

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re M.C., C.C., and M.P.

No. 25-501 (Wood County CC-54-2023-JA-65, CC-54-2023-JA-66, and CC-54-2023-JA-67)

MEMORANDUM DECISION

Petitioner Mother A.J.¹ appeals the Circuit Court of Wood County’s July 22, 2025, order terminating her parental, custodial, and guardianship rights to the children, arguing that the court erred in adjudicating C.C. and M.P. as neglected children, in terminating her rights, and in denying her post-termination visitation.² Upon our review, we determine that oral argument is unnecessary and that a memorandum decision affirming, in part, and vacating, in part, the circuit court’s March 5, 2024, and July 22, 2025, orders and remanding for further proceedings is appropriate, in accordance with the “limited circumstances” requirement of Rule 21(d) of the West Virginia Rules of Appellate Procedure.

The DHS filed a petition in March 2023 alleging that the petitioner neglected M.C.’s educational needs, as evidenced by the child’s excessive absences from school, and failed to obtain mental and behavioral health treatment for the child. The DHS further alleged that the petitioner neglected M.P. by failing to follow through with Birth to Three services. Finally, the DHS alleged that if C.C. had been in the home (and not “in [a] placement previously ordered through [a] Youth Services case”), she would be similarly situated to her siblings. However, the DHS stated the children were not in imminent danger and should not be removed.³

In June 2023, the circuit court granted the petitioner a preadjudicatory improvement period, which required that she comply with DHS directives and ensure that M.C. received mental health treatment. In September 2023, the DHS filed a report stating that the petitioner had failed to obtain mental health treatment for M.C., despite the child’s recent disclosures that she was “seeing demons and wanting to hurt other people.” As a result, M.C. was removed from the home due to

¹ The petitioner appears by counsel Eric K. Powell. The Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Lee Niezgoda. Counsel Courtney L. Ahlborn appears as the children’s guardian ad litem (“guardian”). Father B.C. appears by counsel Travis Sayre.

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 DHS filed an amended petition in July 2025 to add M.P.’s unknown father.

the child's need for inpatient mental health treatment. At a hearing in October 2023, the court placed the children in the DHS's physical custody and set the matter for adjudication.⁴

At an adjudicatory hearing in January 2024, the investigating DHS worker testified regarding M.C.'s neglect and removal because of her untreated mental health issues. The principal of M.C.'s elementary school testified to the child's frequent absences, her "erratic" and disturbing behavior, and the school's unsuccessful efforts to work with the petitioner. The hearing was continued to February 2024, at which time the petitioner submitted a written stipulation stating that "the children [were] neglected . . . within the meaning of . . . West Virginia Code [§] 49-4-101 et al." However, the petitioner admitted only that she "failed to obtain appropriate mental and behavioral health treatment for [M.C.]" and had educationally neglected the child. On this basis, in an order entered on March 5, 2024, the court adjudicated the petitioner as a neglectful parent and found *all* the children to be neglected children. The court granted the petitioner a post-adjudicatory improvement period, which required her to participate in parenting and adult life skills classes as well as individual therapy, maintain sobriety from drugs and alcohol, and submit to random drug screening.

In July 2024, the DHS and the guardian moved to terminate the petitioner's improvement period for noncompliance, which the court denied. At a hearing in November 2024, the court granted the petitioner an additional "dispositional improvement period." The guardian moved to terminate this improvement period in January 2025, which the court denied. However, at a hearing in February 2025, the court took judicial notice of the petitioner's two positive drug screens (for opiates) in late January 2025 and set the matter for disposition.

In a pleading filed in May 2025 opposing the termination of her rights, the petitioner argued that the circuit court's adjudication of C.C. and M.P. was improper because it lacked an evidentiary basis. Specifically, the petitioner argued that her "[s]tipulation [made] no admission of any factual scenario [constituting] abuse or neglect toward[] the children other than [M.C.]."⁵ At a dispositional hearing that same month, the petitioner admitted to her past alcohol addiction but denied having a substance abuse problem and stated that she had been attending therapy. The petitioner testified that one positive drug screen in January 2025 was not accurate and that the other was caused by pain medicine she had been given at the hospital. She then denied altering her medical records in an attempt to corroborate this claim. The petitioner attributed a positive screen for alcohol in March 2025 to taking cough syrup, but admitted to testing positive for oxycodone, without a prescription, in September 2024. She also acknowledged missing several drug screens, including two screens in the days leading up to the dispositional hearing. The petitioner also addressed a recording of a recent conversation she had with C.C. and M.C.'s father, which was

⁴ Sometime after the petition was filed, C.C. returned home and was residing with the petitioner and her siblings.

