

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

**State of West Virginia ex rel.
H.C., P.C., M.C., Z.C. and West Virginia
Department of Human Services,
Petitioners,**

v.) No. 26-299 (Mercer County CC-28-2024-JA-143, CC-28-2024-JA-144, CC-28-2024-JA-145,
and CC-28-2024-JA-242)

**The Honorable Ryan J. Flanigan,
Judge of the Circuit Court of Mercer County,
West Virginia, A.S., and K.C.,
Respondents,**

MEMORANDUM DECISION

Petitioners Guardian ad Litem (“guardian”) for H.C., P.C., M.C., and Z.C., and the West Virginia Department of Human Services (“DHS”) invoke this Court’s original jurisdiction to prohibit enforcement of the Circuit Court of Mercer County’s May 4, 2026, order granting the Respondent Mother, A.S., and the Respondent Father, K.C., post-adjudicatory improvement periods.¹ The petitioners argue that the circuit court exceeded its legitimate powers and committed clear error by granting the parents improvement periods based on insufficient evidence and without making sufficient findings of fact and conclusions of law to support its decision. The respondent parents argue that the circuit court did not abuse its discretion in granting them post-adjudicatory improvement periods.

Upon consideration of our standard for issuance of a writ and the applicable law, we find that this case satisfies the “limited circumstances” exception set forth in Rule 21(d) of the West Virginia Rules of Appellate Procedure. Accordingly, we grant the petitioners extraordinary relief, as moulded, and issue a writ of mandamus directing that the circuit court undertake analysis and make sufficient findings of fact and conclusions of law in deciding whether to grant the parents post-adjudicatory improvement periods to facilitate meaningful review.

In July 2024, the DHS filed a petition alleging that H.C., P.C., and M.C. lived in deplorable conditions, were covered in dirt and bruises, smelled of urine and fecal matter, and had visible

¹ Counsel E. Raeann Osborne appears as the children’s guardian. The DHS appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Angela Alexander. The mother, A.S., appears by counsel P. Michael Magann. The father, K.C., appears by counsel Patricia Kinder Beavers.

tooth decay. The DHS further alleged that the parents abused substances and had fled into the woods with the three children while under investigation by the DHS.² The DHS subsequently amended its petition to include then-newborn child Z.C., who tested positive at birth for buprenorphine,³ and additional allegations of medical neglect regarding P.C. and M.C., and educational neglect of H.C. The mother stipulated to failure to maintain adequate housing, neglect due to substance abuse, and failure to protect, and the court adjudicated her as an abusing and/or neglecting parent of all four children in February 2025. Afterwards, the mother, by counsel, filed a motion for a post-adjudicatory improvement period which the court held in abeyance. Later, in November 2025, the court also adjudicated the father as an abusing and/or neglecting parent upon evidence of his physical abuse of the children; flight with the children into the woods; failure to maintain a suitable home; and failure to protect the children from the mother's admitted abuse and/or neglect. Counsel for the father then orally moved for a post-adjudicatory improvement period, which the court held in abeyance. The father never filed a written motion.

The circuit court held multiple dispositional hearings which concluded in April 2026. A DHS worker testified that an improvement period for either parent was inappropriate because of "the severity of the abuse and neglect" and the mother's refusal to separate from the father after he was released from incarceration. According to the worker, when together, the parents posed a threat to the children's safety due to the "domestic violence and physical violence" within the home. The worker elaborated that the DHS had "tried to work with the family multiple times" to no avail. Further, although the mother had participated in substance abuse treatment, screened negative for drugs, and obtained housing and a job, she failed to show she was willing to remedy the failure to protect issue as she remained in a relationship with the father. As for the father, the DHS worker confirmed that no services were offered to him due to the existence of aggravated circumstances, his lack of cooperation, and his failure to maintain contact with the DHS. The DHS worker explained that on the limited occasions when she did interact with the father, he adamantly denied having a substance abuse problem and, therefore, services addressing substance abuse were not provided. During the mother's testimony, she confirmed that she intended to stay in a relationship with the father and was unwilling to separate from him. The father did not testify. During closing arguments, counsel for the DHS and the guardian highlighted the father's lack of cooperation, lack of improvement, and failure to admit his wrongdoings, as well as the mother's inability to separate herself from the father. Furthermore, they both explained the detrimental effects that reunification would have on the children's best interests based on the severity of the abuse and the children's negative, fearful responses when their parents were mentioned.

