

MASSACHUSETTS APPEALS COURT

Care and Protection of Gaston

No. 25-P-96 (Mass. App. Ct. Jan. 16, 2026) · No. 25-P-96 · Decided January 16, 2026

SUMMARY

The Massachusetts Appeals Court affirmed findings that the father was unfit, denied his motion alleging an abuse of discretion concerning parenting time, and affirmed custody orders placing the child with the Department of Children and Families. The court vacated the dismissal of the department's petition to dispense with the father's consent to adoption because the trial judge did not adequately assess the department's adoption plan or explain why maintaining the child's current circumstances served his best interests. The matter was remanded to the Probate and Family Court for further proceedings.

CASE DETAILS

COURT	Massachusetts Appeals Court
WRITING FOR THE COURT	Tan, J.; Hand, J.; Hodgens, J.
JURISDICTION	Massachusetts Appeals Court
DECIDED	January 16, 2026
DOCKET	25-P-96
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The father appealed from findings that he was unfit to parent Gaston and from denial of his motion alleging that the Department of Children and Families abused its discretion in providing parenting time. The department and the child appealed from dismissal of the department's petition to dispense with the father's consent to adoption.
STANDARD OF REVIEW	Subsidiary factual findings are reviewed for clear error and must be supported by a preponderance of the evidence. The appellate court reviews the ultimate determinations for abuse of discretion or clear error of law, while giving substantial deference to credibility determinations and the trial judge's assessment of the evidence. A parental-unfitness determination must be supported by clear and convincing evidence and specific, detailed findings.
PRECEDENTIAL VALUE	Published opinion

PARTIES

Father, Department of Children and Families, Child v. Department of Children and Families, Child, Father

TOPICS

termination of parental rights adoption parental rights family law procedure appellate procedure

PRACTICE AREAS

family law child welfare termination of parental rights adoption appellate procedure

QUESTIONS PRESENTED

1. Whether sufficient evidence supported the finding that the father was unfit to parent Gaston and that his unfitness was likely to continue.
2. Whether the Probate and Family Court abused its discretion in denying the father's motion alleging that the department failed to provide reasonable parenting time.
3. Whether the trial judge was required to make specific findings assessing the department's adoption plan before determining whether termination of the father's parental rights was in Gaston's best interests.
4. Whether the trial judge adequately explained the conclusion that termination of the father's parental rights was not in Gaston's best interests despite finding continuing parental unfitness.

HOLDINGS

1. The evidence supported the finding that the father was unfit and that his unfitness was likely to continue; the judge properly considered his inconsistent visitation, failure to complete services, inability to demonstrate capacity to meet Gaston's needs, and the child's bond with his foster parents.
2. The judge did not abuse his discretion in denying the father's motion alleging that the department failed to provide reasonable parenting time.
3. The judge was statutorily required to assess the department's proposed adoption plan and make specific findings reflecting careful evaluation of its suitability and whether it served Gaston's best interests.
4. The conclusion that keeping Gaston in his current circumstances was in his best interests was inadequately explained; the dismissal of the termination petition as to the father was therefore vacated and remanded for clarification and further proceedings.

KEY QUOTATIONS

"In parental rights termination proceedings, 'the judge is statutorily obligated to assess the adoption plan proposed by the department to determine whether the best interests of the child would be served by a termination decree with that plan.'" (17-18)

"'[T]he judge considering an adoption plan must make specific findings reflecting careful evaluation of the suitability of the [department's] proposal.'" (18-19)

“"[A] judge considering termination also must consider the child's unqualified right to permanency and stability.” (20)

FACTUAL BACKGROUND

Gaston was born in October 2016 while his mother was incarcerated and was subsequently cared for by relatives before being placed in the department's custody in June 2019. Since February 2020, he had lived with foster parents who became his preadoptive parents and provided consistency, routine, educational services, and care for his special education needs. The father completed some services but failed to complete all action-plan tasks, used marijuana instead of prescribed medication, provided no neuropsychological evaluation or written reunification transition plan, and had inconsistent visitation. The trial judge found the father unfit and likely to remain unfit but did not evaluate the department's adoption plan or adequately explain why maintaining Gaston's current circumstances was in his best interests.

PROCEDURAL HISTORY

The Probate and Family Court transferred custody of Gaston to the Department of Children and Families and later conducted a trial on the department's petition to terminate the parents' rights. The trial judge found the father unfit and likely to remain unfit but denied termination as not in Gaston's best interests, denied the father's abuse-of-discretion motion, and continued custody with the department. The Appeals Court affirmed the unfitness finding, denial of the motion, paternity judgment, and custody decrees, but vacated dismissal of the termination petition and remanded for additional findings concerning the adoption plan and the child's best interests.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Probate and Family Court must conduct further proceedings consistent with the opinion, including making specific findings carefully assessing the suitability of the department's adoption plan, considering any competing permanency plans if appropriate, and clarifying the basis for concluding whether termination of the father's parental rights is in Gaston's best interests. The judge may take additional evidence concerning the adoption plan and changed circumstances.

CASES CITED

- Care & Protection of Rashida, 488 Mass. 217, 221-222 (2021)
- Adoption of Ilona, 459 Mass. 53, 59-60, 63 (2011)
- Adoption of Carlos, 413 Mass. 339, 350 (1992)
- Care & Protection of Vick, 89 Mass. App. Ct. 704, 706, 708 (2016)
- Adoption of Nancy, 443 Mass. 512, 514-515 (2005)
- Adoption of Elena, 446 Mass. 24, 30 (2006)

- Custody of Eleanor, 414 Mass. 795, 799 (1993)
- Adoption of Jacques, 82 Mass. App. Ct. 601, 606-607 (2012)
- Adoption of Olivette, 79 Mass. App. Ct. 141, 157 (2011)
- Adoption of Daniel, 58 Mass. App. Ct. 195, 202-203 (2003)
- Adoption of Breck, 105 Mass. App. Ct. 652, 660 (2025)
- Adoption of Ulrich, 94 Mass. App. Ct. 668, 677 (2019)
- Adoption of Rhona, 63 Mass. App. Ct. 117, 126 (2005)
- Care & Protection of Benjamin, 403 Mass. 24, 25-26 (1988)
- Adoption of Mary, 414 Mass. 705, 711 (1993)
- Care & Protection of Laura, 414 Mass. 788, 791 (1993)
- Adoption of Franklin, 99 Mass. App. Ct. 787, 799 (2021)
- Adoption of Vito, 431 Mass. 550, 568 (2000)
- Adoption of Lars, 46 Mass. App. Ct. 30, 31 (1998)
- Adoption of Gabrielle, 39 Mass. App. Ct. 484, 488 (1995)
- Guardianship of Estelle, 70 Mass. App. Ct. 575, 578-579 (2007)
- Adoption of Arianne, 104 Mass. App. Ct. 716, 721 (2024)
- Adoption of Gregory, 434 Mass. 117, 121 (2001)
- Care & Protection of Zeb, 489 Mass. 783, 789 (2022)
- Adoption of Dora, 52 Mass. App. Ct. 472, 475 (2001)

INSTRUCTIONS FOR AN AI ASSISTANT

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