

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

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

In re B.S., G.S., R.S., and S.S.

No. 25-758 (Kanawha County CC-20-2023-JA-317, CC-20-2023-JA-318, CC-20-2023-JA-319, and CC-20-2023-JA-320)

MEMORANDUM DECISION

Petitioner Mother S.B.¹ appeals the Circuit Court of Kanawha County’s November 7, 2025, order terminating her parental rights to B.S., G.S., R.S., and S.S., arguing that the court erred in denying her motion for an improvement period and not imposing 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 September 2023, alleging that the petitioner physically abused S.S.³ by forcefully grabbing him by the back of the neck and placing her hand over his mouth to prevent him from screaming. A Child Protective Services (“CPS”) worker interviewed S.S., who disclosed that the petitioner yelled at him, grabbed him, was “rough” with him, and physically prevented him from crying and screaming. S.S. also stated that the petitioner did not physically discipline the other children and that he did not feel safe at home. The CPS worker also interviewed G.S. and R.S., who stated that the petitioner “whoops [S.S.’s] butt,” “fights [S.S.] with her hands,” and confirmed that none of the other children received physical discipline.

The circuit court held an adjudicatory hearing in February 2024. The petitioner testified and admitted that she grabbed S.S. by the back of the neck but did not intend to hurt him. Next, the father testified that he had seen injuries and bruising on S.S., but that the child told him that two older children at school had “beat him up.” At the conclusion of adjudication, the court found that the petitioner acknowledged excessive corporal punishment of S.S. and that, although she claimed that she did not intend to hurt him, evidence was presented that the child had bruises in

¹ The petitioner appears by counsel Alan J. Nichols. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Heather L. Olcott. Counsel Sandra K. Bullman 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).

³ S.S. is the petitioner’s stepchild. B.S., G.S., and R.S. are the petitioner’s biological children.

various stages of healing and was the target of physical abuse. Therefore, the court found that the children were abused and neglected and that the petitioner and the father were abusing and neglecting parents.⁴ At a hearing in March 2025, the circuit court granted the parents supervised visits with the children and directed them to fully comply with services offered by the DHS.

The circuit court held a dispositional hearing over several days, culminating in a final dispositional hearing in October 2025. A parenting service provider testified that she had been working with the petitioner since November 2023 and that, although the petitioner attended services, the provider was unable to assess whether the petitioner's parenting skills had improved because she only had minimal visitation with the children. Additionally, the provider testified that the petitioner and the father had a toxic relationship and that the DHS had advised the parties to separate. The provider explained that the parents would yell at each other, throw things at each other, and would "chase each other down." S.S. also refused to live with the father if the petitioner remained in the home. However, the petitioner remained in a relationship with the father since the proceedings began and lied to the DHS and service providers about living with the father until a few months prior to the dispositional hearing. The provider was also concerned because the petitioner had sporadic employment and did not have a driver's license. Because of these reasons, the provider testified that it would not be safe for the children to be reunited with the petitioner. The provider also testified that the petitioner was directed to participate in intensive out-patient therapy, but she failed to do so.

A visitation provider testified that the parents participated in twelve supervised visits but missed multiple visits. Further, R.S. had several emotional breakdowns during visitation and the parents consistently ignored him to the point that the provider had to console him. The witness also testified that the children's behavior had worsened since supervised visitation began and that the parents' issues had not improved. Next, a CPS worker testified that the DHS recommended termination of the petitioner's parental rights because the case had been ongoing since 2023, the petitioner did not attend all visitations, the petitioner had not fully complied with the DHS's recommendations and services, and the children's behavior had worsened since visitation was implemented. Additionally, the witness was particularly concerned about domestic violence between the parents and that they continued to live together despite the DHS's recommendation to separate. Ultimately, the circuit court found that although the petitioner participated in services, she received minimal benefit from them. Further, the petitioner failed to participate in therapy and continued her volatile relationship with the father, ignoring the DHS's recommendations. 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. Therefore, the court terminated the petitioner's parental rights to the children.⁵ It is from the dispositional order that the petitioner appeals.

⁴ The court found that B.S., G.S., and R.S. were abused and neglected children, as they were in the home during the physical abuse of S.S.

⁵ The parental rights of all parents involved in the matter were terminated. The permanency plan for B.S., G.S., and R.S. is adoption by the current foster placement. S.S. is currently placed in a residential treatment facility.

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 denying her motion for a post-adjudicatory improvement period. Under West Virginia Code § 49-4-610(2)(B), a parent may be granted an improvement period if they "demonstrate[], by clear and convincing evidence, that [they are] likely to fully participate in the improvement period." However, "West Virginia law allows the circuit court discretion in deciding whether to grant a parent an improvement period." *In re M.M.*, 236 W. Va. 108, 115, 778 S.E.2d 338, 345 (2015); *see also In re Tonjia M.*, 212 W. Va. 443, 448, 573 S.E.2d 354, 359 (2002) (explaining that a circuit court has the discretion to deny a motion for an improvement period when no improvement is likely). Ample evidence supports the circuit court's finding that no improvement was likely as the petitioner did not attend all supervised visitation, follow DHS parenting recommendations, or participate in therapy. As such, we conclude that the circuit court did not err in denying the petitioner's motion for a post-adjudicatory improvement period.

The petitioner also argues that the circuit court erred in terminating her parental rights instead of imposing a less restrictive dispositional alternative. However, we have 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." 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)). According to West Virginia Code § 49-4-604(d)(3), a parent's failure to "respond[] to or follow[] through with a reasonable family case plan or other rehabilitative efforts . . . designed to reduce or prevent the abuse or neglect of the child" constitutes a situation in which there is no reasonable likelihood that the conditions of abuse and neglect can be substantially corrected. Here, the circuit court's finding that there was no reasonable likelihood such conditions could be corrected in the near future is supported by the record. As discussed above, evidence established that the petitioner did not participate in all supervised visits, remained in a volatile relationship with the father, and did not participate in therapy. 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 children'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 can be substantially corrected in the near future and[] when necessary for the welfare of the child"). As such, the court did not err in terminating the petitioner's parental rights.

For the foregoing reasons, we find no error in the decision of the circuit court, and its November 7, 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