This compendium summarizing Connecticut Supreme and Appellate Court child protection cases was made possible by a grant from Connecticut Judicial Department's Court Improvement Project.

CHILD PROTECTION CASEBOOK

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The Child Protection Casebook is a compendium of all the Supreme and Appellate Court child protection decisions.[1] This project was made possible by a grant from the Court Improvement Project (CIP). The purpose of the Casebook is to provide access to child protection caselaw in order to increase awareness and understanding of child protection law that affects the rights of children and their families among the bar, case workers, court professionals, and the judiciary.

This is neither a legal treatise nor a substitute for thorough research. This digest should serve as the start of one's research, not the end,[2] as the legal relationship between the caselaw, statutes, practice book rules and regulations is beyond the scope of this project. Moreover, the law is dynamic; new legislation and new cases are routinely enacted and decided.

The Child Protection Casebook is comprised of the following sections:

- Table of Contents
- Summaries of Cases
- Index
- Annotated Table of Contents
- Table of Reversed Cases

The Table of Contents sets forth the topics, listed alphabetically, that are covered in the compendium as addressed by our Supreme and Appellate Courts in child protection matters. The Topics themselves are hyperlinks and by double-clicking on a given topic, the reader is brought to the beginning of the case summaries contained under that topic. For example, if the reader is perusing the Table of Contents and would like to review the cases included under "Abandonment," the reader need simply click on the topic and the Casebook will open at the beginning of the "Abandonment" section.

The heart of the Casebook is the summaries of the cases. To reiterate the rule of law in every case summary would be unnecessarily repetitive. As such, for many of the topics, a textbox highlighting the general rule(s) applied by the court appear just before the case summaries. The cases are listed first by authority (i.e. Supreme Court cases appear before Appellate Court cases) and then by chronology with most recent cases appearing first. Each case summary sets forth the context of the case and the trial court's conclusion, as well as a statement indicating whether the Supreme/Appellate Court affirmed or reversed the trial court. The case summaries also include the claim(s) made on appeal and a short synopsis of the Supreme/Appellate Court's holding. Directly following each summary is a link to the formal decision posted on the Connecticut Judicial Branch's website for cases after the year 2000.

The Index is a catalog of terms to assist the reader in locating a particular subject matter and corresponding topic. The Index serves as a useful tool to guide the reader to the appropriate topic. For example, if one wishes to locate "transfer of guardianship" cases, and discovers that the Table of Contents does not have a "transfer of guardianship" topic, the reader, by utilizing the index, is able to locate "transfer of guardianship" and is referred to the Guardianship Topic.

The Annotated Table of Contents consists of the topics and a list of the cases appearing within each topic. This reference assists the reader in accessing a "quick list" of cases related to a given topic.

[1] Cases pertaining to delinquent children are beyond the scope of this compendium. Per curiam decisions are also not contained herein.

The last part of the Casebook, the Table of Reversed Cases, charts the cases reversed by either the Supreme or Appellate court by listing the name of the case and a short recitation of the court's holding.

In light of the potential audience spectrum including both lawyers and laypersons, this compendium attempts to simplify certain terms. For example, rather than referring to the parties as "petitioners" and "respondents," they are referred to as the "mother," "father" or "DCF." Also, worth noting are the following abbreviations:

- "TPR" refers to a termination of parental rights
- "OTC" refers to an order of temporary custody
- "DCF" refers to the Department of Children and Families, formally known as the "Department of Children and Youth Services"
- "GAL" refers to guardian ad litem

Lastly, the fundamental goal of child protection proceedings is just that--to protect children, while providing the utmost deference to the children and their parents' shared constitutional right to family integrity. It is our hope that this compendium assists all who play a role in the lives of these children in furthering this goal.

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ABANDONMENT

"Imprisonment alone does not constitute abandonment….On the other hand, the inevitable restraints imposed by incarceration do not in themselves excuse a failure to make use of available though limited resources for contact with a distant child." (Internal citation and quotation marks omitted.) *See, In re Juvenile Appeal, 187 Conn. 431 (1982).*

"A parent abandons a child if the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child . . . . Abandonment focuses on the parent's conduct. . . . Abandonment occurs where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child, and demonstrates no concern for the child's welfare. . . . does not contemplate a sporadic showing of the indicia of interest, concern or responsibility for the welfare of a child. A parent must maintain a reasonable degree of interest in the welfare of his or her child. Maintain implies a continuing, reasonable degree of concern." (Internal citations and quotation marks omitted.) *See, In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009).*

"Abandonment focuses on the parent's conduct. It is a question of fact for the trial court which has the parties before it and is in the best position to analyze all of the factors which go into the ultimate conclusion that [the statutory standard of abandonment] has been satisfied. It is not lack of interest alone which is the criterion in determining abandonment. Abandonment . . . requires failure to maintain interest, concern or responsibility as to the welfare of the child. Attempts to achieve contact with a child, telephone calls, the sending of cards and gifts, and financial support are indicia of interest, concern or responsibility for the welfare of a child. . . . Where a parent fails to visit a child, fails to display any love or affection for the child, has no personal interaction with the child, and no concern for the child's welfare, statutory abandonment has occurred. . . . " (Internal citations and quotation marks omitted.) *See, In re Shane P., 58 Conn. App. 244 (2000).*

In re Baby Girl B., 224 Conn. 263 (1992)
The trial court denied the coterminous petition finding that DCF did not prove the mother abandoned the child. The Supreme Court affirmed. Upon default of the mother, the trial court initially granted the TPR on the abandonment ground, but after granting the mother's motion to reopen the TPR judgment and for a new trial, the trial court then denied the TPR. The evidence as a whole did not show the mother failed to maintain reasonable interest or concern for the child. Although the young mother left the baby at the hospital and was absent, after about 5 months, she made eager efforts to reestablish a relationship with the child. She reengaged in visits and was appropriate and pursued all available legal remedies. Neither the neglect finding based on the mother's abandonment of the child at the hospital nor the prior TPR finding of abandonment at the default trial dictated a latter TPR finding of abandonment. **Dissent:** Borden, Norcott, J.J.

