

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re C.T.

No. 26-133 (Berkeley County CC-02-2024-JA-233)

MEMORANDUM DECISION

Petitioner Father J.T.¹ appeals the Circuit Court of Berkeley County’s October 20, 2025, order terminating his parental rights to C.T., arguing that the circuit court erred in allowing the DHS to amend the petition, adjudicating him based upon his stipulation, revoking his improvement period, and terminating his parental rights.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 September 2024, the DHS filed a petition alleging that the petitioner neglected then-three-year-old C.T. and her half-siblings by failing to provide them with food, supervision, education, and medical care, and that the mother neglected the children due to her substance abuse and/or untreated mental health issues.³

The circuit court held two adjudicatory hearings between April and May 2025, where the mother and the petitioner testified that they both abused multiple substances—including methamphetamine—in the previous year. However, the petitioner asserted that he only abused substances as a form of self-medication for his mental health issues, including schizophrenia. The petitioner further admitted to using methamphetamine when he appeared for a drug screen at the Berkeley County Day Report Center in January 2025. Finally, the petitioner testified that he witnessed the mother exhibiting erratic behavior starting about a year before the initiation of the proceedings but did not know whether she was under the influence of any drugs. At the conclusion of the second hearing, the court adjudicated the mother of abusing and neglecting the children and ordered the DHS to amend the petition to include allegations relating to the petitioner’s substance abuse and mental health issues. The following day, the DHS filed an amended petition that

¹ The petitioner appears by counsel Nigel E. Jeffries. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Lee Niezgoda. Counsel Tracy Weese appears as the child’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 The petitioner appeals only in regard to C.T., and the child’s half-siblings are not at issue on appeal.

included allegations that the petitioner abused substances and failed to protect C.T. from the mother's abuse and neglect. To support such allegations, the DHS detailed the petitioner's above testimony along with a January 2025 letter from the Berkeley County Day Report Center reporting the petitioner's admission to regular methamphetamine use.

The circuit court held the final adjudicatory hearing on June 24, 2025, where the petitioner presented an answer to the amended petition, which contained an admission that he abused methamphetamine to the degree that it impacted his parenting, that his mental health issues rendered him incapable of exercising or improving any parenting skills, and that he failed to protect the children by "knowingly allow[ing] [the mother] to inflict[] physical injury or mental and emotional injury" on them. In addition to making these admissions, the petitioner moved for a post-adjudicatory improvement period. After a short colloquy discussing each of these allegations and ensuring the petitioner's voluntariness, the court accepted the stipulation. The court then adjudicated him of abusing and neglecting C.T. "[b]ased on the testimony . . . at the last hearing as well as those admissions." Regarding the petitioner's motion for a post-adjudicatory improvement period, the parties represented that the proposed terms of the improvement period had been discussed in-depth during a multi-disciplinary team ("MDT") meeting earlier that month, which the petitioner attended with his counsel. Two days after the hearing (June 26, 2025), a case plan signed by the petitioner was filed, which contained the agreed-upon terms of the improvement period. This case plan stated that the petitioner engaged in pervasive substance abuse, "participated in and allowed his child to be exposed to abuse/domestic violence," and "participated in a toxic parenting environment . . . with indifference as to how" it affected the children. To remedy these issues, the improvement period required him to participate in services including a domestic violence program, parenting and adult life skills classes, substance abuse screening and treatment, and a psychological evaluation. The court granted the petitioner's motion for a post-adjudicatory improvement period shortly thereafter. However, in September 2025, the DHS moved to revoke the petitioner's improvement period, and the court set the matter for disposition.

The circuit court held a dispositional hearing in October 2025 and received evidence regarding the petitioner's noncompliance with the terms of his improvement period, including multiple letters from service providers. First, a Child Protective Services ("CPS") worker testified that the petitioner started two different substance abuse treatment programs before discharging himself against facility advice and had not been drug screening. The CPS worker further testified that the petitioner neither enrolled in the agreed-upon domestic violence program nor participated in any parenting or adult life skills classes. The CPS worker further stated that the petitioner's noncompliance precluded him from exercising any visitation with C.T. during these proceedings. The petitioner then testified that he could "barely take care of [him]self" and that he did not contact service providers because his phone had been hacked. The petitioner further admitted that he did not participate in his required psychological evaluation. Ultimately, the circuit court found that the petitioner had not complied with the improvement period's terms requiring him to complete a domestic violence program, parenting and adult life skills classes, substance abuse screening and treatment, and a psychological evaluation. To the extent that the petitioner was participating in any services, the court found that he was only "going through the motions." The court further found that the petitioner had not corrected the conditions of neglect underlying these proceedings and that his lack of participation in his improvement period demonstrated that he lacked the ability to care for himself. Based upon these findings, the court concluded that there was no reasonable

