

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

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

In re J.C.

No. 25-603 (Boone County CC-03-2024-JA-67)

MEMORANDUM DECISION

Petitioner Mother S.F.¹ appeals the Circuit Court of Boone County’s August 13, 2025, order terminating her parental rights to J.C., arguing that the court erred in denying her a post-adjudicatory improvement period and in terminating her rights when the DHS failed make reasonable efforts to achieve reunification.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 child abuse and neglect petition in December 2024, alleging that the petitioner’s continued drug use following a 2019 abuse and neglect proceeding placed J.C. at risk of physical injury and had caused the child emotional injury. Although J.C. was in a legal guardianship with his maternal grandmother, he primarily resided with the petitioner, and the DHS further alleged that she failed to provide a safe and suitable home. The DHS implemented a safety plan after an October 2024 walk-through of the petitioner’s home revealed suspected methamphetamine residue and drug paraphernalia, including a scale, as well as a large knife on the child’s bed. The safety plan required that J.C. reside with the maternal grandmother and that the petitioner submit to drug screens. However, shortly after the plan was implemented, the petitioner also moved in with the maternal grandmother. The petitioner subsequently tested positive for methamphetamine, among other substances, on several occasions, and failed to participate in substance abuse treatment offered by the DHS while the safety plan was in place.

At a preliminary hearing in February 2025, the investigating DHS worker testified to the petition’s allegations and to the safety plan initiated prior to J.C.’s removal. The worker reported that the petitioner initially denied any drug use, despite her positive screens, but ultimately admitted to abusing methamphetamine. The petitioner denied that her home contained drugs or paraphernalia, testifying that the suspected methamphetamine residue was sugar and that her boyfriend used the scales to weigh gold. She denied using drugs (other than marijuana) prior to

¹ The petitioner appears by counsel Lorena E. Litten. The Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Wyclif S. Farquharson. Counsel L. Scott Briscoe appears as the child’s guardian ad litem (“guardian”).

² We use initials where necessary to protect the identities of those involved in this case. *See W. Va. R. App. P. 40(e).*

October 2024 and claimed that her first positive screen for methamphetamine in November 2024 was due to “laced” marijuana. She admitted to using methamphetamine in late November 2024 but stated that she did not use around the child and that she subsequently attended a substance abuse treatment program.³ The court ultimately found that imminent danger existed at the time of J.C.’s removal, noting its concern regarding the petitioner’s truthfulness. The court further ordered that the petitioner have supervised phone visitation with the child.

At an adjudicatory hearing in March 2025, the DHS requested that the circuit court take judicial notice of the evidence presented at the preliminary hearing. The court then found that the petitioner “was in active addiction” and that her testimony had been “incredible.” The court also found that, although the petitioner did not have custodial rights to J.C., she had permitted the child to reside with her in unsafe conditions. On this basis, the circuit court adjudicated the petitioner as an abusive and neglectful parent and found that J.C. was an abused and neglected child.

The petitioner subsequently moved for a post-adjudicatory improvement period, which the circuit court considered at a dispositional hearing in August 2025. The assigned DHS worker testified that the petitioner left substance abuse treatment prior to completion “and ha[d] [not] shown any interest since,” having responded negatively to the need for treatment at a multidisciplinary team meeting. The worker explained that she had only minimal contact with the petitioner after she left treatment, and that the petitioner likely lacked housing, as her former home had been repossessed. However, the petitioner was seeking housing assistance. The worker also reported that the petitioner had not visited J.C. during the proceedings, but the worker clarified that the DHS had been slow to set up phone visitation and that the petitioner left treatment before arrangements could be made. The worker admitted that the petitioner’s recent drug screens had been clean and that the petitioner was not provided parenting classes, though “she was supposed to be part of those services.” The worker recommended termination of the petitioner’s parental rights, noting that this was the second time J.C. had been involved in an abuse and neglect proceeding due to the petitioner’s addiction and that his short life had been significantly disrupted.

The petitioner testified that she was living with friends and claimed that she had not used methamphetamine since December 2024, although she acknowledged a positive screen in late January 2025. The petitioner explained that she left inpatient treatment early (in May 2025) because she “wanted to work,” but acknowledged that she had not yet obtained employment. Further, although the petitioner admitted to having a substance abuse problem, she acknowledged that she had not attempted to resume inpatient treatment. The petitioner stated that she was willing to do so, but “[didn’t] think [she] necessarily need[ed] it.” The petitioner also admitted that she had not contacted the DHS for assistance because she “figured [she] . . . could do it on [her] own instead of always needing help.” She testified that she was willing to do whatever was asked of her and would fully participate in an improvement period. When the court inquired whether the petitioner believed she had abused and neglected J.C., she responded: “No, I truly don’t.” She then qualified her response, stating, “I guess you could say I did,” and upon further questioning by her counsel, acknowledged that her home had been inappropriate and that she had relapsed. In closing

³ The petitioner’s counsel proffered that the petitioner had completed a treatment program at Saint Francis Hospital, having been admitted in late December 2024 and discharged in early January 2025.

argument, both the DHS and the guardian opposed an improvement period, noting that the petitioner had successfully completed one in the past without lasting effect, and recommended termination of the petitioner's parental rights as being in J.C.'s best interests because the child required stability.