In re Juvenile Appeal, 187 Conn. 431 (1982)
The Supreme Court affirmed the trial court's judgment terminating the incarcerated putative father's parental rights by finding that he abandoned his child. The evidence demonstrated that the father did not

provide the child any financial support before he left the state to avoid arrest. While he was incarcerated he did not show any paternal interest in the child. Although incarceration alone does not constitute abandonment, neither does it excuse the father's failure to take advantage of limited resources to contact the child.

In re Juvenile Appeal, 183 Conn. 11 (1981)
The Supreme Court affirmed the trial court's judgment terminating the father's parental rights by finding that the father had abandoned his child. The evidence demonstrated that the father did not provide any financial support, housing or other support. He rarely visited the child and demonstrated no parent child relationship.

In re Brian T., 134 Conn. App. 1 (2012)
The trial court, on an appeal from probate court, terminated the father's parental rights finding abandonment, failure to rehabilitate, and the termination was in the best interest of the child. The Appellate Court affirmed the TPR judgment although the Appellate Court held that the trial court's finding of abandonment as an adjudicatory ground was clearly erroneous. The Appellate Court held that the abandonment finding was infected by clear error because the trial court erroneously found that the father denied paternity for the first five years of the child's life and that the father was incarcerated for the first seven years of the child's life. Both of these findings of fact were incorrect. **Concurring:** Lavine, J.; Robinson, J. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP232.pdf

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
In this TPR action transferred from Probate Court, the trial court concluded that the petitioner, the mother, proved by clear and convincing evidence that the father had both abandoned the child and that there was no ongoing parent-child relationship. The Appellate Court affirmed. The Appellate Court held that while incarceration alone does not constitute abandonment per se, the father's self-created imprisonment is not a valid excuse for failing to perform any of the minimal parenting obligations, such as expressing love and concern, as well as providing for the child. There was no evidence that the father was prevented from maintaining a relationship with the child for any reason other than his own actions.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
In this TPR action transferred from Probate Court, the Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child. While incarceration alone does not constitute abandonment, the father engaged in criminal activity that caused him to be imprisoned and later detained by immigration. His incarceration is not a valid excuse for failing to take advantage of programs that would have helped him maintain contact with his child. Not only did he not perform any of the minimal parenting obligations, such as providing financial support, maintaining regular contact and visitation, but he threatened the mother causing protective orders that precluded further contact with his son. The Court noted that termination of parental rights on the ground of abandonment may pose significant legal issues when one parent alienates the other parent from the child. However, no such showing was made in this case. To the contrary, the father's conduct as a whole demonstrates a lack of concern and interest in his child sufficient to prove abandonment.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re S.D., 115 Conn. App. 111 (2009)
In this TPR action appealed from Probate Court, the trial court concluded that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child. The Appellate Court affirmed. The Appellate Court held that the trial court properly found that the father left the state when the child was one year old and was incarcerated for most of the child's life. The child was nine years old at the time of trial. The father never financially supported the child or sent cards or gifts. He never expressed concern or interest in the child's welfare, nor did he request visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court affirmed the trial court's judgment terminating the mother's parental rights on the grounds that she abandoned her child. The evidence demonstrated that the mother had no contact with her child for over a year while the child was in DCF custody. During this time, she never sent any cards, gifts or letters and did not inquire about the child's well-being. Furthermore, the mother never requested that her child be returned to her—she only filed a motion for the maternal grandmother to have guardianship. Although there was a protective order in place requiring her to visit with her child as permitted by DCF, she never sought to modify or vacate the order.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Ilyssa G., 105 Conn. App. 41 (2007), cert. denied, 285 Conn. App. 41 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to open the default judgment to terminate his parental rights. Based on the father's own testimony, the trial court acted reasonably in concluding that the father did not present a good defense to the abandonment or no ongoing parent child relationship grounds. The father also failed to prove that he did not appear at the TPR trial because of fraud, mistake, accident or other reasonable cause. The father's testimony during the hearing supported, rather than countered, the grounds for termination. He admitted he had not seen his child in 8 years and that he only called her and visited DCF once. He further testified that he did not tell anyone that he moved. The trial court properly ruled that the father's or his attorney's alleged negligence is not grounds to set aside a default judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105ap63.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The trial court properly found that DCF proved by clear and convincing evidence that the father had abandoned the child and that terminating the father's parental rights was in the best interest of the child. Although incarceration alone does not constitute abandonment, his incarceration does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. Upon release from prison, the father's contact with his son was sporadic at best and he never provided any financial support to the child. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
In this TPR action appealed from Probate Court, the trial court granted the TPR petition finding that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child and that terminating his parental rights was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that although incarceration alone does not constitute abandonment, his incarceration

