

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

released at 3:00 p.m.
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In re W.J.

No. 25-362 and 25-335 (Nicholas County CC-34-2025-JA-5)

MEMORANDUM DECISION

Petitioners H.S. (“the mother”) and J.J. (“the father”)¹ appeal the April 21, 2025, disposition order entered in the Circuit Court of Nicholas County denying their respective requests for post-adjudicatory improvement periods, terminating their parental rights to their child, W.J., ordering that they have no contact with W.J., and denying post-termination visitation. Upon our review, we find that petitioners demonstrated that they are likely to fully participate in an improvement period and that no evidence was presented to suggest that the child’s best interests would be jeopardized by affording petitioners the opportunity, through an improvement period, to demonstrate that they have made the necessary changes to be fit and suitable parents. Accordingly, we vacate the circuit court’s order, in part; reverse the order, in part; and remand this case for further proceedings. Because this case presents no substantial question of law, we find that it satisfies the “limited circumstances” of Rule 21(d) of the West Virginia Rules of Civil Procedure and is appropriate for disposition rather than an opinion.

Facts and Procedural History

On January 30, 2025, following the birth of their child W.J., an abuse and neglect petition was filed against petitioners,² and W.J. was removed from petitioners’ custody on an emergency basis. The petition alleged that petitioners had a history of involvement with Child Protective Services (CPS) that resulted in the involuntary termination of their parental rights to four other

¹ The mother appears by counsel E. Scott Stanton. The father is represented by Jeremy B. Cooper. The West Virginia Department of Human Services (“the DHS”) appears by Attorney General John B. McCuskey and Assistant Solicitor General Mattie F. Shuler. Counsel Juliana Dotsenko appears as the child’s guardian ad litem (“the guardian”). These appeals were consolidated for purposes of oral argument, consideration, and decision by this Court.

² The petition was twice amended to include all of the allegations set forth herein.

children, B.S., M.G., T.J., and H.J.,³ based primarily upon the illicit use of controlled substances.⁴ The petition further alleged that, at W.J.’s birth, the mother tested positive for buprenorphine and that W.J.’s umbilical cord also tested positive for buprenorphine. W.J. exhibited withdrawal symptoms (fussiness, lack of appetite, and tremors), and he was prescribed methadone. W.J. was also placed on gavage feeding (i.e., tube-feeding). The petition alleged that urine screens provided by both petitioners at the Nicholas County Day Reporting Center were positive for buprenorphine. On September 30, 2024, the mother tested positive for cannabis when she was five months pregnant with W.J. According to the petition, “[d]ue to [petitioners’] previous involvement [with CPS], prior involuntary terminations [of their parental rights to other children], and lack of change in circumstances, this is an aggravated circumstance.”

Petitioners appeared before the circuit court on February 5, 2025, and waived their right to a preliminary hearing. Counsel for the father advised the court that petitioners were participating in a medication-assisted treatment (“MAT”)⁵ program, pursuant to which program petitioners were

³ The mother is the biological parent of all four children while the father is the biological parent of T.J. and H.J.

⁴ See *In re B.S., M.G., and T.J.*, No. 19-0420, 2020 WL 598379 (W. Va. Feb. 7, 2020) (memorandum decision) (affirming the mother’s termination of her parental rights to B.S., M.G., and T.J., noting her failure to successfully complete her post-adjudicatory improvement period by continuing to abuse controlled substances, failing to complete a twenty-eight-day drug rehabilitation program, and failing to find employment or safe and suitable housing). Regarding the termination of petitioners’ parental rights to H.J., with whom the mother became pregnant during the previous proceedings involving the other three children, the instant petition alleged that the mother tested positive for THC and buprenorphine at the time of H.J.’s birth and that H.J. was treated for withdrawal from buprenorphine. Though the instant petition alleged that the mother had a valid prescription for buprenorphine, the petition includes no further information in this regard; the petition also alleged that, at the time of H.J.’s birth, the father admitted to taking buprenorphine without a valid prescription.

