

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

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

In re A.W. and L.J.

No. 25-726 (Lewis County CC-21-2024-JA-24 and CC-21-2024-JA-25)

MEMORANDUM DECISION

Petitioner Mother R.W.¹ appeals the Circuit Court of Lewis County’s October 21, 2025, order terminating her parental rights to A.W. and L.J., arguing that the court erred in not entering a less 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.

The DHS filed a petition in June 2024, alleging that the petitioner tested positive for THC upon giving birth to L.J. and that she tested positive for THC and methamphetamine one month prior to giving birth to L.J. while she was the sole custodian of A.W. The DHS alleged that the petitioner admitted to using methamphetamine two or three times during her pregnancy but claimed that she did not know she was pregnant. The petitioner and L.J.’s father, S.J., agreed to an in-home family safety program, which required them to complete frequent drug screens. In May 2024, S.J. tested positive for methamphetamine while residing in the home with the petitioner and the children, which resulted in the removal of the children from the home. At the preliminary hearing, the court ordered that the petitioner participate in drug screens and that she would only be allowed visitation with the children upon a negative drug test. In July 2024, the DHS filed a petition for contempt, alleging that the petitioner and S.J. removed the children from their kinship foster placement. The petitioner and S.J. allegedly kept L.J. for several days and gave A.W. to a different relative, who traveled to Arizona and Nevada with that child. In October 2024, the petitioner stipulated to the conduct alleged in the contempt petition. As a result, the court found that the petitioner was in contempt but that she could “purge herself of contempt” by having no further unauthorized contact with the children.

The circuit court held an adjudicatory hearing in August 2024. The petitioner stipulated to having used methamphetamine and THC, which adversely impacted the children. On that basis,

¹ The petitioner appears by counsel G. Phillip Davis. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Wyclif S. Farquharson. Counsel Melissa T. Roman 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).

the court found that the petitioner was an abusing and neglecting parent and that the children were abused and neglected. In December 2024, the court granted the petitioner an improvement period, the terms of which required her to participate in drug screens, maintain sobriety, and participate in an intensive outpatient program upon any positive drug screen. In June 2024, the court granted the petitioner a three-month extension of her improvement period.

The circuit court held a dispositional hearing in September 2025. A day report center employee testified that from September 2024 to September 2025, the petitioner missed several drug screens and that several samples were diluted. When the petitioner did participate in drug screening, she tested positive for methamphetamine seven times, amphetamine twice, dextromethorphan twice, dextropropan five times, and codeine once. The petitioner denied any methamphetamine use in the past two years. She further testified that she did not believe that she had a drug problem at adjudication but was told that if she did not stipulate to drug use, she would not be able to see the children. A Child Protective Services worker testified that the DHS had exhausted all services that could be offered to the petitioner in light of her continuous denial drug usage. The worker explained that besides her drug use and failure to comply with drug screening requirements, the petitioner had been generally compliant with services. However, the petitioner continued to use drugs despite regularly attending drug counseling. Therefore, the DHS recommended termination of the petitioner's parental rights to both children. Ultimately, the court found that the petitioner had not acknowledged or addressed her methamphetamine use and that she was unwilling or unable to provide for the children's needs. Therefore, 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 parental rights was necessary for the best interests of the children. The court then terminated the petitioner's parental rights to A.W. and L.J.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 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 in terminating her parental rights instead of imposing a less restrictive dispositional alternative. It is well established 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." 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)). West Virginia Code § 49-4-604(d) provides that there is no reasonable likelihood that the conditions of abuse or neglect can be substantially corrected when a parent has "habitually abused or [is] addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired" and the parent has "not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning." As discussed above, the petitioner continued to use drugs throughout the proceedings and, based upon this evidence, the court found that there was no reasonable likelihood

³ L.J.'s father's parental rights were also terminated. The permanency plan for L.J. is adoption by the current placement. A.W.'s father is currently incarcerated, and A.W. has been placed in a legal guardianship in the same placement as L.J.

that she could correct the conditions of abuse and neglect. This issue was further compounded by the petitioner’s continuous denial of her substance abuse, despite her admissions at adjudication. As we have explained, “[i]n order to remedy the abuse and/or neglect problem, the problem must first be acknowledged.” *In re Timber M.*, 231 W. Va. 44, 55, 743 S.E.2d 352, 363 (2013) (quoting *In re Charity H.*, 215 W. Va. 208, 217, 599 S.E.2d 631, 640 (2004)). In addition to finding that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected, the court found that termination of the petitioner’s parental rights was in the child’s best interests—a finding that the petitioner does not challenge on appeal. *See* W. Va. Code § 49-4-604(c)(6) (allowing a court to terminate parental rights “[u]pon a finding that there is no reasonable likelihood that the conditions of neglect or abuse and be substantially corrected in the near future and[] when necessary for the welfare of the child”). As such, termination was appropriate.

For the foregoing reasons, we find no error in the decision of the circuit court, and its October 21, 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

NOT PARTICIPATING:

Justice James W. Flanigan