

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In re E.C. and E.M.

No. 25-613 (Grant County CC-12-2024-JA-30 and CC-12-2024-JA-44)

MEMORANDUM DECISION

Petitioner Mother A.C.¹ appeals the Circuit Court of Grant County’s August 20, 2025, order terminating her parental rights to E.C. and E.M., arguing that the court erred in adjudicating her as an abusing parent based upon insufficient evidence and in terminating her parental rights instead of imposing a less restrictive 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 an abuse and neglect petition in June 2024 after receiving a referral that then-three-year-old E.M. disclosed potential sexual abuse by her father, T.M.-1. Additionally, the DHS alleged that then-three-month-old E.C. had been abandoned by T.M.-2, who the petitioner identified as the child’s father. The DHS also alleged that the petitioner’s rights to another child had been involuntarily terminated as the result of a 2018 case in Pendelton County, where she failed to comply with the terms of an improvement period following her adjudication as an abusing parent for exposing her child to sex offenders and domestic violence and failing to provide the child with a suitable home. The DHS further alleged that the petitioner had subsequently been involved in two further abuse and neglect proceedings that were ultimately dismissed. At a July 2024 preliminary hearing, the circuit court received evidence that the sexual abuse allegations were not substantiated after an investigation, which included a Child Advocacy Center (“CAC”) interview and a medical examination of E.M.

In August 2024, the petitioner filed a petition for a domestic violence protective order (“DVPO”) in the Magistrate Court of Grant Court against T.M.-1. The petitioner alleged that E.M. made additional disclosures of physical and sexual abuse by her father and stated that the child’s prior allegations had been “ignored and swept under the rug.” The magistrate court entered an emergency DVPO, and the matter was subsequently incorporated into the underlying proceedings

¹ The petitioner appears by counsel Jeremy B. Cooper. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Lee Niezgoda. Counsel Heather M. Weese 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).

before the circuit court. Due to the DVPO, E.M. and T.M.-1 did not have any contact until October 2024, when the court ordered supervised visitation. At a November 2024 hearing, the circuit court received evidence that, in connection with the new allegations against T.M.-1, E.M. was questioned and photographed by police and subjected to another CAC interview. However, aside from some slight bruising on the child's arm, the only evidence of these allegations was the petitioner's representations. On December 13, 2024, the DHS filed an amended petition alleging that the petitioner interfered with her children's visitation and alienated them from their fathers, which the DHS asserted constituted psychological and mental abuse.

At a hearing on December 20, 2024, the circuit court heard testimony regarding the allegations against T.M.-1 and T.M.-2. The court heard from both T.M.-2 (E.C.'s putative father) and the petitioner that T.M.-2 had been in E.C.'s life since birth and consistently provided for the child. However, T.M.-2 testified that the petitioner occasionally ceased contact with him and interfered with his ability to see E.C., including advising him not to participate in the underlying proceedings. The court also heard from a visitation supervisor that, during a November 2024 visit, E.M. spontaneously disclosed that the petitioner "told her to say that her daddy hurt her" and that the child had a good bond with T.M.-1. The visitation supervisor also reported that the petitioner cancelled six of the eleven scheduled visits between E.M. and T.M.-1 and that at least half were due to alleged transportation issues, despite the petitioner rejecting all transportation assistance at the time of scheduling. Based on the foregoing, the court dismissed the allegations against T.M.-1 and T.M.-2.

The circuit court held the first adjudicatory hearing on the amended petition in January 2025. A Child Protective Services ("CPS") worker testified that the petitioner thwarted visitation between E.M. and T.M.-1 and, on the occasions where the petitioner requested transportation for supervised visits, she delayed requesting assistance until after the visit. The worker also stated that the petitioner misled the DHS about T.M.-2, who provided evidence of his support of E.C. An investigating CPS worker testified that the allegations against T.M.-1 were dismissed due to a lack of evidence and that the petitioner falsely stated that T.M.-2 had abandoned E.C. The worker further testified that the petitioner's unfounded accusations and attempts to alienate the children from other family members was reminiscent of her conduct during the 2018 Pendleton County proceedings. A second adjudicatory hearing was held in February 2025. The circuit court dismissed T.M.-2 after paternity testing established that he was not E.C.'s father. The petitioner then represented that another individual, C.A., was potentially E.C.'s father. Additionally, the court granted the DHS's motion to amend the petition a second time based upon new evidence that the petitioner engaged in shoplifting during the proceedings, with the children present. The DHS subsequently filed a second amended petition, alleging that the petitioner's conduct led to her being criminally charged with fraudulent schemes, risked the children's safety, and amounted to psychological and mental abuse.

At the final adjudicatory hearing in March 2025, the circuit court received additional evidence of the petitioner's involvement in twelve different shoplifting incidents between September 2024 and January 2025, including the investigating police officer's testimony. Testimony from the petitioner as well as CPS workers—who reviewed footage of the incidents—established that the children were present during many of these incidents and that the petitioner used one of the children's car seats to hide stolen items. The petitioner also testified that she had

knowledge that C.A. was the potential father of E.C. and had previously reached out to him about the same. However, the petitioner denied engaging in criminal conduct, interfering with the children's relationships with their fathers, making false allegations against T.M.-1, or misrepresenting E.C.'s father. Based on the evidence presented, the court determined that the petitioner emotionally and psychologically abused the children by alienating them from their fathers and had further abused the children by shoplifting in the children's presence, with the petitioner purposefully using them to further her criminal acts. The court also found that the petitioner thwarted E.M.'s visits with her father, lied to the DHS about T.M.-2's abandonment of E.C., and intentionally interfered with attempts to establish E.C.'s paternity.³ In support of its findings, the court found that the petitioner's denial of the allegations was "speculative, questionable, and lack[ing] veracity" in comparison to credible evidence presented by the DHS. The court further found that aggravated circumstances existed due to the petitioner's prior involuntary termination, as she also made false accusations during those proceedings. As such, the court adjudicated the petitioner of abusing the children. The petitioner subsequently moved for a post-dispositional improvement period.