likelihood that the petitioner could substantially correct the conditions of neglect in the near future. Further, based upon C.T.'s young age and need for permanency, the court concluded that termination of the petitioner's rights was in the child's best interests. Accordingly, the court terminated the petitioner's parental rights to C.T.⁴ It is from this 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 first argues that the circuit court erred in ordering the DHS to file an amended petition to include allegations of the petitioner's substance abuse. However, Rule 19(b) of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings states that "[i]f new allegations arise after the final adjudicatory hearing, the allegations should be included in an amended petition . . . and the final adjudicatory hearing shall be re-opened for the purpose of hearing evidence on the new allegations in the amended petition." Moreover, this Court has further explained that this rule grants circuit courts the "inherent authority to compel the [DHS] to amend its petition" when the evidence establishes "reasonable cause . . . to believe that additional abuse or neglect has occurred." Syl. Pt. 3, in part, *In re C.L.*, 249 W. Va. 95, 894 S.E.2d 877 (2023) (quoting Syl. Pt. 6, *In re Lilith H.*, 231 W. Va. 170, 744 S.E.2d 280 (2013)). Here, the court heard testimony from both the mother and the petitioner that the petitioner abused methamphetamine, which was not initially alleged in the original petition. Since circuit courts have the authority to compel the DHS to amend a petition in these circumstances, it was certainly proper for the court to grant the DHS leave to amend. See *In re Lilith H.*, 231 W. Va. at 182, 744 S.E.2d at 292. The petitioner argues, unpersuasively, that the substance abuse allegations were not "new" because the DHS had knowledge of this as far back as January 2025, when it received the letter from the Berkeley County Day Report Center on the issue. However, there is nothing in the record indicating that this letter was presented to the court, and it was not until the adjudicatory hearings in April and May 2025 that the court heard evidence of the petitioner's substance abuse. Thus, the circuit court did not err in permitting the DHS to amend its petition to include allegations relating to the petitioner's substance abuse, nor did it err in conducting an additional adjudicatory hearing on the new allegations. See *In re C.L.*, 249 W. Va. at 102-03, 894 S.E.2d at 884-85 (stating that "after [the DHS] amends the petition to include additional allegations, the circuit court must reopen adjudication to address them").

Next, the petitioner argues that the circuit court erred in adjudicating him of abusing and neglecting C.T. because his stipulation was insufficient. To properly adjudicate a parent based on a stipulation, we have held that Rule 26(a) of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings requires that the stipulation "include both '(1) [a]greed upon facts supporting court involvement regarding the respondent[s] problems, conduct, or condition' and '(2) [a] statement of respondent's problems or deficiencies to be addressed at the final disposition.'" *In re Z.S.-I.*, 249 W. Va. 14, 23, 893 S.E.2d 621, 630 (2023). Here, the petitioner's answer to the amended petition—which contained his written stipulation—satisfied both requirements. Having first reviewed the amended petition with counsel, the petitioner admitted

⁴ The circuit court also terminated the parental rights of C.T.'s mother. C.T.'s permanency plan is adoption in her current placement.

that he abused methamphetamine to the degree that it impacted his parenting, that his mental health issues rendered him incapable of exercising or improving any parenting skills, and that he failed to protect the children from the mother's abuse and neglect. These admissions constituted agreed upon facts at the time the petition was filed, supporting the court's involvement to address the underlying conditions of abuse and neglect. Next, the petitioner's answer clearly indicated that he would participate in an improvement period to address the issues set forth in the amended petition. In support of his argument, the petitioner asserts that the improvement period terms were not presented at the time of the June 2025 adjudicatory hearing and that he "did not see" the terms of the improvement period prior to signing a copy of the improvement period's terms after the hearing. However, the record demonstrates that both the petitioner and his counsel were present at an MDT meeting prior to the June 2025 hearing, where the parties had an in-depth discussion of the improvement period's terms. As such, we conclude that the circuit court did not abuse its discretion in adjudicating the petitioner based upon his stipulation. Furthermore, we note that the circuit court did not rely solely on the petitioner's stipulation in adjudicating him of abusing and neglecting C.T., as the court explicitly stated that it was also relying on "the testimony . . . at the [May 2025] hearing."