does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. The severely developmentally disabled child was 11 years old, and the father had been incarcerated for all but 10 months of the child's life. While he sent the child cards, he had not expressed an interest in visiting the child while incarcerated. Upon release from prison, he behaved violently and abused substances around the child. The father's contact with his child was sporadic at best, and he never provided any financial support to the child. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Deana E., 61 Conn. App. 185 (2000)
The Appellate Court held that the trial court's judgment granting TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. Although incarceration alone does not constitute abandonment, his incarceration does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. The father made no effort to determine where his children were to contact them nor made any attempt to schedule a visit. Upon release from prison, the father made minimal effort to contact his children and any visits were brief. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that as a whole the father's interest and concern for his son was sporadic. After the father's arrest, he had no contact with his son for five months. His subsequent requests for visits were sporadic and riddled with ambivalence and he never recognized the child's birthday or holidays. The Appellate Court further held that the abandonment statute, Conn. Gen. Stat. § 17a-112(c)(3)(A) was not void for vagueness because it provided fair warning of the conduct expected from an incarcerated parent in order to avoid an abandonment adjudication. Both the statute and caselaw provide adequate notice. As a result, the father's unpreserved constitutional claim fails under the third prong of *Golding* requiring the father to prove a clear constitutional violation existed.

In re Terrance C., 58 Conn. App. 389 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment because he was not given any assistance, a service agreement or specific steps (aka "expectations"). The Appellate Court held that the trial court properly found that the father never acknowledged paternity until 3 years after the child was born, only asked to visit his child once since his birth and while he sent him some cards, he failed to show overall concern for the child. While the father's incarceration impacts his ability to provide all the general obligations of parenthood, incarceration is not an excuse not to take advantages of available resources to demonstrate concern for one's child.

In re John G., 56 Conn. App. 12 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the mother only visited the child 16 times in 6 years and the child did not recognize her as a family member. The mother did not attend any treatment plan meetings or ask DCF social workers about the child's well-being.

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that the evidence presented by the petitioner, the father, was insufficient to prove abandonment, but the Appellate Court held that the trial court's conclusions were supported by the record. The mother went years without visiting the child. Although granted visitation rights, she did not consistently visit and rarely sent cards, gift or letters. Moreover, the child and mother have no parent child relationship and the mother suffered from a substance abuse problem.

In re Roshawn R., 51 Conn. App. 44 (1998)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the father was in prison more than he was out of prison and his incarceration was due to his drug addiction and illegal activities. While incarceration alone does not constitute abandonment, neither does it excuse the father's failure to have contact or express concern for his children. While in prison, he did not take advantage of the resources to assist him to visit or maintain contact with his children. When not incarcerated, he failed to visit his children in foster care or cooperate with services, such as substance abuse treatment.

In re Drew R., 47 Conn. App. 124 (1997)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The out-of-state father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the father did not provide financial support and his contact with the child was sporadic. The father failed to write or call often. The father's minimum interest by requesting custody (but then changing his mind), submitting to interstate studies and phoning DCF did not preclude a finding of abandonment.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the father did not demonstrate a reasonable degree of interest in his child as he only visited her 10 times in 2 years and did not express a desire to provide a home for her.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that: (1) the court lacked subject matter jurisdiction to consider the claim because DCF did not check off the abandonment box on the TPR petition, (2) she lacked proper notice of the abandonment claim depriving her of her right to due process, and (3) the evidence was insufficient to prove abandonment. Because the accompanying TPR summary of facts adequately pled abandonment, the mother had sufficient notice of the abandonment claim against her and was not deprived of her due process rights. The court also was not deprived of subject matter jurisdiction. The Appellate Court further held that the trial court's finding was amply supported by the record because the mother inconsistently visited, rarely made phone calls to the children and never sent cards or letters. Although DCF ceased visits just before the filing of the TPR and incarceration alone does not constitute abandonment, the abandonment finding was based on the mother's sporadic contact and interest before the cessation of visitation.

In re Lori Beth D., 21 Conn. App. 226 (1990)
In this TPR action transferred from Probate Court, the trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that there was little dispute that the father did not demonstrate a reasonable degree of interest in his child as he did not visit them or contact them for a three year period.

In re Rayna M., 13 Conn. App. 23 (1987), reversed
The trial court denied DCF's termination of parental rights petition finding that the parents did not abandon their children. The Appellate Court reversed. DCF claimed that the trial court applied an incorrect legal standard. The Appellate Court held that the trial court erred in concluding that the parents' minimal interest in the children sufficiently rebutted DCF's proof of abandonment. The statutory standard is not whether the parents have shown "some interest" in their children. The mother lived out of state and visited the children 2 times in 2 years, had infrequent phone calls to them, but acknowledged birthdays.

In re Shavoughn K., 13 Conn. App. 91 (1987)
The trial court terminated the mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the mother did not demonstrate a reasonable degree of interest in her child as she only visited her 2 times in 14 months and only made 2 telephone calls to her even though she was free to phone or visit the foster home directly. The foster home was in walking distance from her home.

In re Teshea D., 9 Conn. App. 490 (1987)
The trial court terminated the out-of-state mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the mother did not demonstrate a reasonable degree of interest in her child when she had no contact with the child for half of the child's life and only telephoned the child three times. Moreover, she refused to cooperate with an interstate home study request to facilitate reunification.