The circuit court held two dispositional hearings in June and July 2025. In support of her motion for an improvement period, the petitioner presented the testimony of a service provider who had provided her with four parenting classes starting in May 2025. The petitioner also presented the testimony of a visitation supervisor, who stated that visits with the children went well, and T.M.-1, who supported splitting custody of E.M. with the petitioner. The court next heard from a psychologist who had evaluated the petitioner, who stated that she did not take accountability for her actions and lacked the "capacity to care, protect or change" to adequately provide for her children. The psychologist further testified that the petitioner had a lie score of thirteen—with the normal range being between zero and seven—and that some assessments could not be meaningfully interpreted as a result. The petitioner testified that the allegations against T.M.-1 all resulted from disclosures made by E.M. and that she was in a better place now than during her earlier proceedings. The petitioner then acknowledged that she had participated in services during prior proceedings that included supervised visitation, parenting classes, and therapy. The petitioner further asserted that she was going to resume therapy in the near future. Finally, a CPS worker testified in support of terminating the petitioner's parental rights, asserting that she failed to take accountability and there were no services that could be provided to correct the issues underlying her adjudication. Ultimately, the court found that the petitioner's "deceitful and pervasive conduct" could not be appropriately remedied by an improvement period, especially in light of the services previously offered to her during the prior proceedings, and that there was no reasonable likelihood that the conditions of abuse could be substantially corrected in the near future. The court further found that the termination of the petitioner's rights was necessary for the children's welfare. Accordingly, the court terminated the petitioner's parental rights to E.C. and E.M. It is from this dispositional order that the petitioner appeals.⁴

³ Subsequent paternity testing established C.A. as E.C.'s father.

⁴ The permanency plan for the children is to remain in the custody of their respective nonabusing fathers.

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). West Virginia Code § 49-4-601(i) requires the court, at adjudication, to “make a determination . . . as to whether the child is abused or neglected and whether the [parent] is abusing [or] neglecting,” with the further requirement that “[t]he findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.” We have further recognized that “[t]he statute . . . does not specify any particular manner or mode of testimony or evidence by which the [DHS] is obligated to meet this burden.” Syl. Pt. 1, *In re Joseph A.*, 199 W. Va. 438, 485 S.E.2d 176 (1997) (quoting Syl. Pt. 1, *In re S.C.*, 168 W. Va. 366, 284 S.E.2d 867 (1981)). Before this Court, the petitioner first argues that the circuit court erred in adjudicating her of abusing E.C. and E.M. in the absence of sufficient evidence that the children were harmed or threatened by her actions. We disagree. West Virginia Code § 49-2-201 defines an “abused child” as one “whose health or welfare is being harmed or threatened by . . . [a] parent . . . who knowingly or intentionally inflicts, [or] attempts to inflict . . . mental or emotional injury upon the child or another child in the home.” Here, the record demonstrates that the petitioner’s conduct threatened the children’s health and welfare. The evidence presented established that the petitioner continuously interfered with the children’s relationships with their fathers, including repeatedly making false allegations that E.M. was sexually abused by her father and coaching the child to repeat these allegations. Notably, the sexual abuse allegations needlessly caused E.M. to be subjected to two CAC interviews, a medical examination, and a police interview. *See, e.g., In re D.H.-I*, No. 17-0953, 2018 WL 4944960 (W. Va. Oct. 12, 2018) (memorandum decision) (affirming a circuit court’s finding of emotional abuse where the petitioner “ma[de] unfounded allegations of sexual abuse against the father and caused [the children] to be subject to medical evaluations, forensic interviews, and the underlying proceedings based upon these allegations.”) Further, the record shows that the petitioner engaged in criminal activity in the children’s presence multiple times, even using them to further her criminal behavior. Based on the foregoing, we conclude that the circuit court did not err in finding that the petitioner abused the children.

Next, the petitioner argues that the circuit court had insufficient evidence to terminate her parental rights and should have imposed a less restrictive alternative. We again disagree. We have explained 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) (permitting termination of parental rights upon finding “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”). West Virginia Code § 49-4-604(d) establishes that there is “[n]o reasonable likelihood that the conditions of neglect or abuse can be substantially corrected” when the abusing parent “ha[s] demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help.” We have explained that the DHS “must produce clear and convincing evidence that there is ‘no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future’ before a circuit court may sever the custodial rights of the natural parents” Syl. Pt. 3, *State v. C.N.S.*, 173 W. Va. 651, 319 S.E.2d 775 (1984). Here, the circuit court found there was no such likelihood based on evidence presented regarding the petitioner’s extreme dishonesty—which appeared to be

a long-established pattern and prevented a complete psychological evaluation—and her inability to properly parent the children despite receiving substantial remedial services in prior abuse and neglect proceedings. Further, while the petitioner argues that the court should have granted her an improvement period instead of terminating her parental rights, we note that she continued to deny interfering with the children’s relationships with their fathers during the dispositional hearings. We have explained that a parent’s “[f]ailure to acknowledge the existence of the problem . . . results in making the problem untreatable and an improvement period an exercise in futility at the child’s expense.” *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)). We similarly discern no error with the circuit court’s finding that termination of the petitioner’s rights was necessary for the children’s welfare, as the record shows that the court considered the risk of future harm to the children and their need for permanency. Accordingly, we conclude that the circuit court did not abuse its discretion in terminating the petitioner’s parental rights to E.C. and E.M.

For the foregoing reasons, we find no error in the decision of the circuit court, and its August 20, 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