⁵ “‘Medication-assisted treatment’ means the use of medications and drug screens, in combination with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance use disorders.” W. Va. Code § 16B-5Y-2. See also *id.* (defining “[m]edication-assisted treatment program” as “all publicly and privately owned opioid treatment programs and office-based, medication-assisted treatment programs, which prescribe medication-assisted treatment medications and treat substance use disorders, as those terms are defined in this article” and “[m]edication-assisted treatment medication” as “any medication that is approved by the United States Food and Drug Administration under Section 505 of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. § 355, for use in the treatment of substance use disorders that is an opioid agonist or partial opioid agonist and is listed on the Schedule of Controlled Substances in § 60A-2-2201 *et seq.* of this code.”).

prescribed and take buprenorphine,⁶ as evidenced by a letter from Sirena Solutions Health and Wellness which administered the program.⁷ The father's counsel represented to the court that petitioners "have been in full compliance with th[e] [MAT] program" and that there is no "suspicion [by the CPS worker] that there's been any other illicit drug use. Unfortunately, [a newborn's withdrawal from buprenorphine] can be a side effect of buprenorphine." The father's counsel further represented that the father was employed as an assistant manager at AutoZone, that petitioners' home was "safe and suitable," and that he and the mother have been fully cooperative with CPS and "have made some significant changes" to their lives since their previous abuse and neglect proceedings. Petitioners' respective counsel requested that the circuit court award petitioners an improvement period and custody of the child. Noting that the child remained in the hospital for treatment for withdrawal, the circuit court refused the request for an improvement period and ordered that the parents have no contact with W.J. Although the circuit court ordered that petitioners undergo psychological evaluations, the appendix record does not indicate that evaluations were ever performed.

The adjudicatory hearing was held on March 12, 2025. At this hearing, petitioners admitted to the allegations in the petition and requested a post-adjudicatory improvement period and admission into the Nicholas County Family Treatment Court program as a condition thereof. Counsel for DHS did not contest either the granting of an improvement period or petitioners' admission to the family treatment court.⁸

By order entered March 14, 2025, the circuit court denied petitioners' requests for an improvement period and admission to family treatment court. Based upon petitioners' admissions to the allegations in the petition, the circuit court found W.J. to be an abused and neglected child and petitioners to be abusing and neglecting parents.⁹ *See* W. Va. Code §§ 49-4-601(i) and 49-1-201. The court ordered that the DHS retain legal and physical custody of W.J. and W.J. to remain

⁶ According to a March 12, 2025, letter from the mother's OB/GYN, Jodie Posey Bucks, M.D., the mother was prescribed Subutex as part of the MAT program. *See infra*. Throughout the proceedings, the medication was also referred to, seemingly interchangeably, as Suboxone and buprenorphine.

⁷ A copy of the letter was provided to the CPS caseworker, Madison Williams.

⁸ However, in a report also dated March 12, 2025, and prepared following a multi-disciplinary treatment ("MDT") team meeting, the DHS "d[id] not recommend an improvement period. . . . and object[ed] to [petitioners] being admitted into Family Treatment Court."

⁹ Having admitted to the allegations in the petition, petitioners do not appeal the circuit court's order adjudicating them as abusing and neglecting parents and W.J. as an abused and neglected child based upon the harm W.J. suffered at birth from the mother's lawful use of buprenorphine as medication-assisted treatment. Rather, petitioners' appeal is limited to the circuit court's disposition order.

in his current placement with his siblings.¹⁰ The matter was set for disposition.

The guardian filed a report with the circuit court on April 10, 2025. In this report, the guardian recommended that petitioners' custodial, parental, and guardianship rights to W.J. be terminated. In a report also filed with the circuit court on April 10, 2025, the CPS caseworker, Madison Williams, reported that both petitioners were "complying with services and [were] drug screening." However, Ms. Williams, on behalf of the DHS, recommended the termination of petitioners' parental and custodial rights to W.J. "due to the extensive history of both [sic] and failure to retain any knowledge in previous CPS cases that was provided to them."¹¹

By written motions filed on April 15, 2025, petitioners moved for post-adjudicatory improvement periods and admission to the Nicholas County Family Treatment Court.