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The trial court terminated the mother's parental rights finding that she abandoned her special needs child. The Appellate Court reversed. The Appellate Court held that based on the record, it was clearly erroneous for the trial court to find abandonment. First, there was no evidence to support the court's finding that the mother had no contact with her child for one year while her daughter was living with her brother-in-law. Moreover, the Appellate Court ruled that given the child's medical condition, the mother's inability to give her exceptional care is not the equivalent of failure to maintain a reasonable degree of interest, concern or responsibility for the child. The mother's belief that the foster parents are better able to care for her daughter is not necessarily an indication that she statutorily abandoned her child. "Maintain" implies a continuing, reasonable degree of concern. No fact demonstrated that she failed to maintain her parental relationship with her daughter. "A failure to telephone the child or to travel thirty miles to visit with her when the mother has neither a telephone nor a car is not a ground for finding abandonment. If that were so, parents who become noncustodial parents following a dissolution of marriage would be subject to

having their parental rights terminated on the ground of abandonment.

ADMINISTRATIVE LAW

"General Statutes § 4-183(a) provides in relevant part that "[a] person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision may appeal to the Superior Court as provided in this section...." Although § 4-183 (a) includes several significant terms. . . , as matters of standing, the term "aggrieved" in § 4-183(a) is critical." (internal citations and quotation marks omitted). *See, Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002).*

"Neither the trial court nor this court may substitute its own judgment for the defendant's as to the weight of the evidence on questions of fact. Instead, we limit our inquiry to whether, in view of all of the evidence, the substantial rights of the plaintiff have been prejudiced because the administrative record lacked substantial evidence to support the defendant's findings of fact or because the defendant, in issuing [the] decision and order, acted unreasonably, arbitrarily, illegally or in abuse of ... discretion. The burden is on the plaintiff to demonstrate that the factual conclusions were not supported by the weight of substantial evidence on the record." (internal citations and quotation marks omitted). *See, Albright-Lazzari v. Commissioner of Children and Families, 120 Conn. App. 376, cert. denied, 297 Conn. 908, cert. denied, 131 S.Ct. 516 (2010).*

"The test for determining contested case status has been well established and requires an inquiry into three criteria, to wit: (1) whether a legal right, duty or privilege is at issue, (2) and is statutorily required to be determined by the agency, (3) through an opportunity for [a] hearing or in which a hearing is in fact held.' ... Under this test, although agency regulations, rules or policies may require the agency to hold a hearing, that does not constitute a matter as a 'contested case' under § 4-166(2) unless the plaintiff's rights or privileges are 'statutorily' required to be determined by the agency. If the plaintiff's rights or privileges are not 'statutorily' required to be determined by the agency, a 'contested case' does not exist and a plaintiff would have no right to appeal pursuant to § 4-183(a)." (internal citations and quotation marks omitted). *See, Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002).*

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part

The trial court found that DCF's administrative decision to place a former DCF employee on the child abuse registry was unsupported by the evidence in the record and remanded the case to DCF for further reconsideration. The trial court further rejected the former employee's constitutional claims. Both the former employee and DCF appealed. The Supreme Court, on transfer, affirmed in part and reversed in part. The former employee claimed: (1) the evidence was insufficient to support the hearing officer's finding, (2) the registry statute itself was unconstitutionally vague, (3) overbroad, (4) violated the separation of powers doctrine and (5) constituted a bill of attainder. The Supreme Court rejected all of the former employee's claims.

(1) The Supreme Court first held that the hearing officer did not act arbitrarily, illegally or abuse its discretion in placing him on the child abuse registry. Thus, the Supreme Court reversed the trial court's remand on the basis of insufficient evidence. The Court found that there was sufficient evidence that he was "responsible for child abuse or neglect and posed a risk to the health, safety or well-being of children pursuant to Conn. Gen. Stat. §§ 17a-101g and k. The hearing officer properly found that the former

employee intentionally allowed another detainee at the detention center to beat up a smaller detainee as a means of discipline and maintaining control on his unit and this was not an isolated event. The hearing officer considered the following mandated factors: the person's intent, the severity of the incident, the "chronicity" of the person's behavior-meaning whether the substantiated abuse was not an isolated incident-and whether excessive force had been used.
(2) The Court held that the registry scheme is not unconstitutionally vague given that the statutory provisions, the DCF policy manual and caselaw regarding abuse and neglect standards, provide fair notice and "preclude arbitrary enforcement in violation of due process." To require DCF to delineate every act that would place someone on the registry would be impracticable.
(3) The Court declined to review his "overbroad" claim given that he provided no independent analysis in support of this claim.
(4) The Court held that the registry scheme does not violate the separation of powers doctrine and does not constitute an unlawful delegation of legislative power because the statutory scheme provides sufficient direction to DCF as to what type of conduct justifies placement on the child abuse registry. DCF must consider the nature, extent and cause of the abuse or neglect-terms defined by statute-to determine whether the person responsible for the abuse poses a risk to the health, safety or well-being of children.
(5) The Court further held that the registry scheme did not constitute a bill of attainder because it did not inflict punishment on the former employee. The burden imposed upon the former employee furthers the legislative purpose of child abuse registry statute--to ensure that children are protected from the risk of physical and emotional harm.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

