

**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. 25-829 (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 Father C.S.¹ appeals the Circuit Court of Kanawha County’s November 7, 2025, order terminating his parental rights to B.S., G.S., R.S., and S.S., arguing that the court erred in denying his 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 mother, S.B., physically abused S.S. by forcefully grabbing him by the back of the neck and placing her hand over his mouth to prevent him from screaming.³ A Child Protective Services (“CPS”) worker interviewed S.S., who disclosed that the mother yelled at him, grabbed him, was “rough” with him, and physically prevented him from crying and screaming. S.S. also stated that the mother 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 mother “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 mother testified and admitted that she grabbed S.S. by the back of the neck but did not intend to hurt him. Next, the petitioner 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 the adjudicatory hearing, the court found that the mother 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 various stages of healing and was the target of physical abuse. Further, the court found that the petitioner failed to protect S.S. from the mother’s physical abuse. Therefore, the court found that the children were abused and neglected and that the petitioner and the mother were

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 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.B. is the stepmother of S.S. and the biological mother of B.S., G.S., and R.S.

abusing and neglecting parents.⁴ The court also ordered that the petitioner participate in weekly therapy. 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 he had been working with the petitioner since November 2023. The provider explained that the petitioner acknowledged the mother's abuse but did not believe that he had done anything wrong. Further, the provider testified that he emphasized that the petitioner should separate from the mother because S.S. refused to return to his custody if the mother lived in the home. However, the petitioner had remained in a relationship with the mother since the proceedings began and lied to the DHS and service providers about living with the mother until a few months prior to the dispositional hearing. Additionally, the petitioner stopped attending individualized therapy after a few sessions. The mother's parenting service provider also testified that petitioner and the mother had a toxic relationship and that the DHS had advised the parties to separate. The provider further testified that the parents would yell at each other, throw things at each other, and would "chase each other down."

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 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 knowing that S.S. would not return to the petitioner's custody while he and the mother lived together and despite the DHS's recommendation to separate. Ultimately, the circuit court found that although the petitioner participated in services, he received minimal benefit from them. Further, the petitioner failed to participate in therapy and continued his volatile relationship with the mother, ignoring the DHS's recommendation. 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 All parents' parental rights 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 his motion for a post-dispositional improvement period. Under West Virginia Code § 49-4-610(3)(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, continued his volatile relationship with the mother, and stopped participating in therapy. The court also emphasized that the petitioner failed to acknowledge his wrongdoing. 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)). Further, “[f]ailure to acknowledge the existence of the problem, . . . results in making the problem untreatable and in making an improvement period an exercise in futility at the child's expense.” *Id.* As such, we conclude that the circuit court did not err in denying the petitioner's motion for a post-dispositional improvement period.

The petitioner also argues that the circuit court erred in terminating his 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 mother, and stopped participating 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