The disposition hearing was conducted on April 16, 2025. The mother testified that she had been addicted to "pain pills" and methamphetamine since the age of sixteen. She admitted that, during the previous abuse and neglect proceedings involving her older children, she and the father refused to acknowledge their substance abuse problem and did not take seriously the improvement periods awarded in those cases and continued to abuse drugs. The mother testified, however, that losing their parental rights to their older children was "rock bottom," and so, beginning in 2020, she and the father began participating in the MAT program at Sirena Solutions. The mother testified that, in the beginning, she saw a counselor every two weeks; "After you're there so long, it's once a month. You get random drug testing, random pill counts. You see your doctor . . . every two weeks." The mother testified that the MAT program saved her life, and that "[w]ith the counseling and stuff, I guess it's kind of like a stability kind of thing in a way, because it's not really the medicine itself maybe. It's just . . . the counseling and stuff."¹² The mother admitted that she tested positive for cannabis in a random drug test, which test also revealed that she was five months pregnant with W.J. The mother testified that she has not used any illegal substances since learning she was five months pregnant with W.J. The mother testified that after learning she was pregnant, she made an appointment with an obstetrician, Jodie Posey Bucks, M.D., of New River Health Association, to whom she disclosed her drug history and use of MAT. According to the mother, she worked with both Dr. Bucks and her health care providers in the MAT program during her pregnancy, and Dr. Bucks recommended that she continue on buprenorphine treatment, explaining that "[i]t could have been dangerous with me quitting because of the withdrawals, and I've been on it for so long." A letter dated March 12, 2025, from Dr. Bucks that was introduced into evidence stated that the mother "was seen at our facility for prenatal care.

¹⁰ An amended adjudicatory order correcting a clerical error was entered on March 17, 2025.

¹¹ Regarding W.J.'s medical condition as of the date of the report, Ms. Williams noted that the child had been "gaining weight properly and [was] developing on track." The report further noted that W.J. "still has trimmers [sic] from his mother's Suboxone use."

¹² When asked whether she had any plans to stop using MAT, the mother testified, "[I]f I had to, I would."

During her pregnancy she was receiving treatment for substance abuse from Sirena Solutions Health and Wellness. She was prescribed Subutex 8mg BID by that facility and we were aware of that.” Finally, the mother testified that she and the father participate in Narcotics Anonymous classes both in person and online, take parenting classes, have a “safe and suitable home”¹³ and that she has worked steadily for the past five years, including at her present job at Go-Mart for three years.

The father similarly testified that he struggled with substance abuse for ten to twelve years, admitting that, in the abuse and neglect proceedings involving the older children, he and the mother were not “willing to admit at the time that we had a problem [with drugs], and we didn’t do what we w[ere] supposed to.” The father testified that he and the mother made the decision to become sober one to two months after the most recent termination of their parental rights in 2020 because, “[j]ust losing the other children. . . . I know it’s awful that it come to that to change but, I mean, that—that was my rock bottom, and I didn’t want it to be for nothing.” The father testified that he and the mother used marijuana for approximately one month after the mother suffered a miscarriage and, when they learned the mother was pregnant with W.J., they “quit immediately.” The father testified that he is drug screened regularly through the MAT program and that he has been sober for approximately six years.¹⁴ The father has been employed by AutoZone for approximately five years.

Ms. Williams, the CPS worker, testified that, since the adjudicatory hearing, petitioners have reached out to her to check on W.J.’s “medical condition and how he is doing” and that they are participating in parenting and life skills classes. Ms. Williams confirmed that there was no evidence demonstrating that the mother used marijuana after being made aware of her pregnancy. Despite not opposing the granting of an improvement period at the adjudicatory hearing, Ms. Williams requested termination of petitioners’ parental rights and opposed an award of post-termination visitation. When asked why the DHS changed its position in this regard, Ms. Williams testified that at an MDT meeting conducted after the adjudicatory hearing, she learned about “the circumstances of the THC usage, and that has contributed to this decision [to request termination]. . . . that it was environmental relationship factors [i.e., a miscarriage] that caused that regression into THC usage.” In Ms. Williams’ opinion, “[t]here hasn’t really been a change [in petitioners’ behavior], and that – given any stressor in their life, that they could revert back to whether it’s marijuana or a more intensive drug.” Ms. Williams confirmed that the filing of the petition in this case was precipitated by W.J. “showing symptoms of withdrawal due to buprenorphine.” Finally, Ms. Williams admitted that she did not speak with any of the mother’s treating physicians even

¹³ Photographs of petitioners’ home were admitted into evidence and are part of the appendix record.

¹⁴ When asked about his long-term plans regarding the use of MAT, the father testified, “For right now, it’s working[.] . . . I mean, just continue the course.” However, when asked if he would discontinue MAT if required to do so in connection with these abuse and neglect proceedings, the father testified that he would.

though, she observed, “[t]here [are] quite a few.”¹⁵

The circuit court accepted as a stipulation that the mother “was lawfully prescribed Suboxone or buprenorphine during pregnancy,” and that petitioners had been participating in the voluntary program at the Nicholas County Day Reporting Center for approximately sixty days. The circuit court refused, however, the mother’s counsel’s request that it find that the mother “consulted with her OB/GYN and continued the Suboxone use at her OB/GYN’s direction” based upon Dr. Bucks’ letter that had been admitted into evidence.