Earl B. v. Commissioner of Children and Families, 288 Conn. 163 (2009)
The trial court dismissed the child defendant's administrative appeal challenging his treatment plan and continued placement at CJTS. The Supreme Court reversed. The delinquent child requested an administrative hearing challenging DCF's treatment plan to extend his commitment and place him at CJTS for another 2 years. The hearing officer denied his request construing his request as a request for parole pursuant to Conn. Gen. Stat. §§ 46b-140(j) and 17a-7. DCF claimed that the issue was moot because it had placed the child in a residential treatment program and also claimed that the statutory scheme did not permit a hearing. The Supreme Court held that the issue was not moot because it was capable of repetition, yet evading review. The Court further held that the trial court erred in dismissing his appeal of DCF's administrative decision to deny him a hearing regarding the treatment plan. Pursuant to Conn. Gen. Stat. § 17a-15, the child is entitled to a treatment plan hearing and hence is a "contested case" under the UAPA.
Majority: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318E.pdf

Teresa T. v. Ragaglia, 272 Conn. 734 (2005)
The children sued the Commissioner of DCF in federal court alleging their constitutional rights were violated by DCF's failure to remove them from their abusive stepfather. After the district court dismissed the claim, the second circuit court of appeals, on interlocutory appeal, certified questions to the Connecticut Supreme Court: (1) whether Conn. Gen. Stat. § 17a-101g(c) required the Commissioner to remove the children via a 96 hour hold if probable cause existed to believe they were in imminent risk of physical harm, and (2) if the Commissioner authorized removal, whether the Commissioner's designated employees were required, or merely authorized, to remove the children. The Supreme Court held that Conn. Gen. Stat. § 17a-101g did not mandate that DCF remove a child upon determining that probable cause exists to believe that the children were at imminent risk of physical harm while living with their abusive stepfather. Despite

the use of the word "shall," the statutory and regulatory scheme provided that the DCF investigator had discretion to pursue various alternative remedies, such as removing the abuser or placing the children with a relative. The Court also held that even if the Commissioner authorized removal under Conn. Gen. Stat. § 17a-101g(c), Conn. Agencies Regs. § 17a-101-13(b) allowed the designated employees discretion regarding whether to remove the children. The Court ruled that "administrative rules and regulations are given the force and effect of law." Furthermore, when a policy manual is inconsistent with a state statute or agency regulation, it does not govern the interpretation of the statute or regulation.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR272/272CR12.pdf

Williams v. Ragaglia, 261 Conn. 219 (2002)
A relative appealed to the trial court from an administrative decision revoking her special study foster care license. The trial court dismissed her claim as moot because the relative was awarded custody of the children in a separate proceeding. The Appellate Court reversed the trial court and remanded the case for an adjudication on the merits. The Supreme Court affirmed the Appellate Court. DCF claimed that the administrative appeal regarding the relative's special study licensure revocation was moot because any relief was impractical because the relative received custody of the children. The Supreme Court held that since there was a reasonable possibility of prejudicial "collateral consequences" from the revocation of her license the matter was not moot. The Court rejected DCF's claim that the relative must show that she "will or is likely to suffer specific foreseeable collateral consequences," and ruled instead that there need be a "reasonable possibility" of such consequences. Here, the relative, among other possibilities, may be negatively impacted in her ability to gain employment in a child related field or in future foster care options with DCF.
Dissent: Borden, J., with whom Norcott and Zarella, Js. join.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr92.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROcr/261cr92e.pdf

In re Shawn S., 262 Conn. 155 (2002)
The trial court accepted the parents' nolo pleas, adjudicated the children uncared for and ordered them committed to DCF. The parents appealed. The Appellate Court dismissed the appeals holding that the parents failed to exhaust their administrative remedies. The Supreme Court affirmed. The parents claimed that the commitment order violated their statutory right to voluntary services pursuant to Conn. Gen. Stat. § 17a-129 and also violated their constitutional rights. The Supreme Court held that the Appellate Court incorrectly applied the exhaustion doctrine because the doctrine does not apply to parties who are already before the court responding to an action it did not bring. Nonetheless, the Court lacked subject matter to hear the appeal because the parents did not have standing to appeal because they were not aggrieved by the order of commitment. The parents had waived their right to contest the commitment because they agreed to the commitment. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

In re Adoption of Baby Z., 247 Conn. 474 (1999), reversed
The Adoption Board of Review denied a same sex couple's application for waiver of the statutory parent requirement so that the partner of the biological mother of the child could adopt the child. The board then denied the application for adoption. In their probate appeal, the Superior Court dismissed the same sex couple's probate appeal because the board's decision to deny the couple's waiver application to permit the partner to adopt the child was not an order from probate, but rather an administrative decision. The Supreme Court affirmed the decision holding that the board's decision was not a probate decree pursuant to Conn. Gen. Stat. §45a-186(a), but it was a final decision of a "contested case" by an "agency" under the UAPA. Ultimately, the Court's decision resulted in the denial of the joint petition of a lesbian couple to

adopt the biological child of one of the women. **Dissent:** Berdon, J. **Note:** Public Act 00-228, effectively overruled In re Adoption of Baby Z. and permits second parent adoption.

