

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In re R.Y. and A.Y.

No. 25-832 (Calhoun County CC-07-2025-JA-25 and CC-07-2025-JA-26)

MEMORANDUM DECISION

Petitioner Father J.Y.¹ appeals the Circuit Court of Calhoun County’s November 10, 2025, order terminating his parental rights to R.Y. and A.Y., arguing that the court erred in denying him a post-adjudicatory improvement period.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 May 2025, alleging that the petitioner’s substance abuse negatively impacted his parenting abilities and posed a risk to the children. The allegations arose after law enforcement officers discovered methamphetamine and drug paraphernalia during a traffic stop. The petitioner admitted to using methamphetamine but failed to submit to a requested drug test. Given that the children’s “hygiene was extremely poor” and the home was in deplorable condition upon removal, the DHS further alleged that the petitioner failed to provide R.Y. and A.Y. with necessary food, clothing, shelter, supervision, and medical care.

At an adjudicatory hearing in July 2025, the petitioner admitted to the home’s deplorable condition and that his substance abuse negatively impacted his parenting abilities, posing a risk to R.Y. and A.Y. The circuit court accepted the petitioner’s stipulation, and, on this basis, adjudicated him as an abusive and neglectful parent and found that R.Y. and A.Y. were abused and neglected children. The DHS subsequently filed an intent to terminate the petitioner’s parental rights, and the petitioner moved for a post-adjudicatory improvement period.

The circuit court considered the DHS’s request for the court to terminate the petitioner’s parental rights and the petitioner’s motion for a post-adjudicatory improvement period at a dispositional hearing in August 2025. The petitioner testified to his new, suitable residence; that he was employed; and that his drug screens during the proceedings had been negative. He stated that when he was not accepted into family treatment court, he enrolled in a twelve-month relapse prevention program. The petitioner acknowledged his involvement in two prior abuse and neglect

¹ The petitioner appears by counsel Craig Mills. The Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Wyclif S. Farquharson. Counsel Joshua W. Downey 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).

proceedings, first in 2019 (in which he successfully completed a preadjudicatory improvement period) and again in 2020. The petitioner admitted that these cases, which occurred before R.Y. and A.Y.'s birth, also involved allegations of improper housing and that he relinquished his parental rights to three other children at the conclusion of the 2020 case to avoid having those rights terminated.³ The petitioner stated that he would fully participate in an improvement period if granted one.⁴ However, during cross-examination, and despite his earlier stipulation, the petitioner was equivocal as to the deplorable condition of his home at the time the petition was filed, stating that the DHS's "definition of deplorable" differed from his own and that, while the family's bedroom "was cluttered," the "rest of the house was safe." The petitioner explained that he had abused drugs to "keep up" with his job but now realized that drug use "made [him] sick" and "[took] away from [his] ability to take care of [the] children." The petitioner claimed to use methamphetamine only at work when the children were not present and stated that an acquaintance had "tossed" the methamphetamine and other items into his car shortly before the traffic stop when the police discovered them.

The investigating DHS worker testified that the bedroom where the family was living at the time the petition was filed was unsanitary and had dilapidated mattresses. She admitted that the rest of the home "wasn't bad," but that, upon removal, the children were filthy, "had a stench about them," and were wearing "saturated" diapers, including then-four-year-old R.Y. She also testified that the petitioner initially denied having a drug problem. She admitted that she had seen photographs of the petitioner's new residence, which appeared to be appropriate "[f]or now," and stated that she was unaware of other services that could be offered to the petitioner that had not already been offered in the previous cases. The worker and the children's foster placement each testified to the children's significant developmental delays. The foster placement explained that, when placed in her care, R.Y. was essentially nonverbal, was delayed with walking, and was still using a baby bottle. The child was now learning how to use a spoon and fork and to hold a crayon. The foster placement reported that A.Y., the younger of the two children, also exhibited delays in his speech and mobility, but that both children were receiving the proper care and therapies and were demonstrating improvement. When the parties rested, the circuit court took the matter under advisement and set a subsequent dispositional hearing.