In an order entered April 21, 2025, the circuit court denied petitioners’ request for an improvement period and terminated their parental rights to W.J. This order also denied post-termination visitation and all contact with W.J. The circuit court concluded that the mother caused W.J.’s physical suffering by her “knowing and intentional use of Suboxone and marijuana during pregnancy” and that “[t]o this Court, (and to this child) it makes no difference that buprenorphine was lawfully prescribed – the child still suffers.” The circuit court further found:

The question for this Court is whether the adult respondents should be granted an improvement period against this background of long-term drug abuse, prior involuntary terminations and the present suffering of this child. . . .

This is the fourth time these adult respondents have been involved in abuse and neglect proceedings – all prior cases resulting i[n] termination of parental rights. This child was hospitalized for two weeks while suffering buprenorphine withdraw[al] and the child continues to have tremors today. The Court also places great weight on the mother’s admitted use of marijuana for the first five (5) months of pregnancy. The Court finds that it is ridiculous to argue that because she didn’t know she was pregnant then the marijuana use was somehow excusable.

The Court finds that it is not in this child’s best interest to attempt reunification and take a complete, blind gamble to see if these adult respondents can finally get it right. While recognizing that biological parents have rights as parents, this child equally has the right not to be placed back in a dangerous situation. These parents have a history of placing children in dangerous situations. Presently, the mother gave birth to an injured child and she caused

¹⁵ Ms. Williams testified that, in addition to having tremors at birth, W.J. also had an eye infection “that was due to the birthing process and some previously existing conditions of the mother, and it is now known that the child may or may not have lip- and tongue- tie as well that causes a lot of issues for him to eat.” The mother’s counsel objected to this testimony on the ground that there was no evidence introduced that “being tongue-tied has any relationship to Suboxone usage.”

the injury, thus continuing the pattern of danger to yet another child. This Court declines to risk this child's well-being on the hope that the parents are somehow different now. This Court rejects the argument that neonatal abstinence syndrome and a child's suffering are the natural and accepted results of this mother's use of buprenorphine while pregnant. Here, the father was using buprenorphine as well and knew that the mother was using. Prescription or not, this child suffered and continues to suffer. This, paired with these two parents' long history of terminations, leads to the clear conclusion that this child deserves a better life than these parents can offer.

The circuit court found that the DHS was not required to make reasonable efforts to address the conditions of abuse and neglect because petitioners' parental rights were involuntarily terminated to four other children and, further, that there is no reasonable likelihood that the conditions of abuse neglect can be substantially corrected in the near future even with the assistance of the DHS. This appeal followed.

Standard of Review

Our appellate review of dispositional orders in abuse and neglect cases is governed by the following standards of review:

(1) substantive rulings, such as whether the evidence supports a conclusion that a child has been abused or neglected or whether termination of parental rights is appropriate, are reviewed for abuse of discretion; (2) factual findings supporting substantive rulings are reviewed for clear error; and (3) to the extent review of the order implicates an issue of law or requires statutory interpretation, our review is de novo.

Syl. Pt. 1, in part, *In re K.S.*, -- W. Va. --, 930 S.E.2d 400 (2026). As to whether the circuit court erred in denying petitioners a post-adjudicatory improvement period, we also review that substantive ruling for abuse of discretion: "[w]e review a circuit court's decision to grant or deny a post-adjudicatory improvement period under an abuse of discretion standard." Syl. Pt. 1, *In re K.A., J.R., N.A. & J.B.*, 251 W. Va. 626, 915 S.E.2d 520 (2025).

Discussion

On appeal, petitioners argue that the circuit court erred in denying their requests for a post-adjudicatory improvement period¹⁶ and in terminating their parental rights to W.J. Petitioners assert that the circuit court failed to properly consider the evidence that since 2020—that is, the

¹⁶ Again, whether the mother's lawful use of MAT while pregnant constituted abuse and/or neglect of W.J. is not presently before this Court because petitioners admitted to the allegations in the petition. The propriety of the adjudicatory order is not before us.

time since their parental rights to their older children were involuntarily terminated for illicit substance abuse—petitioners have made positive changes in their lives including addressing their substance use disorder by successfully participating in a MAT program with the consent and approval of the mother’s OB/GYN. Petitioners further assert that the evidence showed that petitioners immediately ceased using marijuana upon learning the mother was pregnant and have consistently maintained stable employment and a safe and suitable home. According to petitioners, they fully remedied the conditions of abuse and neglect that resulted in the prior terminations and should have been granted an improvement period.

