

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re S.S.

In re S.S. · No. 25-109 · Decided April 24, 2026

SUMMARY

The Supreme Court of Appeals of West Virginia reviews a father’s appeal from an order terminating his parental rights and denying his motion for a post-adjudicatory improvement period. The court holds that the circuit court clearly erred in assessing the father’s incarceration, acknowledgment of substance-abuse issues, procedural timing, lack of a bond with the child, and rehabilitation efforts. The court reverses the denial of the improvement period, vacates the termination of parental rights, and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Ewing
JURISDICTION	West Virginia
DECIDED	April 24, 2026
DOCKET	25-109
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	B.M. appealed the circuit court's dispositional order denying his motion for a post-adjudicatory improvement period and terminating his parental rights to S.S.
STANDARD OF REVIEW	A circuit court's decision to grant or deny a post-adjudicatory improvement period is reviewed for abuse of discretion. The final order and ultimate disposition are reviewed for abuse of discretion, while underlying factual findings are reviewed under the clearly erroneous standard.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	B.M. v. West Virginia Department of Human Services

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- standard of review
- appellate procedure

PRACTICE AREAS

family law

juvenile abuse and neglect

parental rights

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying B.M.'s motion for a post-adjudicatory improvement period.
2. Whether the circuit court clearly erred in finding that B.M. could not participate in an improvement period because of his incarceration.
3. Whether the circuit court clearly erred in finding that B.M. failed to acknowledge his substance-abuse problem.
4. Whether the circuit court improperly relied on procedural delay, the absence of a parent-child bond, and the child's best interests in denying the improvement period.
5. Whether the termination of B.M.'s parental rights should remain in effect after the denial of the improvement period was reversed.

HOLDINGS

1. The circuit court abused its discretion in denying B.M.'s motion for a post-adjudicatory improvement period because its decision rested on clearly erroneous factual findings and improper consideration of material factors.
2. A respondent's current incarceration does not necessarily preclude an improvement period when the record shows that the respondent will soon be released and can participate during the remaining statutory period.
3. A parent's refusal to characterize himself as an addict does not, by itself, establish a failure to acknowledge a substance-abuse problem when the parent has admitted substance abuse and taken steps toward treatment.
4. A circuit court may not attribute procedural delays not caused by the respondent to that respondent in deciding whether to grant an improvement period, and the absence of a preexisting bond caused by incarceration is not alone determinative of eligibility.
5. The order terminating B.M.'s parental rights had to be vacated because the court's denial of the improvement period was reversed; the court did not decide the independent propriety of termination under West Virginia Code § 49-4-604(c)(6).

KEY QUOTATIONS

"We review a circuit court's decision to grant or deny a post-adjudicatory improvement period under an abuse of discretion standard." (1)

"Compliance with the statutory requirements contained in West Virginia Code § 49-4-610 (2015) does not unconditionally entitle a parent to an improvement period. Only where such an improvement period does not

jeopardize a child's best interests should one be granted and the circuit court's order granting an improvement period should set forth findings demonstrating the lack of prejudice or harm to the child." (9)

"The petitioner's accomplishments were relevant to the correction of the conditions of abuse and neglect and to the possibility of reunification of S.S. with her father." (15)

"Therefore, on remand, the court must exercise its discretion in fashioning terms of an improvement period, in conjunction with the multi-disciplinary treatment team, that are the least disruptive to the child and that will ensure her safety, while fully providing the petitioner with the opportunity to correct and/or demonstrate his correction of the conditions of abuse and neglect." (17)

FACTUAL BACKGROUND

S.S. was born drug exposed in December 2023, and the Department of Human Services alleged that B.M., her biological father, had substance-abuse and domestic-violence issues and lacked stable housing and the ability to provide care. B.M. was incarcerated from March 2024 until shortly after the January 2025 dispositional hearing. While incarcerated, he completed substance-abuse recovery, parenting, and anger-management classes, obtained a GED, and testified that he intended to live with his mother, work, submit to drug screens, and participate in services after release. He had not seen S.S. because of his incarceration, and the circuit court relied on his lack of a relationship with the child, his denial that he was an addict, and the passage of time in denying an improvement period and terminating his parental rights.

PROCEDURAL HISTORY

The Department of Human Services filed an abuse-and-neglect petition shortly after S.S.'s birth and later amended it to add allegations concerning B.M.'s substance abuse, criminal history, incarceration, and failure to provide care. After paternity was established, B.M. stipulated to allegations concerning drug use, ineffective parenting, and lack of stable housing and financial support, and the circuit court adjudicated him an abusing and neglectful parent. B.M. then moved for a post-adjudicatory improvement period. The circuit court denied that motion and terminated his parental rights, prompting this appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must conduct further proceedings and exercise its discretion in fashioning improvement-period terms, in conjunction with the multidisciplinary treatment team, that are least disruptive to S.S., ensure her safety, and fully provide B.M. an opportunity to correct or demonstrate correction of the conditions of abuse and neglect.

CASES CITED

- In re K.A., 251 W. Va. 626, 915 S.E.2d 520 (2025)
- In re Z.D.-1, 251 W. Va. 743, 916 S.E.2d 375 (2025)

- McCormick v. Allstate Insurance Co., 197 W. Va. 415, 475 S.E.2d 507 (1996)
- In re S.W., 236 W. Va. 309, 779 S.E.2d 577 (2015)
- In re Tiffany Marie S., 196 W. Va. 223, 470 S.E.2d 177 (1996)
- In re X.R., 926 S.E.2d 805 (W. Va. 2026)
- In re J.D.-1, 247 W. Va. 270, 879 S.E.2d 629 (2022)
- In re Emily & Amos B., 208 W. Va. 325, 540 S.E.2d 542 (2000)
- W. Va. Department of Health & Human Resources v. Peggy F., 184 W. Va. 60, 399 S.E.2d 460 (1990)
- State ex rel. West Virginia Department of Health & Human Resources v. Dyer, 242 W. Va. 505, 836 S.E.2d 472 (2019)
- State ex rel. P.G.-1 v. Wilson, 247 W. Va. 235, 878 S.E.2d 730 (2021)
- Shafer v. Kings Tire Service, Inc., 215 W. Va. 169, 597 S.E.2d 302 (2004)
- W. Va. Department of Health & Human Resources ex rel. Wright v. Doris S., 197 W. Va. 489, 475 S.E.2d 865 (1996)
- State ex rel. L.D. v. Cohee, 247 W. Va. 695, 885 S.E.2d 633 (2022)
- In re J.P., 243 W. Va. 394, 844 S.E.2d 165 (2020)
- In re L.G., No. 24-14, 2025 WL 3083931 (W. Va. Nov. 4, 2025)
- Belinda Kay C. v. John David C., 193 W. Va. 196, 455 S.E.2d 565 (1995)
- In re L.M., 235 W. Va. 436, 774 S.E.2d 517 (2015)
- State ex rel. Amy M. v. Kaufman, 196 W. Va. 251, 470 S.E.2d 205 (1996)
- In re H.W., 247 W. Va. 109, 875 S.E.2d 247 (2022)
- State ex rel. C.H. v. Faircloth, 240 W. Va. 729, 815 S.E.2d 540 (2018)
- In re J.G., 240 W. Va. 194, 809 S.E.2d 453 (2018)
- In re Carlita B., 185 W. Va. 613, 408 S.E.2d 365 (1991)