

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re S.R., J.R., and K.R.

No. 22-0462 · No. No. 22-0462 · Decided February 7, 2023

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of a mother's parental rights to three children. The court held that the circuit court did not abuse its discretion by denying a continuance and that the mother failed to comply with the terms of her post-adjudicatory improvement period. The court also rejected her claims that the DHHR failed to make reasonable reunification efforts and that termination was improper.

CASE DETAILS

|                       |                                                                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                            |
| WRITING FOR THE COURT | Chief Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton; Justice C. Haley Bunn                                                                 |
| JURISDICTION          | West Virginia                                                                                                                                                                                        |
| DECIDED               | February 7, 2023                                                                                                                                                                                     |
| DOCKET                | No. 22-0462                                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Petitioner Mother appealed the Circuit Court of Preston County's order terminating her parental rights in an abuse and neglect proceeding.                                                           |
| STANDARD OF REVIEW    | Findings of fact in an abuse and neglect proceeding are reviewed for clear error; conclusions of law are reviewed de novo. A ruling on a motion for continuance is reviewed for abuse of discretion. |
| PRECEDENTIAL VALUE    | Memorandum decision; nonprecedential                                                                                                                                                                 |
| PARTIES               | S.J., Petitioner Mother v. West Virginia Department of Health and Human Resources                                                                                                                    |

TOPICS

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

PRACTICE AREAS

- Juvenile abuse and neglect
- Termination of parental rights
- Appellate procedure

## QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying the mother's motion to continue the final dispositional hearing so that she could appear.
2. Whether the DHHR failed to make reasonable reunification efforts by failing to file a family case plan after the mother was granted an improvement period.
3. Whether the circuit court erred by terminating the mother's parental rights after finding that the conditions of abuse and neglect could not be substantially corrected in the near future.

## HOLDINGS

1. The circuit court did not abuse its discretion in denying the mother's motion to continue the final dispositional hearing because she had adequate notice and ample time to arrange transportation, had a history of missing hearings and appointments, and notified counsel of the transportation issue only ten minutes before the hearing.
2. Although the DHHR was required to prepare a family case plan after the mother was granted an improvement period, the mother's failure to participate in developing the plan and to complete the required improvement-period conditions did not establish reversible error.
3. The circuit court properly terminated the mother's parental rights because she failed to complete the terms of her improvement period, there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future, and termination was necessary for the children's welfare.

## KEY QUOTATIONS

*“Considering that petitioner had ample notice of the final dispositional hearing and resources available to her for transportation via the DHHR but did not alert counsel until ten minutes before the hearing began, we do not find that the circuit court abused its discretion in denying petitioner’s motion for a continuance.” (2)*

*“Upon reviewing the record, the Court finds no error in the circuit court’s termination of petitioner’s parental rights.” (3)*

## FACTUAL BACKGROUND

The DHHR alleged that ten-year-old S.R. nearly overdosed on methamphetamine and amphetamine while in the mother's care and that the children were exposed to substance abuse, unsafe and filthy living conditions, and extreme hygienic and medical neglect. The mother stipulated to the allegations and received an improvement period requiring, among other things, supervised visitation, random drug screening, a psychological evaluation, and participation in multidisciplinary treatment-team meetings. She repeatedly failed to attend required screenings, evaluations, hearings, meetings, and visits, did not maintain contact with the DHHR, and did not obtain stable housing. The circuit court found no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and terminated her parental rights.

## PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition after one child nearly overdosed on controlled substances while in the mother's care and alleged additional substance-abuse, supervision, housing, and hygiene-related neglect. The mother stipulated to the allegations, was adjudicated an abusing parent, and received a post-adjudicatory improvement period. After she repeatedly failed to attend required drug screens, evaluations, hearings, meetings, and visits, the circuit court denied her request to continue the final dispositional hearing and terminated her parental rights. The Supreme Court of Appeals of West Virginia affirmed.

#### DISPOSITION

affirmed

#### CASES CITED

- In re Cecil T., 228 W. Va. 89, 717 S.E.2d 873 (2011)
- State v. Bush, 163 W. Va. 168, 255 S.E.2d 539 (1979)
- State v. Myers, 229 W. Va. 238, 728 S.E.2d 112 (2012)
- State ex rel. W.Va. Dep't of Hum. Servs. v. Cheryl M., 177 W. Va. 688, 356 S.E.2d 181 (1987)
- In re Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)