The DHS and guardian counter that the circuit court did not err in denying petitioners an improvement period or in terminating their parental rights to W.J. They contend that the DHS was not required to make reasonable efforts to reunify petitioners with W.J. because petitioners’ parental rights to other children were previously terminated involuntarily, and because petitioners subjected W.J. to “aggravated circumstances” in the form of “chronic abuse” given W.J.’s prenatal exposure to controlled substances caused by the mother’s intentional use of MAT while pregnant. *See* W. Va. Code § 49-4-604(c)(7)(A) and (C). In the view of the DHS, petitioners failed to take any steps to remedy the circumstances that led to the prior termination of their parental rights. We disagree and find that the circuit court abused its discretion in denying petitioners an improvement period and, thus, in terminating their parental rights.

The uncontroverted evidence presented at the dispositional hearing showed that, in 2020, after petitioners’ parental rights to four older children were involuntarily terminated for illicit drug use, petitioners began the process of becoming sober and enrolled (voluntarily) in a MAT program at Sirena Solutions that included the lawful prescription use of buprenorphine. Petitioners have been consistent and successful in their compliance with the program; their use of buprenorphine is monitored through random drug screens and pill counts, and they also regularly participate in counseling as part of the program. When the mother learned that she was pregnant with W.J., she immediately obtained prenatal care and disclosed to her OB/GYN that she was on MAT and her history of using illicit drugs. A letter from the mother’s OB/GYN, Dr. Bucks, confirming that she was aware of the mother’s lawful use of “Subutex 8mg BID [i.e., twice a day]” was admitted into evidence, and the mother testified that Dr. Bucks affirmatively advised her to continue with that treatment during the pregnancy as quitting could be “dangerous . . . because of the withdrawals, and I’ve been on it for so long.”¹⁷ The record shows that the mother followed Dr. Bucks’ medical advice in this regard. Despite this evidence, the circuit court specifically refused to find that the mother “consulted with her OB/GYN and continued the Suboxone use at her OB/GYN’s direction.” This was error. Indeed, throughout the proceedings and within the disposition order, the circuit court clearly conveyed its disapproval of the use of MAT in the context of an abuse and neglect proceeding even though this Court has cautioned that “when medication-assisted treatment is appropriate and potentially beneficial, any bias against its use is contrary to the public policy of this State as announced by the Legislature.” Syl. Pt. 5, in part, *In re M.M.*, 244 W. Va. 316, 853

¹⁷ *Cf.* W. Va. Code St. R. § 69-12-29.5.3.d (stating that “[i]f a pregnant patient elects to withdraw from medication-assisted treatment against medical advice, the program shall inform the patient of the risks of withdrawal to the patient and the effects on the pregnancy.”).

S.E.2d 556 (2020). Even further, pursuant to West Virginia Code § 49-4-604(f),¹⁸ we have prohibited courts from terminating parental rights because “the parent is participating in a medication-assisted treatment program, as regulated in [W. Va. Code] § 16-5Y-1 *et seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.” *Id.*, at syl. pt. 4.

To the extent the circuit court also placed “great weight” on the mother’s cannabis use while pregnant, this too was error. The evidence showed that, with one exception, petitioners’ random drug screens were consistently positive only for buprenorphine, which petitioners were lawfully prescribed as a medication-assisted treatment. On one occasion, the evidence showed, petitioners tested positive for cannabis,¹⁹ which they admitted to using after the mother suffered a miscarriage. Importantly, the evidence showed the mother’s use of cannabis occurred at a time when the mother was entirely unaware that she was pregnant, and the DHS failed to present any evidence to the contrary. *See In re J.B.*, No. 23-697, 2025 WL 3162260 (W. Va. Nov. 12, 2025) (memorandum decision) (vacating adjudicatory and termination orders where the DHS failed to prove that the mother knew or should have known she was pregnant at the time she used controlled substances because the evidence showed the mother was unaware of her pregnancy until she delivered the child). Furthermore, petitioners testified that they ceased using cannabis immediately upon learning of the pregnancy; the DHS failed to present any evidence that either petitioner has tested positive for cannabis (or any other drug besides buprenorphine) since then.