Dolgner v. Alander, 237 Conn. 272 (1996), reversed
On an administrative appeal, the trial court concluded that the evidence supported the hearing officer's decision to revoke that the day care owner's license by finding that she violated the state's regulations by committing child abuse. On transfer, the Supreme Court reversed the judgment. The day care owner claimed that the trial court improperly concluded that "substantial evidence" existed to revoke her license. The Supreme Court held that based on the evidence adduced at the administrative hearing, there was not substantial evidence justifying a licensure revocation because the evidence lacked specificity as to any alleged misconduct, such as the factual particulars, the dates, or the frequency of the alleged misconduct.

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

Easter House, Inc., v. Department of Children and Youth Services, 214 Conn. 560 (1990)
After an Illinois adoption agency appealed to the Superior Court based on DCYS's letter ordering the agency to cease its activities in placement and adoption in Connecticut, the trial court dismissed the appeal because the letter was not a final decision in a "contested case" and the agency did not exhaust its administrative remedies. The Supreme Court affirmed. The Supreme Court held there was no final decision in a "contested case" under the UAPA and the trial court lacked subject matter to hear the appeal because DCYS did not previously grant the agency a license to place out-of-state children in Connecticut, but rather only granted the agency prior permission.

Frank v. Department of Children and Families, 134 Conn. App. 288 (2012), cert. pending
A teacher appealed DCF's administrative decision to substantiate emotional abuse and to place the teacher on the child abuse registry, Conn. Gen. Stat. § 17a-101k. The trial court affirmed the hearing officer's determination. The teacher appealed to the Appellate Court. The Appellate Court reversed. The teacher claimed that Conn. Gen. Stat. § 46b-120(3) which defines an abused child and as interpreted by DCF's regulations was unconstitutionally vague as applied to his conduct because he could not have known that his joking behavior of giving the student a nickname and squeezing his cheeks without any intent to harm the student, would constitute emotional abuse. The Appellate Court held that statute was unconstitutionally vague as applied to the teacher and the hearing officer applied an improper subjective rather than objective standard. The hearing officer should have determined whether the teacher's conduct constituted emotional abuse to *any* child, not just to the particularly sensitive student. The facts demonstrated that the teacher joked with all the students in the class. Upon learning that the child had a trauma history and was sensitive to the teacher's conduct, the teacher stopped the joking behavior. The hearing officer did not find that the

teacher had any intent to ridicule or harass the student. None of the other students were negatively affected by the teacher's behavior and the school's own investigation did not conclude the teacher's behavior was abusive. **http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP227.pdf**

Albright-Lazzari v. Commissioner of Children and Families, 120 Conn. App. 376, cert. denied, 297 Conn. 908, cert. denied, 131 S.Ct. 516 (2010)
In an administrative appeal, the trial court dismissed the parents' pro se appeal of DCF's substantiation against the mother for emotional neglect and the decision to place her name on the child abuse registry. The Appellate Court affirmed. The Appellate Court upheld the trial court's dismissal of the mother's husband's appeal for lack of subject matter jurisdiction because the husband was not aggrieved by his wife's name being on the registry, even though her name was hyphenated to include his own last name. The Appellate Court further held that "substantial evidence" existed to support DCF's substantiation that the mother's emotional neglect of the children when she refused to believe the doctor's opinion that her child was not sexually abused and in front of her child she insisted that the doctor perform invasive procedures on her child and acted bizarrely.
http://jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP225.pdf

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the trial court granted DCF's motion for summary judgment finding that DCF and the social workers were statutorily immune from suit by the parents and their children claiming infliction of emotional distress after DCF removed the children from the home for 5 days via a 96 hour hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease. The trial court further denied the parents' and children's motion for injunctive relief directing (1) DCF to expunge all of its records relating to them, and (2) DCF "to inform its investigators of the facts and circumstances attending wrongful removals, so that injury to similar families can be averted." The Appellate Court affirmed. The Appellate Court upheld the finding that DCF and its social workers were statutorily immune because the parents failed to show that they acted wantonly, recklessly and maliciously even though DCF removed the children without any direct evidence of abuse and precluded any testing regarding blood disorders. Regarding the injunction, the trial court properly denied the injunctive relief to expunge their records because the parents failed to exhaust their administrative remedies and properly denied the relief to instruct the social workers because the parents failed to allege that DCF failed to educate their social workers regarding wrongful removals. The Court further held that the trial court did not commit plain error by relying on DCF's argument raised in its brief that the parents did not respond to. At the time of trial, the parents never objected to the trial court's order of filing simultaneous briefs or to DCF's "new" arguments and the parents never requested an opportunity to file a reply brief.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

Lovan C. v. Department of Children and Families, 86 Conn. App. 290 (2004), reversed
In an administrative appeal, the trial court dismissed the mother's appeal of DCF's substantiation against her for physical abuse and decision to place her name on the child abuse registry. The Appellate Court reversed. The Appellate Court held that the hearing officer improperly found the mother physically abused her child when she utilized corporal punishment as a form of discipline because the hearing officer did not assess the reasonableness of the corporal punishment. Parents have a right under Conn. Gen. Stat. § 53a-18 to inflict reasonable physical force as discipline. Thus, the hearing officer must consider the surrounding circumstances, including the parent's motive and whether the parent believed the punishment was necessary to maintain discipline or to promote the child's welfare, the type of punishment administered, the amount of force used and the child's age, size and ability to understand the punishment. Here, there was no substantial

evidence of abuse because the mother had no malice or ill motive when she struck her child with a belt leaving a one-inch bruise on her thigh after her child continued to jump on the bed.
http://jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap47.pdf