² The record shows that the parents were indicted in August 2024 on multiple counts related to concealment of the children and gross child neglect. The status of those charges remains unknown. Also, when the children were located in July 2024, the father was detained and incarcerated for violating his probation for an out-of-state grand larceny charge from 2008. The father was released from incarceration in May 2025. Lastly, at the time the petition was initially filed, Z.C. was not yet born.

³ The DHS noted that the mother had a prescription for Suboxone through her substance abuse treatment program.

In an order entered on May 4, 2026, the circuit court found that the mother “ha[d] done extraordinarily well” and that the issue was that she “returned to the [r]espondent father who didn’t do anything he was required to do.” On the record, the court noted that the mother “insisted that she wanted to maintain [a] relationship with [the father] even though obviously it could be detrimental to her losing her kids.” The court then proceeded to grant both parents post-adjudicatory improvement periods “to see if the relationship can be restored with the children.” The court made no other findings to support its decision. The petitioners subsequently filed this petition for a writ of prohibition.

Before this Court, the petitioners seek a writ to prohibit the circuit court’s grant of post-adjudicatory improvement periods to the parents. Although “the decision to grant or deny an improvement period is generally an act within the circuit court’s discretion, . . . discretionary acts are not immune from the extraordinary remedy of . . . prohibition.” *State ex rel. S.W. v. Wilson*, 243 W. Va. 515, 519, 845 S.E.2d 290, 294 (2020). We have held that

[i]n determining whether to entertain and issue the writ of prohibition for cases not involving an absence of jurisdiction but only where it is claimed that the lower tribunal exceeded its legitimate powers, this Court will examine five factors: (1) whether the party seeking the writ has no other adequate means, such as direct appeal, to obtain the desired relief; (2) whether the petitioner will be damaged or prejudiced in a way that is not correctable on appeal; (3) whether the lower tribunal’s order is clearly erroneous as a matter of law; (4) whether the lower tribunal’s order is an oft repeated error or manifests persistent disregard for either procedural or substantive law; and (5) whether the lower tribunal’s order raises new and important problems or issues of law of first impression. These factors are general guidelines that serve as a useful starting point for determining whether a discretionary writ of prohibition should issue. Although all five factors need not be satisfied, it is clear that the third factor, the existence of clear error as a matter of law, should be given substantial weight.

Syl. Pt. 4, *State ex rel. Hoover v. Berger*, 199 W. Va. 12, 483 S.E.2d 12 (1996). However, we have emphasized that the circuit court’s findings “must be sufficient to indicate the factual and legal basis for the [court]’s ultimate conclusion so as to facilitate a meaningful review of the issues presented.” *Province v. Province*, 196 W. Va. 473, 483, 473 S.E.2d 894, 904 (1996); *see also Hively v. Merrifield*, 212 W. Va. 804, 808, 575 S.E.2d 414, 418 (2002) (“[B]efore this Court can review the circuit court’s reasons for . . . [ruling as it did], we must know what those reasons are.”). Because

[a]ppellate courts, on review, rely heavily on the trial judge’s order[,] the order is extremely important. The order often assists appellate courts in understanding what the trial court did and why, and good orders often rebut allegations made by appealing parties in briefs and arguments. If the lower tribunal is interested in having its decision affirmed, then the lower court should assist the appellate courts by providing comprehensive, well-reasoned orders. Submission of a comprehensive order assists an appellate court in finding a way to affirm the lower court’s order.