West Virginia Code § 49-4-610(2)(B) provides that a circuit court may grant an adjudicated parent an improvement period when, inter alia, the parent “demonstrates, by clear and convincing evidence, that [he or she] is likely to fully participate in the improvement period[.]” “[A]n improvement period in the context of abuse and neglect proceedings is viewed as an opportunity for the miscreant parent to modify his/her behavior so as to correct the conditions of abuse and/or neglect with which he/she has been charged.” *In re S.S.*, 253 W. Va. 66, --, 928 S.E.2d 577, 581 (2026) (internal citations omitted). In addition to petitioners’ lawful use of MAT and the single positive drug screen for cannabis that occurred at a time when the mother was unaware that she was pregnant with W.J., the circuit court relied heavily on the involuntary terminations of petitioners’ parental rights to W.J.’s older siblings as grounds to deny petitioners an improvement period and terminate their parental rights. This Court has cautioned that prior involuntary terminations do not automatically require the termination of parental rights as to a subsequently

¹⁸ West Virginia Code § 49-4-604(f) states:

The court may not terminate the parental rights of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in § 16-5Y-1 *et seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.

¹⁹ The circuit court’s finding that “the mother used marijuana for the first five (5) months of her pregnancy” is not supported by the evidence.

born child where there is evidence that the parents have remedied the problems that led to the prior terminations. Indeed, this Court has “emphatically reiterate[d] that a prior termination does *not* mean that a parent does not have the right to ‘another chance’—in the form of an improvement period or otherwise.” *In re Rebecca K.C.*, 213 W. Va. 230, 235, 579 S.E.2d 718, 723 (2003). In petitioners’ case, the record is replete with evidence, as described in detail above, that petitioners have demonstrated significant and consistent progress in their addiction recovery making it likely that they will fully participate in an improvement period.

Further, there was no evidence presented that awarding petitioners an improvement period would jeopardize W.J.’s best interests. To be clear, the Court does not discount or minimize the serious physical suffering of W.J. alleged to be caused by the mother’s lawful use of buprenorphine as medication-assisted treatment. However, we are unwilling to ignore the particular circumstances of this case—that petitioners have been consistent in their efforts to voluntarily treat their substance abuse disorder, having successfully done so for approximately five years prior to W.J.’s birth. This Court is mindful that,

[a]s “in all cases involving children, the polar star is the best interests of the child.” *In re L.M.*, 235 W. Va. 436, 445, 774 S.E.2d 517, 526 (2015). However, an abuse and neglect case also focuses on an adult respondent’s rehabilitation, particularly in relation to an improvement period, the goal of which “is to facilitate the reunification of families whenever that reunification is in the best interests of the children involved. [.]” *State ex rel. Amy M. v. Kaufman*, 196 W. Va. 251, 258, 470 S.E.2d 205, 212 (1996).

In re S.S., 253 W. Va. at --, 928 S.E.2d at 585. The circuit court thus erred on two fronts. First, the court refused to give the appropriate weight to the evidence that petitioners have remedied the conditions that led to the termination of their parental rights to their older children and are likely to fully participate in an improvement period. Second, the court erred by refusing to consider such evidence in the context of whether W.J.’s interests are best served by affording petitioners an improvement period.

Based upon the foregoing, we conclude that the circuit court abused its discretion in denying the petitioners’ motions for a post-adjudicatory improvement period. Accordingly, we vacate the circuit court’s dispositional order, in part, to the extent it terminated petitioners’ parental rights, and reverse the order, in part, and remand this matter to the extent the order denied petitioners’ respective motions for an improvement period. Recognizing that W.J. has been in his current placement for almost two years and that the circuit court’s order has prohibited petitioners from having any contact with him during that time, we direct the circuit court, on remand, to exercise its discretion (in consultation with the MDT team) in fashioning the terms and conditions of an improvement period that are the least disruptive to W.J. and that will ensure his safety while also fully providing petitioners with the opportunity to demonstrate that they have made the necessary changes to be fit and suitable parents. *See id.*

To facilitate the commencement and conclusion of the remand proceedings, we direct that the mandate of the Court be issued contemporaneously with the issuance of this memorandum decision.

Conclusion

For the reasons stated above, we hereby vacate, in part, and reverse, in part, the April 21, 2025, dispositional order, and remand this case to the circuit court for further proceedings consistent with this memorandum decision. The Clerk is directed to issue the mandate contemporaneously herewith.

Vacated, in part; reversed, in part;
and remanded.

ISSUED: October 21, 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