In re Thomas J., 77 Conn. App. 1 (2003), cert. denied, 265 Conn. 902 (2003)
The trial court denied the delinquent child's motion to review DCF's decision to not substantiate his claim that a DCF police officer slammed his head against a glass wall. The Appellate Court reversed the judgment for the purpose of instructing the trial court to dismiss rather than deny the aggrieved child's motion. The Appellate Court held that while Conn. Gen. Stat. § 17a-6 permits a child who is in DCF custody to file petitions when his statutory rights are violated, the child's "motion for review" was not a "petition" because the "motion" was not made under oath as required by the statute. Moreover, because a proper petition was not filed, DCF was not given proper notice and opportunity to appear. In effect, the motion was an administrative appeal from an agency determination in an ex parte fashion. Because the trial court lacked statutory authority to consider the motion, it should have dismissed the motion not denied it.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap323.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically nor statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent. The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. Note: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

Kevin S. v. Department of Children & Families, 49 Conn. App. 706 (1998)
The trial court dismissed the father's administrative appeal of DCF's denial of his treatment plan request as moot because DCF filed a TPR petition. The Appellate Court affirmed. The father claimed that the trial court should have dismissed DCF's TPR petition as unlawful because the father filed a request for a DCF treatment plan hearing before DCF filed the termination petitions. The Appellate Court held that the father's administrative appeal from DCF's administrative decision denying him a treatment plan hearing was rendered moot by DCF's actual filing of the termination of parental rights petition. The Court reasoned that even if the father prevailed in the administrative appeal, the hearing officer had no authority to compel DCF to withdraw termination petitions, nor is there any statutory requirement that DCF hold a treatment plan hearing prior to filing a TPR petition. Thus, the Court could not offer the father any practical relief. Further, the Appellate Court held that the trial court did not deprive the father of his due process rights by denying him a treatment plan hearing. The father's due process rights were protected because the issue raised during an administrative treatment plan hearing is the same issue raised at a TPR trial, but with greater due process protections because the burden of proof at a TPR trial is clear and convincing proof.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that she was entitled

to a separate administrative hearing before the child was placed out of state in Puerto Rico. The Appellate Court affirmed. The Appellate Court held that the mother was not entitled to a separate administrative hearing because the mother was notified at trial of the possible placement and the issue was litigated at trial. The mother had her opportunity to be heard and participated fully in the trial.

ADMISSION BY A PARTY OPPONENT

"Among the recognized exceptions to the hearsay exclusionary rule is that for admissions of a party. . . . The exception applies exclusively to admissions of a party opponent. . . .Further, the cases have held admission can be used only against the party who made it." (internal citations and quotation marks omitted). *See, In re Jason S., 9 Conn. App. 98 (1986).*

"Whether a party's statement is a judicial admission or an evidentiary admission is a factual determination to be made by the trial court. The distinction between judicial admissions and mere evidentiary admissions is a significant one that should not be blurred by imprecise usage. While both judicial admissions and mere evidentiary admissions are admissible, their legal effect is markedly different; judicial admissions are conclusive on the trier of fact, whereas evidentiary admissions are only evidence to be accepted or rejected by the trier." (internal citations and quotation marks omitted). *See, In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004).*

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
Affirming the trial court's judgment terminating the mother's parental rights on the ground that she failed to rehabilitate, the Appellate Court ruled that the mother failed to prove that the DCF social worker's testimony was a judicial admission. The mother claimed that the DCF social worker's testimony that the mother had complied with the specific steps was a judicial admission precluding DCF from arguing on appeal that the mother failed to comply with the specific steps. The Appellate Court, citing the differences between judicial admissions and an evidentiary admission, ruled that the mother did not seek an articulation inquiring about whether the social worker was a party.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Jessica B., 50 Conn. App. 554 (1998)
Affirming the trial court's judgment terminating the mother's parental rights on the ground that she failed to rehabilitate, the Appellate Court held that the mother's statement to the DCF social worker that her husband hit her was admissible as a party opponent. In doing so, the Court rejected the mother's claim that the trial court improperly admitted her out-of-court statement as an exception to the hearsay rule for admissions by a party and that such admission constituted prejudicial abuse of discretion requiring reversal. Admissions by a party do not require a probability that the statement is trustworthy and reliable in order to be admissible.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The mother claimed that the child's out-of-court statements made to numerous professionals about the mother's boyfriend abusing him were not admissions of a party opponent. The Appellate Court held the out-of-court statements made by the child to various professionals were inadmissible under the "admission by a party opponent" exception to the hearsay rule. The Appellate Court ruled that the statements were not made by a party opponent, but rather they were made by the party introducing them. The child made the statements and they were not used against him as the rule requires. However, in light of the additional clear evidence of abuse, the Appellate Court held the error was harmless and thus not reversible.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not err when it used one parent's admission to support an inference used against the other parent. In this case, the evidence demonstrated

that the children were sexually abused by their father. It is unclear from the decision which statements the mother claimed were admitted in error.

