

**STATE OF WEST VIRGINIA  
SUPREME COURT OF APPEALS**

*In Re: A.H., T.H. & I.H.*

**No. 12-0462** (Wood County 10-JA-92, 10-JA-93 & 10-JA-94)

**FILED**  
September 7, 2012  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**MEMORANDUM DECISION**

Petitioner Father, by counsel Wells H. Dillon, appeals the Circuit Court of Wood County’s order entered on March 13, 2012, denying his motion to modify the dispositional order, which terminated his parental rights to A.H., T.H., and I.H. The guardian ad litem, Reggie R. Bailey, has filed his response on behalf of the children. The West Virginia Department of Health and Human Resources (“DHHR”), by Lee A. Niezgodka, its attorney, has filed its response.

This Court has considered the parties’ briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

The petition in this matter was filed after A.H. was hit in the face by Petitioner Father, and neither parent sought medical treatment for her. Petitioner Father claimed that he was asleep when he hit A.H., and that “repressed memories of childhood abuse” caused him to hit her. He states that when he awoke, he had no memory of hitting the child. Respondent Mother indicated that she believes Petitioner Father’s explanation of the abuse. Both parents indicate that they did not report the abuse, even though they were already under a DHHR safety plan, until at least two days later, because they had not had time. They reported the abuse a day before a service provider was scheduled to be in the home. Interviews with extended family members show a pattern of abuse in the home, including excessive spanking of A.H., and domestic violence against Respondent Mother. In fact, Respondent Mother had filed a domestic violence protective order against Petitioner Father four months prior, but within weeks dismissed the same.

Petitioner Father attempted to stipulate to the allegations in the petition, but the circuit court refused this stipulation as it did not feel that Petitioner Father was taking responsibility for his actions. Petitioner Father was adjudicated as abusive and neglectful for the physical abuse of A.H. and his failure to seek medical treatment. Respondent Mother was adjudicated neglectful for failing to seek medical treatment for A.H. and for failing to protect the children. Both parents requested an improvement period, but the circuit court denied these requests, finding that Respondent Mother has failed to contact the DHHR to obtain services or more visitation, although she claims she wanted her children back and wanted to see them more. Respondent Mother only recently left Petitioner Father, but she moved in with his mother, who is the same person who did