

MASSACHUSETTS SUPREME JUDICIAL COURT

Brantley v. Hampden Division of the Probate & Family Court
Department

457 Mass. 172 (2010) · Decided June 30, 2010

SUMMARY

The Massachusetts Supreme Judicial Court reviewed Hampden Division Probate and Family Court protocols for obtaining and using confidential Department of Children and Families information in child-related proceedings. The court upheld the petitioner’s lack of standing to challenge current protocols and denial of class certification, but exercised its superintendency authority under G. L. c. 211, § 3, to review the protocols. It held that aspects of the current protocols violated due process by permitting consideration of unreliable, layered hearsay without a meaningful opportunity for litigants to review and rebut adverse information, and directed Hampden to stay the protocols.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Marshall, C.J.
JURISDICTION	Massachusetts
DECIDED	June 30, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a single justice's judgment in the county court concerning standing, class certification, and statutory claims, with review under the Supreme Judicial Court's general superintendence power of the constitutionality of the Probate and Family Court division's protocols.
STANDARD OF REVIEW	Standing and class-certification rulings were reviewed for legal error; the court independently reviewed the constitutionality of the current protocols under its general superintendence power pursuant to G. L. c. 211, § 3.
PRECEDENTIAL VALUE	Published precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Brantley v. Hampden Division of the Probate and Family Court Department, Department of Children and Families

TOPICS

family law procedure

guardianships

due process

hearsay

appellate procedure

PRACTICE AREAS

family law

constitutional law

evidence

guardianships

appellate procedure

QUESTIONS PRESENTED

1. Whether Brantley had standing to challenge the current Hampden protocols.
2. Whether the Supreme Judicial Court could review the current protocols under its general superintendence power despite Brantley's lack of standing and the availability of ordinary appellate procedures.
3. Whether the current protocols violated due process by permitting judges to consider unreliable, layered hearsay concerning parental fitness and custody without providing litigants copies of the materials and a meaningful opportunity to rebut them.
4. Whether the evidence established that the Department of Children and Families violated G. L. c. 119, §§ 51E and 51F, its regulations, or the Fair Information Practices Act, G. L. c. 66A.
5. Whether class certification was warranted.

HOLDINGS

1. Brantley lacked standing to challenge the current protocols because her cases had ended before the complaint was filed and she did not show that she was presently or likely to be injured by them.
2. The court could and should review the current protocols under G. L. c. 211, § 3, despite Brantley's lack of standing, because the case presented an extraordinary systemic constitutional issue involving the administration of justice by a court.
3. The current Hampden protocols violated due process because they permitted judges to consider unreliable, multilayered hearsay concerning parental fitness and custody without ensuring a meaningful opportunity for the affected litigant to know and rebut the adverse information.
4. The evidence was insufficient to establish that the Department of Children and Families violated G. L. c. 119, §§ 51E or 51F, its regulations, or the Fair Information Practices Act, G. L. c. 66A.
5. The denial of class certification was affirmed.

KEY QUOTATIONS

“Because in the singular circumstances of this case dismissal would work a manifest injustice to nonparties, we exercise our broad discretion pursuant to G. L. c. 211, § 3, to direct Hampden to stay application of its current protocols or any revisions to those protocols.” (457 Mass. at 175)

“Use of such layered hearsay does not conform to principles of fairness when employed in a process that “implicates constitutional rights of the highest order,”” (457 Mass. at 185)

“Due process requires, at minimum, an opportunity to be heard “at a meaningful time and in a meaningful manner.”” (457 Mass. at 187)

“But practical considerations, even laudable practical considerations, cannot be addressed at the expense of the constitutional rights of litigants.” (457 Mass. at 188)

FACTUAL BACKGROUND

For years, the Hampden Division of the Probate and Family Court used protocols under which probation personnel obtained confidential Department of Children and Families information orally and transmitted written summaries to judges in child-related proceedings. The information could include layered hearsay from department files and could be considered as substantive evidence, while litigants were not necessarily given copies or a meaningful opportunity to rebut it. Brantley’s divorce, custody, and protective-order litigation ended in 2005, before she filed the county-court action, and she had no pending or anticipated Hampden case when she challenged the revised protocols.

PROCEDURAL HISTORY

The petitioners filed an amended county-court complaint under G. L. c. 211, § 3, seeking declaratory and injunctive relief against Hampden’s protocols for obtaining and using confidential Department of Children and Families information in child-related proceedings. The single justice held that the former protocols violated due process, ordered disclosure and an opportunity to rebut the information at ex parte hearings, held that Brantley lacked standing to challenge the current protocols, denied class certification, and found insufficient evidence of statutory or regulatory violations by the department. The Supreme Judicial Court affirmed those rulings, but exercised its superintendence power to review the current protocols and ordered their application stayed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Hampden was directed to stay application of its current protocols and any revisions. Any replacement department-wide standing order concerning confidential department information was to be submitted to the Supreme Judicial Court rules committee for approval before implementation.

CASES CITED

- Slama v. Attorney Gen., 384 Mass. 620, 624 (1981)
- Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 185 (2000)
- Ginther v. Commissioner of Ins., 427 Mass. 319, 323 (1998)
- Care & Protection of Sophie, 449 Mass. 100, 104-105 (2007)
- Doe v. The Governor, 381 Mass. 702, 704 (1980)
- Kaplan v. Bowker, 333 Mass. 455, 459 (1956)
- Simmons v. Clerk-Magistrate of the Boston Div. of the Hous. Court Dep’t, 448 Mass. 57, 61 (2006)
- First Justice of the Bristol Div. of the Juvenile Court Dep’t v. Clerk-Magistrate of the Bristol Div. of the Juvenile Court Dep’t, 438 Mass. 387, 391 (2003)

- *Blaisdell v. Commonwealth*, 372 Mass. 753, 755 (1977)
- *Myers v. Commonwealth*, 363 Mass. 843, 844 (1973)
- *Commonwealth v. Clerk of the Boston Div. of the Juvenile Court Dep't*, 432 Mass. 693, 697 (2000)
- *Duro v. Duro*, 392 Mass. 574, 576 n.4, 580 (1984)
- *Covell v. Department of Social Servs.*, 439 Mass. 766, 786, 788 (2003)
- *Adoption of Iris*, 43 Mass. App. Ct. 95, 100 n.8 (1997)
- *Custody of Michel*, 28 Mass. App. Ct. 260, 267-268 (1990)
- *Care & Protection of Zita*, 455 Mass. 272, 279-280, 284 (2009)
- *Adoption of George*, 27 Mass. App. Ct. 265, 274 (1989)
- *Adoption of Simone*, 427 Mass. 34, 39 (1998)
- *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)
- *E.N.O. v. L.M.M.*, 429 Mass. 824, 834 n.13 (1999), cert. denied, 528 U.S. 1005 (1999)
- *Commonwealth v. Durling*, 407 Mass. 108, 121-122 (1990)
- *Costa v. Fall River Hous. Auth.*, 453 Mass. 614, 625-627 (2009)
- *Commonwealth v. Given*, 441 Mass. 741, 746-748 (2004), cert. denied, 543 U.S. 948 (2004)
- *Flynn v. Warner*, 421 Mass. 1002, 1003 (1995)
- *Szymkowski v. Szymkowski*, 57 Mass. App. Ct. 284, 289 (2003)
- *Frizado v. Frizado*, 420 Mass. 592, 596 n.3 (1995)