

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

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

***In re* K.G., H.G., B.G., R.G., and G.G.**

No. 25-650 (Kanawha County CC-20-2025-JA-75, CC-20-2025-JA-76, CC-20-2025-JA-77, CC-20-2025-JA-78, and CC-20-2025-JA-79)

MEMORANDUM DECISION

Petitioner Father J.G.¹ appeals the Circuit Court of Kanawha County’s September 3, 2025, order terminating his parental rights to K.G., H.G., B.G., R.G., and G.G., arguing that the court erred in denying him more time to demonstrate his compliance with services.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 March 2025, the DHS filed a petition alleging that the parents failed to provide the children with adequate housing. According to the DHS, the home was unsanitary because it was filled with trash and clutter and smelled of cat urine and kerosene. The DHS further alleged that the home was unsafe because it contained loose ammunition and knives within the children’s reach. During the DHS’s investigation, the petitioner “behaved intimidatingly” and “stated that he would kill anyone who tried to take his children from the home.” Additionally, the DHS alleged that some of the children attended school with poor hygiene and that the parents had outstanding warrants due to R.G., G.G., and B.G. being truant. The DHS later amended the petition to include educational neglect and additional information about R.G., G.G., and B.G.’s numerous absences from school and the parents’ multiple truancy convictions. At the initial preliminary hearing, the circuit court ordered the petitioner to participate in parenting and adult life skills education, random drug and alcohol screens, and supervised visitation.

The circuit court held the adjudicatory hearing in May 2025. The petitioner was not present at the start of the hearing, although he was represented by counsel. The DHS presented evidence of the condition of the home, including the fact that the odor was so overwhelming that a Child Protective Services (“CPS”) worker vomited after investigating the home. The DHS presented further evidence of the children’s lack of hygiene and the parents’ educational neglect of R.G.,

¹ The petitioner appears by counsel Jason S. Lord. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Wyclif S. Farquharson. Counsel Bryan B. Escue 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).

G.G., and B.G. Ultimately, the court adjudicated the petitioner of abusing and neglecting the children by subjecting them to an unsafe and unsanitary home and failing to ensure their proper hygiene. The court also adjudicated the petitioner for educationally neglecting R.G., G.G., and B.G. After the presentation of evidence and the court's ruling, the petitioner finally arrived at the hearing. The DHS moved to discontinue the petitioner's services based on his noncompliance and "apparent disinterest in making [himself] available to service providers." According to a CPS worker, despite confirming the parents' telephone number, their service provider was unable to contact them after making multiple attempts. The petitioner requested that services continue. The court ordered that services would continue for two weeks but would be discontinued if the parents failed to participate. The court also confirmed that the service provider had the petitioner's correct phone number and confirmed that the petitioner had his CPS worker's telephone number.

At the dispositional hearing in July 2025, a CPS worker testified that the petitioner had not participated in any services during the proceedings, including the two weeks after the adjudicatory hearing or at any point prior to the dispositional hearing. According to the worker, the petitioner refused to respond to contact attempts from service providers or CPS workers. As such, the CPS worker testified that the DHS sought termination of the petitioner's parental rights. The petitioner testified and admitted that he knew he was required to contact his service provider but claimed he did not have the phone number, although he later admitted to remembering the exchange at the adjudicatory hearing where the circuit court confirmed that he had the correct number. The petitioner then blamed the lack of communication on phone issues and miscommunication and admitted that he had not participated in any services. At the hearing, the petitioner requested that the court "hold off on any ruling here today" and order the parents to contact their provider and "restart services." Ultimately, the circuit court found that "the case [wa]s baffling," considering that it verified that the parents had the appropriate contact information and "practically begged [them] to begin participating in services" at the adjudicatory hearing. Despite the provider continuing to offer services and attempting to contact the parents, they failed to participate, "made no effort to get help to remedy their situation," and took "no affirmative action in the best interests of the children." In fact, the court found that the parents failed to acknowledge that they had any problems to address. The court concluded that there was no reasonable likelihood that the petitioner could substantially correct the conditions of abuse and neglect in the near future and, finding it in the children's best interests, terminated his parental rights.³ It is from the 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 for clear error, and issues of law 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 should have permitted him additional time to demonstrate that he could participate in services. We disagree. To the extent that the petitioner argues that he should have been granted an improvement period, we note that he points to no portion of the record demonstrating that he filed a written motion for the same. As such, he was not entitled to an improvement period. See Syl. Pt. 4, *State ex rel. P.G.-I v. Wilson*, 247 W. Va. 235, 878 S.E.2d 730

³ The mother's rights were also terminated. The permanency plan for the children is adoption in the current placement.

(2021) (“A circuit court may not grant a[n] . . . improvement period under W. Va. Code § 49-4-610 . . . unless the respondent to the abuse and neglect petition files a written motion requesting the improvement period.”). Further, the record demonstrates that the petitioner was provided ample time to demonstrate his compliance with services, as he was ordered to begin participation at the preliminary hearing yet failed to participate in a single service throughout the entirety of the proceedings. This includes the period following the adjudicatory hearing at which the circuit court made it explicitly clear that services would terminate if the petitioner did not comply. To support his assertion that he was willing to comply with services, the petitioner cites to *one* instance where he responded to the provider’s attempt at communication. However, this argument ignores the petitioner’s *repeated* failure to communicate with providers and the DHS and his refusal to participate in the services offered. The court heard this testimony and clearly found that it was not compelling in light of the overwhelming evidence of the petitioner’s total refusal to participate. We decline to disturb the court’s weighing of the evidence 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 . . . weigh evidence as that is the exclusive function and task of the trier of fact.”). Accordingly, the court did not err in proceeding to termination.⁴

For the foregoing reasons, the circuit court’s September 3, 2025, order is hereby affirmed.

Affirmed.

ISSUED: September 22, 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

⁴ Aside from the petitioner’s assertion that he should have been granted additional time, he does not specifically challenge the termination of his parental rights.