the trial court first reached the conclusions required by [West Virginia Code § 49-4-604(c)(6)] before terminating” those rights. *In re Jamie Nicole H.*, 205 W. Va. 176, 184, 517 S.E.2d 41, 49 (1999). The circuit court’s findings were consistent with the conclusions required by West Virginia Code § 49-4-604(c)(6), as it made several findings that speak to the petitioner’s inability to correct the conditions of abuse and neglect, including his minimization of domestic violence in the home, his inability to identify his relapse date, and his relapsed alcohol abuse mere months after the conclusion of his improvement period in the prior proceeding. Thus, the petitioner is entitled to no relief.

For the foregoing reasons, we find no error in the decision of the circuit court, and its September 2, 2025, order is hereby affirmed.

Affirmed.

ISSUED: August 25, 2026

⁵ Because we find no error in the court’s adjudication of the petitioner, we need not address his argument that disposition was in error due to his defective adjudication.

⁶ The petitioner also argues that the circuit court’s findings speak collectively about the “respondent parents” and were not specific to him. However, he provides no authority requiring the court to delineate between the parents when the basis for termination is the same, and we decline to consider his unsupported argument. *See* W. Va. R. App. P. 10(c)(7) (requiring that appellate briefs include “an argument clearly exhibiting the points of fact and law presented, the standard of review applicable, and citing the authorities relied on”).

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