⁵ It does not appear from the record on appeal that the circuit court directly addressed this pleading. However, at the conclusion of the dispositional hearing, the court noted that the petitioner "was originally adjudicated for . . . medical neglect of [M.C.], and educational neglect of [M.C.]" and that "the other two children, [C.C.] and [M.P.], were similarly situated since they were in the home."

admitted into evidence. In this conversation, the petitioner threatened to kill the guardian and a DHS worker. The petitioner acknowledged that it was her voice saying she was “going to shoot [the DHS worker] between the eyes and have her [five-year-old] child watch” but claimed that she did not remember making this threat. The petitioner also denied having an unauthorized, unsupervised visit with C.C. in April 2025.

The parenting class provider testified that, despite consistent attendance, the petitioner had not retained the information she was taught nor demonstrated the ability to make good parenting decisions. Accordingly, the provider stated that she could not “in good conscience testify [that] [the petitioner] could effectively parent.” M.C. and C.C.’s father testified that in April 2025, the petitioner “just showed up” at his home, where C.C. was residing, to see the child. He also testified that the petitioner’s threats toward those involved in the case had escalated since the last hearing. Ultimately, the DHS recommended termination despite the petitioner receiving services for nearly two years, noting her continued untruthfulness, violent threats, and failure to successfully complete an improvement period. The guardian also recommended termination with no post-termination visitation, despite C.C. and M.C.’s wishes to continue contact with the petitioner because “further contact with [the petitioner] [was] not in the children’s best interest.” The guardian specifically proffered that M.C.’s mental health treatment facility reported that contact between M.C. and the petitioner was detrimental to the child’s care, as her behaviors worsened after contact and improved once visitation ceased.⁶

Based on this evidence, the circuit court found that the petitioner had been dishonest throughout the case. The court noted the petitioner’s positive drug screens, observing that she “would not admit to any of it,” instead claiming to be sober and minimizing her use of unprescribed opiates. The court determined that the hospital records the petitioner had submitted to explain one of her positive screens were forged. Further, the court found that “there [was] adequate proof that the [petitioner] . . . made explicit and specific threats toward the [guardian] . . . and the [DHS] worker.” After observing that the petitioner also failed to complete her improvement period, the court concluded that, even after receiving extensive services, the petitioner had not demonstrated that she could safely or appropriately parent. Accordingly, the court found that there was no reasonable likelihood that the conditions of neglect could be substantially corrected in the near future and terminated the petitioner’s parental, custodial, and guardianship rights to M.C., C.C., and M.P. “based upon necessity for the welfare and best interest of the children.” The court also denied post-termination visitation, finding that it would not be in the children’s best interest and specifically noting that visitation had been detrimental to M.C. The petitioner now appeals from this dispositional order.⁷

⁶ Prior to the dispositional hearing, the guardian filed a written report outlining this recommendation, noting that although M.C. had expressed that she “wanted to maintain contact with [the petitioner,]” the child’s treatment facility “reported that previous contact between [M.C.] and [the petitioner] [had] a negative effect on [M.C.]”

⁷ The court also terminated the rights of M.P.’s unknown father. M.P.’s permanency plan is adoption in the current placement. M.C. and C.C.’s father is nonabusing. M.C. is currently placed in a residential treatment facility; her permanency plan is to return to her father’s custody when her treatment concludes. C.C. reached the age of majority during the pendency of this appeal.