Based on this evidence, the circuit court denied the petitioner's motion for an improvement period, finding that—despite her counsel's attempts to rehabilitate her testimony—the petitioner did not “seem to grasp what she did to put herself, and . . . her child, into [this] situation” and had not acknowledged that her conduct was abusive and neglectful. Finding that the petitioner could not correct a problem that she would not admit to, the court concluded that she was unlikely to comply with an improvement period. The court further found that the petitioner's testimony was “inconsistent and not credible,” that she had not demonstrated “any ambition to improve,” and that she was unable or unwilling to correct the issues that led to the petition's filing. The court also observed that the petitioner lacked employment and a stable home and had not been participating in random drug screening, as ordered, until recently. The court noted that although the DHS had failed to set up visitation, “that in itself [would] not cause [it] to make a finding that they didn't perform reasonable efforts.” The court found that the DHS made clear that the petitioner needed to complete an inpatient substance abuse program and she did not and, further, that “treatment [does] not work for a person who doesn't think they have a problem.” Ultimately, the court terminated the petitioner's parental rights to J.C., finding that there was “no reasonable, available less drastic alternative[]” and that it was in the child's best interests.⁴ The court also found that the DHS had made reasonable efforts to alleviate or eliminate the conditions of neglect and abuse and to reunify the family. The petitioner now appeals this dispositional order.

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. 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 denying her a post-adjudicatory improvement period. West Virginia Code § 49-4-610(2)(B) permits a circuit court to grant a post-adjudicatory improvement period when a parent “demonstrates, by clear and convincing evidence, that [she] is likely to fully participate,” but circuit courts have discretion to deny an improvement period when improvement is unlikely. *See In re Tonjia M.*, 212 W. Va. 443, 448, 573 S.E.2d 354, 359 (2002). Ample evidence supports the circuit court's finding that the petitioner was not likely to comply with the terms of an improvement period, given her failure to acknowledge her abusive and neglectful conduct or her need to address her longstanding substance use disorder by completing inpatient treatment. *See In re Timber M.*, 231 W. Va. 44, 55, 743 S.E.2d 352, 363 (2013) (“[I]n order to remedy [an] abuse and/or neglect problem, the parent must recognize and acknowledge that . . . her conduct constituted abuse.”). Further, it is undisputed that, despite the petitioner's participation in extensive services specifically aimed at addressing her substance abuse in an earlier proceeding, she relapsed and continued to neglect the child. We have “frequently found improvement periods futile and . . . improper where parents have previously received services, yet continue their behaviors unabated.” *State ex rel. W. Va. Dep't of Health & Hum. Res. v. Dyer*, 242 W. Va. 505, 520, 836 S.E.2d 472,

⁴ The court terminated the parental rights of J.C.'s father in an earlier abuse and neglect proceeding. The child's permanency plan is adoption in his current placement.

487 (2019). As such, we find that the circuit court did not abuse its discretion in denying the petitioner an improvement period.

Next, the petitioner asserts that the circuit court erred in terminating her parental rights because of the DHS's failure to make reasonable reunification efforts. The petitioner specifically takes issue with the DHS's failure to provide her with parenting classes and to arrange phone visitation with the child. However, the record shows that the DHS made reasonable efforts by providing (or attempting to provide) some services to the petitioner, including drug screening and assistance in obtaining inpatient substance abuse treatment, in accordance with West Virginia Code § 49-4-604(c)(7). *See also In re K.V.*, 251 W. Va. 418, 426, 914 S.E.2d 517, 525 (2025) (explaining that the "DHS has a statutory obligation to provide services as a prerequisite to . . . termination"). These limited services were reasonable under the circumstances of this case, especially given that the petitioner failed to benefit from her participation in comprehensive services in a prior proceeding. Further, it does not appear that the court considered the petitioner's lack of visitation with J.C. in terminating her parental rights, relying instead on her lackluster motivation to fully acknowledge or treat her long-term substance use disorder, noting that no treatment is effective when a parent will not admit to her problems. *See W. Va. Code § 49-4-604(c)(6)(C)(iv)* (requiring a circuit court's dispositional order to indicate "[w]hether or not the department made reasonable efforts to preserve and reunify the family . . . or that those efforts were unreasonable due to specific circumstances"). As such, the petitioner is not entitled to relief on this ground. Moreover, we have repeatedly 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)); *see also W. Va. Code § 49-4-604(c)(6)*. West Virginia Code § 49-4-604(d) defines "[n]o reasonable likelihood that conditions of neglect or abuse can be substantially corrected" to mean "that . . . the abusing adult . . . [has] demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help." Here the court found, based upon the evidence more thoroughly outlined above, that the petitioner was unable or unwilling to correct the conditions of abuse and neglect. The court further concluded that termination was in the child's best interests, a finding the petitioner does not challenge on appeal. Circuit courts are permitted to terminate a parent's rights upon these findings. *See W. Va. Code § 49-4-604(c)(6)*.

For the foregoing reasons, we find no error in the decision of the circuit court, and its August 13, 2025, order is hereby affirmed.

Affirmed.

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