In October 2025, the circuit court entered a written order denying the petitioner's motion for an improvement period, finding that "there was no reasonable likelihood that an improvement [period] [would] correct or remediate the conditions of abuse or neglect or lead to a meaningful improvement in parenting skills." The court found that, "over the course of two prior cases," the petitioner had shown that he could complete an improvement period but could not "remedy the causes of abuse and neglect long-term," as he had demonstrated that he was unable to meet his children's needs once a case was dismissed and the DHS was no longer intervening. The court further noted that the petitioner minimized his substance abuse and was unable to clearly articulate how it had negatively impacted the children or his parenting abilities. Nor could the petitioner

³ The 2020 abuse and neglect proceeding also included allegations that the petitioner failed to protect his children from exposure to substance abuse.

⁴ The mother also testified in support of an improvement period for herself and the petitioner.

explain “what services could be offered in this matter that were not offered in the two previous abuse and neglect cases.” Finally, the court found it was “noncoincidental that [R.Y. and A.Y.] began making strides on the[ir] [developmental] delays once removed from the [petitioner’s] custody.” Following a second dispositional hearing later that month,⁵ the circuit court terminated the petitioner’s parental rights to R.Y. and A.Y., finding it to be the least restrictive alternative.⁶ Specifically, the court found that there was no reasonable likelihood that the petitioner could correct the abuse and neglect to which R.Y. and A.Y. “ha[d] repeatedly been subjected” and that termination was in the children’s best interest. The petitioner now appeals from this dispositional order.

“We review a circuit court’s decision to grant or deny a[n] . . . improvement period under an abuse of discretion standard.” Syl. Pt. 1, *In re K.A.*, 251 W. Va. 626, 915 S.E.2d 520 (2025). The petitioner asserts that the circuit court abused its discretion in denying his motion for a post-adjudicatory improvement period, arguing that an improvement period would have served R.Y. and A.Y.’s best interests. We disagree. 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 [he] is likely to fully participate.” However, circuit courts have “discretion to refuse . . . an improvement period when no improvement is likely.” *In re Tonjia M.*, 212 W. Va. 443, 448, 573 S.E.2d 354, 359 (2002). Moreover, a court should only grant an improvement period when doing so will not jeopardize a child’s best interests. *See* Syl. Pt. 3, *State ex rel. W. Va. Dep’t of Health & Hum. Res. v. Dyer*, 242 W. Va. 505, 836 S.E.2d 472 (2019); *see also In re S.S.*, 253 W. Va. 66, --, 928 S.E.2d 577, 582 (2026) (recognizing that a parent’s “improvement period request requires a two-fold inquiry of both statutory compliance and a best interests analysis”). Here, the circuit court found that, despite the petitioner’s admissions at adjudication, he later minimized his substance abuse and could not explain how it negatively affected his parenting or the children. The record also indicates that, at disposition, the petitioner minimized the unsuitability of his home’s condition at the time the children were removed. We have explained that a parent’s “[f]ailure to acknowledge the existence of the problem . . . results in making the problem untreatable and in making 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)). Further, the petitioner’s participation in services in two prior abuse and neglect proceedings did not result in sustained change, as these prior interventions did not prevent the petitioner from subjecting R.Y. and A.Y. to deplorable living conditions. We have “frequently found improvement periods futile and . . . improper where parents have previously received services, yet continue their behaviors unabated.” *Dyer*, 242 W. Va. at 520, 836 S.E.2d at 487. For these reasons, we find that the circuit court did not abuse its discretion in denying the petitioner a post-adjudicatory improvement period.⁷

⁵ The petitioner did not include a transcript of this hearing in the record on appeal.

⁶ The court also terminated the mother’s parental rights. The children’s permanency plan is adoption in the current placement.

⁷ To the extent that the petitioner asserts that the circuit court erred in terminating his parental rights, we note that his brief does not comply with Rule 10(c)(7) of the West Virginia

For the foregoing reasons, we find no error in the decision of the circuit court and its November 10, 2025, order is 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

Rules of Appellate Procedure, as it lacks “an argument clearly exhibiting the points of fact and law presented, the standard of review applicable, and citing the authorities relied on” regarding this assignment of error. As such, we disregard this assignment of error. *See* W. Va. R. App. P. 10(c)(7) (“The . . . Supreme Court may disregard errors that are not adequately supported by specific references to the record on appeal.”).