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 for clear error, and issues of law de novo. *See* Syl. Pt. 1, *In re K.S.*, -- W. Va. --, 930 S.E.2d 400 (2026). The petitioner first asserts that the circuit court erred in adjudicating C.C. and M.P. based upon the petitioner’s admission of neglecting M.C. and should not have proceeded to disposition for these two children. The DHS concedes this error, and we agree. Before a court may consider the dispositional alternatives set forth in West Virginia Code § 49-4-604, it must first determine whether a child is abused or neglected; “[s]uch a finding is a prerequisite to further continuation of the case.” Syl. Pt. 3, in part, *In re R.M.*, 252 W. Va. 422, 923 S.E.2d 352 (2025) (quoting Syl. Pt. 1, *State v. T.C.*, 172 W. Va. 47, 303 S.E.2d 685 (1983)); *see also* W. Va. Code § 49-4-601(i); W. Va. R. P. Child Abuse & Neglect Proc. 27. We recently clarified that, while “not a requirement for establishing or maintaining subject matter jurisdiction[,]” a court must make “[s]pecific findings of fact explaining how each child’s health and welfare is being harmed or threatened by the . . . neglectful conduct of the parties named in the petition” prior to moving to the dispositional phase. *In re R.M.*, 252 W. Va. at 425, 923 S.E.2d at 355, Syl. Pt. 4. Here, the petitioner stipulated only to medical and educational neglect of M.C., and the DHS did not introduce additional evidence at adjudication relating to either C.C. or M.P.⁸ And while “the statutory definition of an abused child allows the abuse of one child to be automatically imputed to other children in the home, . . . the statutory definition of a neglected child does not.” *In re H.B.*, 252 W. Va. 350, 359, 922 S.E.2d 350, 358 (2025); *see also* W. Va. Code § 49-1-201. Because the petitioner admitted only to allegations concerning M.C., and the circuit court made no factual findings explaining how either C.C. or M.P. were harmed or threatened by the petitioner’s conduct, its adjudication of C.C. and M.P. was improper.⁹ Accordingly, the court’s adjudicatory and dispositional orders cannot stand as to these two children. *See* Syl. Pt. 5, *In re Edward B.*, 210 W. Va. 621, 558 S.E.2d 620 (2001) (“Where it appears from the record that the process established by the Rules of Procedure for Child Abuse and Neglect Proceedings and related statutes . . . has been substantially disregarded . . . , the resulting order of disposition will be vacated and the case remanded for compliance with that process.”). We therefore vacate the court’s March 5, 2024, adjudicatory order and its July 22, 2025, dispositional order, in part, as each relates to C.C. and M.P., and remand this matter for further proceedings, including the entry of an adjudicatory order setting out the requisite statutory findings

⁸ To properly adjudicate a parent based on a stipulation, 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.’” Syl. Pt. 3. *In re Z.S.-I*, 249 W. Va. 14, 893 S.E.2d 621 (2023). Although the petitioner’s stipulation contained a blanket statement regarding neglect of all the children, the only facts and problems she admitted to related exclusively to M.C. We also note that C.C. was not residing in the home when the petition was filed.

⁹ It is important to note that when “the home environment or other specific circumstances demonstrate that a parent’s neglect of . . . one child harms or poses a threat of harm to another child in the home[,]” a circuit court *may* adjudicate additional children on this basis; however, such a determination must be “based upon specific factual findings which connect those environmental or other circumstances to harm or a threat of harm to those other children in the home.” *In re H.B.*, 252 W. Va. at 360 n.15, 922 S.E.2d at 359 n.15.

as to whether M.P. meets the definition of an abused or neglected child, as alleged in the petition. Because C.C. reached the age of majority during the pendency of this appeal, she must be dismissed from the proceedings. *See In re A.E.*, 253, W. Va. 11, --, 927 S.E.2d 447, 456 (2026) (explaining that “when a child turns eighteen . . . , the child is no longer an ‘abused child’ or ‘neglected child’ for purposes of the Child Welfare Act, the State’s interest ends, and the case must be dismissed”).

Given that the circuit court properly found that M.C. was neglected, it was permitted to proceed to disposition as to this child, and in subsequent assignments of error, the petitioner challenges the termination of her rights to M.C. First, she asserts that the circuit court erred in failing to consider M.C.’s wishes at disposition in accordance with West Virginia Code § 49-4-604(c)(6)(C), which requires courts to “give consideration to the wishes of a child [fourteen] years of age or older regarding the permanent termination of parental rights.” However, the consideration of then-thirteen-year-old M.C.’s wishes was not statutorily mandated. Moreover, the petitioner does not cite to any point in the record where she proffered or presented evidence to the court that M.C. was of an age of discretion; nor did the petitioner object when the court did not consider the child’s wishes at disposition.¹⁰ *See* W. Va. R. App. P. 10(c)(7) (requiring the petitioner’s brief to include “citations that pinpoint when and how the issues in the assignments of error were presented to the lower tribunal”); *see also Shaffer v. Acme Limestone Co., Inc.*, 206 W. Va. 333, 349 n.20, 524 S.E.2d 688, 704 n.20 (1999) (“Our general rule is that nonjurisdictional questions . . . raised for the first time on appeal, will not be considered.”). As such, the petitioner is not entitled to relief.