P.T.P., IV by P.T.P., III v. Bd. of Educ. of the Cty. of Jefferson, 200 W. Va. 61, 65, 488 S.E.2d 61, 65 (1997). We have previously highlighted how an insufficient order “inhibit[ed]—if not preclude[ed]—this Court’s review of the merits-based issues asserted in the petition for writ of prohibition,” and that, as a result, it was “impossible to determine whether the lower court’s action [wa]s ‘clearly erroneous’ for purposes of issuing a writ of prohibition, where it ha[d] presented the Court with no analysis.” *State ex rel. Navient Sols., LLC v. Wilson*, No. 19-0874, 2020 WL 2765857, at *3, 5 (W. Va. May 27, 2020) (memorandum decision).

Here, the circuit court’s order and the record before us lacks sufficient findings of fact and conclusions of law to support the grant of post-adjudicatory improvement periods, thereby inhibiting our review of the merits of the petitioners’ petition for a writ of prohibition. Under West Virginia Code § 49-4-610(2)(B), before the circuit court may grant a parent a post-adjudicatory improvement period, a parent must “demonstrate[], by clear and convincing evidence, that [he/she] is likely to fully participate in the improvement period[,] and the court further makes a finding, on the record, of the terms of the improvement period.” Yet, the circuit court made no findings indicating whether the parents demonstrated by clear and convincing evidence that they were likely to participate and what the terms of the improvement period would be. Rather, the circuit court merely expressed its desire to see if reunification was possible as the basis for its decision. Notably, the circuit court further failed to make any findings to extend the applicable time limitations on improvement periods as the children had been in foster care for fifteen of the most recent twenty-two months when the court decided to grant the parents improvement periods. *See* W. Va. Code § 49-4-610(9) (“[N]o combination of any improvement periods or extensions thereto may cause a child to be in foster care more than fifteen months of the most recent twenty-two months, unless the court finds compelling circumstances by clear and convincing evidence that it is in the child’s best interests to extend the time limits contained in this paragraph.”).

Critically, the circuit court also neglected to make any findings determining whether such improvement periods were in the children’s best interests. *See* Syl. Pt. 3, in part, *State ex rel. W. Va. Dep’t of Health & Hum. Servs. v. Dyer*, 242 W. Va. 505, 836 S.E.2d 472 (2019) (“Only where such an improvement period does not jeopardize a child’s best interests should one be granted and the circuit court’s order granting an improvement period should set forth findings demonstrating the lack of prejudice or harm to the child.”). Because we are unable to properly review the petitioners’ request for prohibition relief in light of the order’s deficiencies, the petitioners are entitled to a writ of mandamus requiring the circuit court to comply with the applicable statutes and cases requiring such findings in an order granting an improvement period. *See State ex rel. Justice Holdings, L.L.C. v. Kirby*, No. 25-401, 2026 WL 1459858, at *1 (W. Va. May 22, 2026) (memorandum decision) (granting “extraordinary relief, as moulded, and issu[ing] a writ of mandamus directing the Circuit Court of Raleigh County to enter an order containing more detailed findings of fact and conclusions of law sufficient to allow this Court to conduct meaningful appellate review”); *Navient*, 2020 WL 2765857, at *1 (“[I]ssu[ing] a writ of mandamus, as moulded, directing the Circuit Court of Ohio County to enter an order containing more detailed findings and conclusions sufficient to allow this Court to consider the substance of the court’s ruling.”).

Accordingly, we grant the petitioners a writ of mandamus to direct the circuit court to issue an order containing sufficient detail and exposition of its analysis in accordance with the laws governing improvement periods in abuse and neglect proceedings so to permit meaningful appellate review of the substance of its May 4, 2026, order granting the parents post-adjudicatory improvement periods. The circuit court is directed to issue such an order expeditiously. The Clerk is hereby directed to issue the mandate contemporaneously herewith.

Writ granted as moulded.

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