

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re G.P. III, J.P., and V.M.

No. 22-0507 (W. Va. May 2, 2023) · No. No. 22-0507 · Decided May 2, 2023

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of petitioner mother's parental rights to three children based on her noncompliance with court-ordered services, substance abuse, lack of stable housing and employment, and failure to demonstrate likely participation in an improvement period. The court held that the circuit court did not err in denying an improvement period or determining that termination was necessary and that no less-restrictive alternative was appropriate. Two justices dissented, concluding that the circuit court's failure to enter a written adjudicatory order before disposition required vacatur and remand.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Elizabeth D. Walker; Justice Tim Armstead; Justice William R. Wooton; Justice John A. Hutchison; Justice C. Haley Bunn
JURISDICTION	West Virginia
DECIDED	May 2, 2023
DOCKET	No. 22-0507
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Mother appealed the Circuit Court of Kanawha County's order terminating her parental rights following child abuse and neglect proceedings.
STANDARD OF REVIEW	The circuit court's findings of fact are reviewed for clear error, and its conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum decision; majority disposition affirmed the circuit court, with a dissent arguing that the absence of a written adjudicatory order required vacatur and remand.
PARTIES	K.M., Petitioner Mother v. West Virginia Department of Health and Human Resources, G.P. III, J.P., V.M.

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

guardianships

PRACTICE AREAS

family law

child welfare

parental rights

QUESTIONS PRESENTED

1. Whether the circuit court erred by denying petitioner a post-adjudicatory improvement period.
2. Whether the circuit court erred by terminating petitioner's parental rights when petitioner claimed that legal guardianships or another less-restrictive alternative was available.

HOLDINGS

1. The circuit court did not err in denying petitioner an improvement period because she failed to demonstrate that she was likely to fully participate in it.
2. The circuit court did not err in terminating petitioner's parental rights because the evidence supported findings that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination was necessary for the children's welfare.

KEY QUOTATIONS

“To obtain an improvement period under West Virginia Code § 49-4-610, the parent must first demonstrate that he or she is likely to fully participate in the improvement period.” (2)

“Importantly, “courts are not required to exhaust every speculative possibility of parental improvement . . . where it appears that the welfare of the child will be seriously threatened.”” (2)

FACTUAL BACKGROUND

The abuse and neglect petitions alleged that petitioner exposed the children to unsafe conditions, domestic violence, substance abuse, inadequate housing, and insufficient care. The evidence showed that petitioner failed to comply with court-ordered drug screening and services, used methamphetamine during the proceedings, remained unemployed and inadequately housed, failed to attend the adjudicatory hearing, and did not meaningfully participate in parenting or anger-management classes. The circuit court found no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the foreseeable future and terminated petitioner's parental rights.

PROCEDURAL HISTORY

The West Virginia Department of Health and Human Resources filed amended abuse and neglect petitions alleging extreme maltreatment, negligent treatment, exposure to domestic violence, substance abuse, inadequate care, and failure to provide support. After an adjudicatory hearing, the circuit court found that petitioner was an abusive and neglectful parent. At disposition, the court denied petitioner's request for a post-adjudicatory improvement period 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)
- In re Tonjia M., 212 W. Va. 443, 573 S.E.2d 354 (2002)
- In re Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)
- In re I.M.K., 240 W. Va. 679, 815 S.E.2d 490 (2018)
- State v. T.C., 172 W. Va. 47, 303 S.E.2d 685 (1983)
- In re Edward B., 210 W. Va. 621, 558 S.E.2d 620 (2001)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/west-virginia-supreme-court-of-appeals-of-west-virginia/2023/in-re-g-p-iii-j-p-and-v-m-wvnknwio>