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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

***In re* G.H. and H.H.**

No. 25-394 (Kanawha County CC-20-2023-JA-452 and CC-20-2023-JA-453)

MEMORANDUM DECISION

Petitioner Mother, C.H.,[1] appeals the Circuit Court of Kanawha County's May 22, 2025, order terminating her parental rights to G.H. and H.H. She contends that the circuit court erred in terminating her parental rights instead of imposing a less restrictive disposition. This Court has considered the parties' briefs, oral arguments, and the record on appeal. Upon review, we find no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court's order is appropriate. *See* W. Va. R. App. P. 21.

G.H. and H.H. were the subject of an abuse and neglect petition that was filed in 2019. Petitioner Mother and the children's father, N.H. ("Father"), were named as respondents. The allegations against Petitioner Mother included that she used methamphetamine, engaged in domestic violence, and neglected the children's educational needs. At her adjudicatory hearing in February of 2020, Petitioner Mother admitted that "her drug use, educational neglect, and domestic violence interfered with her ability to parent." Based on this stipulation, the circuit court found Petitioner Mother to be an abusing parent. Thereafter, Petitioner Mother voluntarily relinquished her custodial rights but retained her parental rights. The children were placed in a legal guardianship with their paternal grandmother.

In December of 2023, Father was arrested and charged with two counts of murder. It was alleged that Father murdered the children's paternal grandmother and R.H., a ten-year-old child.[2] G.H. and H.H. witnessed these murders. The DHS subsequently filed a

[1] Petitioner Mother appears by counsel Michael M. Cary. The West Virginia Department of Human Services ("DHS") appears by counsel Attorney General John B. McCuskey and Assistant Attorney General James "Jake" Wegman. Counsel Matthew Smith appears as the children's guardian ad litem. We use initials to protect the identities of the juveniles involved in this case. *See* W. Va. R. App. P. 40(e).

[2] R.H. was the half-brother of G.H. and H.H.

new abuse and neglect petition that named Father and Petitioner Mother as respondents.[3] After this new petition was filed, Petitioner Mother filed a motion to modify her prior disposition to regain custody of the children. In September of 2024, the circuit court held a hearing which, among other things, concerned Petitioner Mother's motion to modify. The State and the guardian ad litem objected to this motion. The circuit court denied Petitioner Mother's motion, finding that it was not in the children's best interest. Additionally, the court's order provided that the DHS "shall provide random drug screens" to Petitioner Mother.

The DHS filed a court summary in January of 2025, which noted that a Child Protective Services ("CPS") worker, Baylee Gordon, attempted to contact Petitioner Mother "on several occasions to begin drug screening. [Petitioner Mother] has not returned any text messages or phone calls . . ., has not completed one drug screen, and has not spoken to anyone at the [DHS]." In February of 2025, the DHS filed an amended petition alleging that Petitioner Mother (1) was "not sufficiently motivated and organized to provide for the needs of the infant children on an ongoing basis"; (2) failed to drug screen or make any contact with the DHS; and (3) had not had any contact with the children. The petition also referenced the 2019 case and restated the allegations that were made therein.

The adjudicatory hearing on the amended petition was held in March of 2025. During this hearing, the court heard testimony from CPS Worker Gordon and from Petitioner Mother. In its subsequent adjudicatory order, the circuit court took judicial notice of the prior abuse and neglect proceeding during which Petitioner Mother stipulated to substance abuse, educational neglect, and domestic violence. Further, the court found that Petitioner Mother failed to drug screen, failed to contact the DHS, and failed to have any contact with the children in the last four years.[4] Therefore, the court adjudicated Petitioner Mother as an abusive and/or neglectful parent.

The dispositional hearing was held in May of 2025. Petitioner Mother was represented by counsel but failed to appear at the hearing. The court heard testimony from CPS Worker Gordon who noted that Petitioner Mother failed to drug screen or have any

[3] While this new petition focused on the two murders that Father allegedly committed, Petitioner Mother was required to be named as a respondent because her parental rights remained intact when the petition was filed. Father's parental rights were terminated in January of 2025.

[4] Based on the record before us, it is unclear what level of contact Petitioner Mother was permitted to have with the children after she relinquished her custodial rights in 2020. During oral argument, the guardian ad litem stated that Petitioner Mother's contact with the children after 2020 was at the discretion of the children's guardian, paternal grandmother. Petitioner Mother's counsel did not dispute this suggestion during oral argument, nor did he raise any argument relating to this issue in this appeal.