Next, the petitioner asserts that the circuit court erred in finding that there was no reasonable likelihood that she could correct the conditions of neglect and in finding that termination was necessary for M.C.’s welfare. West Virginia Code § 49-4-604(c)(6) permits the termination of parental, custodial, and guardianship rights upon findings that “there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future” and that termination is “necessary for the welfare of the child.” There is no such likelihood when the parent has “demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help,” including circumstances where the parent has “not responded to . . . rehabilitative efforts . . . designed to reduce or prevent the abuse or neglect of the child.” W. Va. Code § 49-4-604(d). Here, the record indicates, and the court found, that the petitioner did not respond to the DHS’s rehabilitative efforts to improve her parenting deficiencies. The petitioner did not complete her improvement period and, despite receiving services, was unable to demonstrate that she could safely or appropriately parent—evidenced, in part, by the petitioner’s violent threats toward the guardian and a DHS worker. The petitioner was also deceptive and had several positive and missed drug screens throughout the proceedings. The record also supports the court’s finding that termination was necessary for M.C.’s welfare, especially since the child’s serious mental health challenges were exacerbated by contact with the petitioner. Accordingly, we find that the circuit court did not err in terminating the petitioner’s parental, custodial, and guardianship rights to M.C.

¹⁰ In fact, at disposition, the petitioner’s counsel specifically argued that the circuit court must consider C.C.’s wishes regarding termination given her age. The petitioner did not suggest any need for the court to do so for M.C.

Lastly, the petitioner asserts that the circuit court erred in denying M.C. post-termination visitation.¹¹ We disagree, as “[a] court may grant post-termination visitation only if it finds that such visitation is in the child’s best interests[.]” W. Va. R. P. Child Abuse & Neglect Proc. 15(b)(2)(A); *see also In re Christina L.*, 194 W. Va. 446, 460 S.E.2d 692 (1995) (noting that the evidence before the court “must indicate that [post-termination] visitation or continued contact would not be detrimental to the child’s well being”). Courts are specifically instructed to consider a guardian’s “oral or written recommendation on whether post-termination visitation is in the child’s best interests” as well as the child’s wishes if she “is of sufficient age and maturity.” W. Va. R. P. Child Abuse & Neglect Proc. 15(b)(2)(A)(i). Here, the guardian proffered that continued contact with the petitioner would be detrimental to M.C.’s treatment and was not in the child’s best interest. The guardian specified that M.C.’s treatment providers observed that the child’s concerning behaviors improved after visitation with the petitioner ceased. As discussed above, it was not argued (nor was evidence presented) that M.C. was of an age and/or sufficiently mature to require the court’s consideration of her wishes, though the court was made aware of M.C.’s desire for continued contact with the petitioner. Under these circumstances, we conclude that the court did not err.

For the foregoing reasons, we affirm the portion of the circuit court’s July 22, 2025, order terminating the petitioner’s parental rights to M.C. and denying her post-termination visitation with that child. However, as to C.C. and M.P., we vacate the circuit court’s March 5, 2024, adjudicatory order and July 22, 2025, dispositional order, and remand this matter for further proceedings consistent with the decision.¹² The clerk is hereby instructed to issue the mandate forthwith.

Affirmed, in part; vacated, in part; and remanded, with directions.

ISSUED: October 14, 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

¹¹ On May 9, 2025, shortly before the dispositional hearing and prior to the entry of the circuit court’s dispositional order, this Court provisionally amended Rule 15(b) of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings to more clearly articulate and adopt appropriate standards for consideration of post-termination visitation.

¹² This memorandum decision does not vacate the rulings in the court’s March 5, 2024, or July 22, 2025, orders relating to other adult respondents.