The petitioner further argues that the circuit court improperly terminated his post-adjudicatory improvement period based on his failure to complete all services. In support of his argument, the petitioner asserts that it was improper for the circuit court to terminate his improvement period based upon his failure to participate in services to remedy domestic violence when he was neither alleged to have perpetrated nor adjudicated for the same. However, his argument ignores that he explicitly agreed to participate in such services when he assented to the terms of the post-adjudicatory improvement period. Given his agreement to the terms of his improvement period, the petitioner has waived his right to raise this issue on appeal. *See Noble v. W. Va. Dep't of Motor Vehicles*, 223 W. Va. 818, 821, 679 S.E.2d 650, 653 (2009) ("Our general rule is that nonjurisdictional questions . . . raised for the first time on appeal, will not be considered." (quoting *Shaffer v. Acme Limestone Co.*, 206 W. Va. 333, 349 n.20, 524 S.E.2d 688, 704 n.20 (1999))). We also note that the circuit court found that the petitioner failed to comply with multiple other conditions of his improvement period and that he was largely "going through the motions." While the petitioner asserts that his lack of participation was due to his inability to get transportation, this argument ignores evidence in the record that he twice discharged himself from substance abuse treatment against facility advice. West Virginia Code § 49-4-610(7) provides that "the court shall terminate any improvement period granted pursuant to this section when the court finds that respondent has failed to fully participate in the terms of the improvement period." Furthermore, West Virginia Code § 49-4-610(4)(A) is clear that a parent granted an improvement period "shall be responsible for the initiation and completion of all terms of the improvement period." Accordingly, the circuit court did not abuse its discretion in terminating the petitioner's improvement period and proceeding to disposition based upon his failure to participate in ordered services. *See Syl. Pt. 2*, in part, *In re Lacey P.*, 189 W. Va. 580, 433 S.E.2d 518 (1993) (holding that "it is . . . within the court's discretion to terminate [an] improvement period . . . if the court is not satisfied that the [parent] is making the necessary progress.").

Finally, the petitioner argues that the circuit court erred in terminating his parental rights instead of imposing a less restrictive disposition. We have long 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” and when necessary for the welfare of the child. 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)). There is no such likelihood when the parent is “addicted to . . . controlled substances or drugs[] to the extent that proper parenting skills have been seriously impaired and [the parent] ha[s] not responded to or followed through the recommended and appropriate treatment” as well as when the parent has “not responded to or followed through with a reasonable family case plan.” W. Va. Code § 49-4-604(d)(1), (3). Here, the petitioner admitted to having a substance abuse problem and agreed to improvement period terms requiring him, in part, to participate in drug screening and substance abuse treatment. The improvement period terms further required the petitioner to participate in a psychological evaluation, as the petitioner had admitted that he suffered from mental health issues that negatively impacted his parenting. Despite the petitioner’s agreement to these terms, the circuit court found that he failed to comply with almost every aspect of the improvement period, which he does not argue against. We further note that the circuit court found termination of the petitioner’s parental rights to be in C.T.’s best interests, a finding that the petitioner does not challenge. Courts are permitted to terminate parental rights on this basis. *See In re K.L.*, 247 W. Va. 657, 666-67, 885 S.E.2d 595, 604-05 (2022) (stating a parent’s failure to participate in an improvement period is “a statutorily-recognized basis upon which this Court regularly affirms termination of parental rights”); *see also* W. Va. Code § 49-4-604(c)(6) (permitting circuit courts to terminate parental rights upon finding no reasonable likelihood conditions of abuse and neglect can be substantially corrected in the near future and when necessary for the child’s welfare). Accordingly, we conclude that the circuit court did not abuse its discretion in terminating the petitioner’s parental rights to C.T.

For the foregoing reasons, we find no error in the decision of the circuit court, and its October 20, 2025, order is hereby affirmed.

Affirmed.

ISSUED: September 22, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice H. L. Kirkpatrick
Justice James W. Flanigan

DISQUALIFIED:

Justice Charles S. Trump IV