

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re A.B. and S.B.

No. 25-664 (Kanawha County CC-20-2025-JA-125 and CC-20-2025-JA-126)

MEMORANDUM DECISION

Petitioner Mother G.B.¹ appeals the Circuit Court of Kanawha County’s September 8, 2025, order terminating her parental rights to A.B. and S.B., arguing that the circuit court erred by denying her motion for an improvement period, terminating her parental rights upon insufficient evidence, and failing to employ the least restrictive dispositional 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.

In April 2025, the DHS filed a petition alleging that the petitioner abused and neglected then-two-year-old A.B. and then-five-year-old S.B. by failing to provide necessary food, clothing, supervision, housing, and financial support, and by abusing substances to the detriment of her parenting ability. According to the DHS, the petitioner previously voluntarily relinquished her parental rights to two children and had her parental rights to a third child involuntarily terminated due to her history of domestic violence, substance abuse, and housing instability.

On June 12, 2025, the circuit court held an adjudicatory hearing during which the petitioner stipulated to the allegations in the petition. Specifically, the petitioner admitted to engaging in domestic violence in the presence of the children and that the previous involuntary termination of her parental rights was also due to domestic violence between her and A.B.’s father, J.W.-M. Accordingly, the court adjudicated her of abusing and neglecting the children. Thereafter, the petitioner moved, in writing, for a post-adjudicatory or a post-dispositional improvement period.

On July 31, 2025, the circuit court held a dispositional hearing at which the petitioner was present. The court continued the matter upon the DHS’s request but explicitly ordered the petitioner to appear at the continued dispositional hearing in person, stressing that if she failed to appear, her parental rights could be permanently terminated. Yet, when the court reconvened the dispositional hearing on August 14, 2025, the petitioner failed to appear. Her counsel proffered

¹ The petitioner appears by counsel Jason S. Lord. The West Virginia Department of Human Services (“DHS”) appears by Attorney General John B. McCuskey and Assistant Attorney General James Wegman. Counsel Jennifer N. Taylor 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).

that she had recently relocated to North Carolina. The court found that there was no good cause to continue the hearing and proceeded to hear testimony from a Child Protective Services (“CPS”) worker, who stated that the petitioner’s compliance with services was poor, as she often cancelled and rescheduled classes and simply did not understand the proceedings, services, or why the children were removed. The worker explained that visits between the petitioner and the children went poorly and that the petitioner ended visits early. The worker testified that the petitioner cancelled all appointments and entirely stopped complying on July 25, 2025, after she allegedly stabbed J.W.-M. despite a domestic violence protective order barring the petitioner and J.W.-M. from contacting each other. In the resulting dispositional order, the court found that the petitioner’s noncompliance with services and continued pattern of domestic violence demonstrated that she could not participate in an improvement period and denied her motion for the same. The court explained that the petitioner demonstrated an inadequate capacity to solve the problems of abuse and neglect on her own or with help, refused to participate in the development of a reasonable family case plan, and failed to respond to or follow through with such a case plan. Accordingly, the court found that there was no reasonable likelihood that the conditions of neglect or abuse could be substantially corrected in the near future and that there was no reasonable alternative other than termination. Noting the children’s need for continuity of care and caretakers and the amount of time needed for the children to be integrated into a stable, permanent home environment, the court also found that the children’s welfare required termination of the petitioner’s parental rights. Accordingly, the court terminated the petitioner’s parental rights to both children. It is from the dispositional order that the petitioner now appeals.³

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 denying her motion for an improvement period. However, to receive a post-adjudicatory or post-dispositional improvement period the petitioner must “demonstrate[] by clear and convincing evidence, that [she] is likely to fully participate in the improvement period.” W. Va. Code § 49-4-610(2)(B) & (3)(B). Further, “[t]he circuit court has the discretion to refuse to grant an improvement period when no improvement is likely.” *In re Tonjia M.*, 212 W. Va. 443, 448, 573 S.E.2d 354, 359 (2002). The court explicitly found that the petitioner failed to demonstrate that she would fully comply with the terms of an improvement period due to her noncompliance with services and continuous pattern of domestic violence. This finding is underscored by her complete disengagement from services after she allegedly assaulted J.W.-M. and her absence from the dispositional hearing, despite the court’s warning. Accordingly, the court did not err by denying the petitioner’s motion for an improvement period.

The petitioner also argues that the circuit court erred by terminating her parental rights because the DHS failed to prove by clear and convincing evidence that termination was warranted and termination was not the least restrictive alternative. *See In re K.V.*, 251 W. Va. 418, 427, 914 S.E.2d 517, 526 (2025) (explaining that “the burden of proof to terminate parental rights demands

³ The parental rights of both children’s fathers were also terminated. The permanency plan for the children is adoption in the current placement.

clear and convincing evidence”). In support of her argument, she claims that “[p]rior to [her] relocation to North Carolina, services were working exactly as they should.” Yet, a CPS worker testified that the petitioner did not understand why she received services or why these proceedings were taking place, and completely stopped complying with services in July 2025. The court considered the testimony, including that of the CPS worker, and weighed the evidence before it. This Court will not disturb credibility determinations on appeal. *See State v. Guthrie*, 194 W. Va. 657, 669 n.9, 461 S.E.2d 163, 175 n.9 (1995) (“An appellate court may not decide the credibility of witnesses or weigh evidence as that is the exclusive function and task of the trier of fact.”). Further, 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” and when necessary for the welfare of the children. Syl. Pt. 5, in part, *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)); *see also* W. Va. Code § 49-4-604(c)(6) (permitting a circuit court to terminate parental rights upon finding no reasonable likelihood conditions of abuse and neglect can be substantially corrected in the near future and when necessary for the child’s welfare). 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 . . . [has] demonstrated an inadequate capacity to solve the problems of abuse or neglect on [her] own or with help.” Those conditions exist when “[t]he abusing parent . . . ha[s] willfully refused or [is] presently unwilling to cooperate in the development of a reasonable family case plan” as well as when the parent “ha[s] not responded to or followed through with a reasonable family case plan or other rehabilitative efforts.” W. Va. Code § 49-4-604(d)(2) & (3). Here, the court made these findings based upon clear and convincing evidence of the petitioner’s noncompliance as highlighted above. The court also found that termination was necessary for the children’s welfare. 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 8, 2025, 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