contact with the DHS. Further, the DHS filed a court summary which provided that the children had "no memory of [Petitioner Mother] due to her absence in their life and [were] terrified at the idea of her coming around." The circuit court's subsequent dispositional order found that Petitioner Mother "has made no efforts to rectify the circumstances that led to the filing of the [p]etition," as she failed to follow through with rehabilitative services. Additionally, it noted that Petitioner Mother failed to submit to random drug screens, failed to have any contact with the DHS, and had not seen the children in the previous four years. Therefore, the circuit court found that (1) there was no reasonable likelihood that Petitioner Mother could substantially correct the conditions of abuse and/or neglect in the near future; (2) the best interests of the children required termination of Petitioner Mother's parental rights; and (3) there were no reasonable, less drastic alternatives to the permanent termination of Petitioner Mother's parental rights. The circuit court therefore terminated Petitioner Mother's parental rights to G.H. and H.H.[5] Following entry of the circuit court's order, Petitioner Mother filed the instant 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. Syl. Pt. 1, *In re K.S.*, 253 W. Va. 154, 930 S.E.2d 400 (2026). Before this Court, Petitioner Mother argues that the circuit court erred in terminating her parental rights because there were less restrictive options available and termination was not necessary for the children to achieve permanency. According to Petitioner Mother, "[t]he terms and conditions that existed at the time of the filing of the petition could have been corrected within a reasonable time" and the circuit court should have allowed the children to remain in a legal guardianship in order to preserve her ability to file a modification petition in the future.[6] We disagree.

The crux of Petitioner Mother's argument is that a less restrictive dispositional alternative was appropriate because she could have corrected the conditions of abuse and neglect in the future. However, the record clearly demonstrates that Petitioner Mother failed to take any steps to remedy her issues and did not exhibit any behavior demonstrating that she had the capacity to correct the conditions of abuse and neglect. This Court has 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 under [West Virginia Code § 49-4-604(c)(6)] that conditions of neglect or abuse

[5] The guardian ad litem's update to this Court, filed pursuant to Rule 11(j) of the West Virginia Rules of Appellate Procedure, noted that the children have been placed with their paternal aunt and uncle and are thriving in this placement. The permanency plan is for adoption with the aunt and uncle.

[6] Petitioner Mother's sole assignment of error only involves the circuit court's dispositional order terminating her parental rights. She does not raise any error relating to the circuit court's adjudicatory order.

can be substantially corrected." Syl. Pt. 5, in part, *In re Kristin Y.*, 227 W. Va. 558, 712 S.E.2d 55 (2011). *See* W. Va. Code § 49-4-604(d) ("'No reasonable likelihood that conditions of neglect or abuse can be substantially corrected' means that . . . the abusing adult . . . [has] demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help."). West Virginia Code § 49-4-604(d)(1) provides that there is no such reasonable likelihood where the parent has "habitually abused . . . controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired" and the parent has "not responded to or followed through the recommended and appropriate treatment." Petitioner Mother admitted to abusing illegal drugs when she voluntarily relinquished her custodial rights to the children in 2020. After she moved to modify her prior disposition, the circuit court ordered her to undergo random drug screens. Instead of submitting to these drug screens to demonstrate that she had corrected her substance abuse issues, Petitioner Mother failed to drug screen. She also failed to contact CPS despite its repeated attempts to facilitate these drug screens. In short, Petitioner Mother's complete lack of effort in this case demonstrated that the imposition of a less restrictive alternative would have been futile. Termination of parental rights is proper under this scenario. *See In re Z.M.*, No. 14-0283, 2014 WL 4799387, at *2 (W. Va. Sept. 22, 2014) (memorandum decision) (no reasonable likelihood that the conditions of neglect or abuse could be substantially corrected and that termination was necessary for the children's welfare where parent "exhibit[ed] noncompliance with the circuit court's orders when he refused to test for drugs at the dispositional hearing."); *In re S.M.*, No. 13-0943, 2014 WL 629535, at *2 (W. Va. Feb. 18, 2014) (memorandum decision) (no reasonable likelihood conditions of abuse and neglect could be corrected in the near future when parent refused to submit to drug screens.); *In re C.L.*, No. 21-0926, 2022 WL 1506014, at *3 (W. Va. May 12, 2022) (memorandum decision) (failing to submit to drug screens, among other factors, are grounds for termination of parental rights).

Additionally, Petitioner Mother asserts that termination of her parental rights was not necessary because the children's permanency would not have been impacted by the court granting a less restrictive dispositional alternative, such as a guardianship in their current kinship placement. She states that such an arrangement would have provided her with "the opportunity to file a petition for modification showing a substantial change in circumstance at the appropriate time." We disagree. Petitioner Mother's speculative argument that she *could* have demonstrated a substantial change at some point in the future does not entitle her to relief. We again emphasize that Petitioner Mother failed to submit to any of the court-ordered drug screens, failed to contact CPS, and failed to attend the disposition hearing. This Court has repeatedly emphasized that "courts are not required to exhaust every speculative possibility of parental improvement before terminating parental rights where it appears that the welfare of the child will be seriously threatened." Syl. Pt. 1, in part, *In re R.J.M.*, 164 W. Va. 496, 266 S.E.2d 114 (1980); *see also In re P.L.*, No. 2012 WL 4069554 at*4 (W. Va. Sept. 7, 2012) (memorandum decision) (determining that "establishing a guardianship and leaving [the] petitioner's parental rights intact would have been contrary to the best interests of the children"). In the instant case, the court found that

termination was necessary for the children's welfare based upon sufficient evidence, and we discern no error in its findings on appeal.

For the foregoing reasons, we affirm the circuit court's May 22, 2025, order.

Affirmed.

ISSUED: November 4, 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