ADOPTION/OPEN ADOPTION

"Adoption decisions are not made until after the termination and are separate proceedings in Probate Court." *See, In re Ryan V., 46 Conn. App. 69 (1997).*

"It bears emphasis that a judicial termination of parental rights may not be premised on a determination that it would be in the child's best interests to terminate the parent's rights in order to substitute another, more suitable set of adoptive parents." *See, In re Denzel A., 53 Conn. App. 827 (1999).*

In re Davonta V., 285 Conn. 483 (2008)
The trial court granted DCF's TPR petition finding that the mother failed to rehabilitate and that a termination of her rights was in the best interest of the 14 year old child even though he did not have an adoptive home. The Appellate Court affirmed and the Supreme Court affirmed. The mother claimed that there was not clear and convincing evidence that a TPR was in the child's best interest based on his strong ties to his biological family and that long term foster care rather than adoption was the likely outcome. The Supreme Court held that given the child's need for permanency, as opined by the expert psychologist, the evidence supported the judgment terminating the mother's parental rights even though an adoption was not imminent. **Note**: In re Davonta V., 98 Conn. App. 42 (2006), **Dissent,** Schaller, J.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR285/285CR35.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. In doing so, the Court reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Baby Z., 247 Conn. 474 (1999)
The Adoption Board of Review denied a same sex couple's application for waiver of the statutory parent requirement so that the partner of the biological mother of the child could adopt the child. The board then denied the application for adoption. In their probate appeal, the Superior Court dismissed the same sex couple's probate appeal because the board's decision to deny the couple's waiver application to permit the partner to adopt the child was not an order from probate, but rather an administrative decision. Secondly, in their administrative appeal, the Superior Court held that the board had jurisdiction to waive the statutory requirement that a "statutory parent" must bring an adoption petition and remanded the case to the board to reconsider the waiver application. Ultimately, the Supreme Court's decision resulted in the denial of the joint petition of a lesbian couple to adopt the biological child of one of the women. First, the Supreme Court affirmed the trial court's ruling that the board's denial of the waiver application was not an appealable probate court order. It was not a probate decree pursuant to Conn. Gen. Stat. §45a-186(a), but it was a final decision of a "contested case" by an "agency" under the UAPA. Secondly, deciding the merits from the couple's administrative appeal, the Supreme Court, reversing the trial court, held that the Superior Court erred in concluding that the board had jurisdiction to waive the requirement that a waiver adoption application be accompanied by an underlying statutory parent adoption agreement. Interpreting all relevant probate adoption statutes, the Court held that board could not waive the statutory criteria requiring that a waiver adoption application be accompanied by an underlying statutory parent agreement. The board lacked jurisdiction to consider an adoption petition by the non-biological parent, who was neither a blood relative nor a step-parent of the child, absent (1) the appointment of a statutory parent, which may be either

the Commissioner of the Department of Children and Families or a child-placing agency, and (2) the child's placement for adoption by the Commissioner of DCF or the child-placing agency. The Court held that adoption applications must be accompanied by written "statutory parent", "stepparent" or "blood relative" agreement and such requirement cannot be waived. If there was no proper agreement, then the board lacks authority to consider a waiver application. Under the statutes, the same sex partner did not meet the legal definition of either of the above named required agreements. The Court ruled because a legal adoption is statutorily created, an adoption fails if the statutory requirements are not met. Thus, the case was remanded and the effect of the Court's decision denied the same sex couple's adoption application. "Because of the statutory nature of our adoption system, however, policy determinations as to what jurisdictional limitations apply are for *the legislature, not the judiciary,* to make." **Dissent:** Berdon, J. **Note:** Public Act 00-228, effectively overruled In re Adoption of Baby Z. and permits second parent adoption.

Nancy G. v. Department of Children and Families, 248 Conn. 672 (1999)
Ten years after the mother adopted a child from India, the mother applied for a post adoption subsidy for "special needs" children from the Commissioner of Children and Families. The application was denied. The mother appealed to the Adoption Subsidy Review Board. The appeal was denied. The mother and child appealed to the Superior Court. The appeal was dismissed and the mother appealed to the Appellate Court. On transfer to the Supreme Court, the Supreme Court affirmed. The Court held that the mother was not entitled to a post adoption subsidy because the child had not been "placed" for adoption by a child-placing agency licensed in Connecticut as required by Connecticut statutes. "Placed" is defined as transferring physical custody. Here, the child-placing agency responsible for transferring physical custody of child to mother was not a licensed in state child placement agency. Here, the Connecticut based licensed child-placing agency was involved in the adoption, but did not "place" the child with the mother.

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that the evidence as a whole supported the trial court's finding that a termination was in the best interest of the children because the child had special needs, the mother was not able to meet those needs based on her long standing serious mental health issues, and the child was bonded to the foster parents even though the foster family was not committed to adopting the child. The foster parents did commit to providing her with a permanent foster home. Although there was no guarantee that an adoptive family would be found, an adoption, though preferred is not a prerequisite to terminating parental rights. **Dissent:** MacDonald, Berdon, Js. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

Michaud v. Wawruck, 209 Conn. 407 (1988), reversed
The biological parent sued the adoptive parents seeking specific performance of an Open Adoption and Visitation Agreement. The trial court granted judgment on behalf of the adoptive parents concluding that the agreement did not provide the biological parent with an enforceable right to visitation after the adoption process was finalized. The Supreme Court reversed. The Supreme Court held that the Open Adoption and Visitation Agreement between a biological mother and adoptive parent did not violate public policy so long as the visitation continued to be in the best interest of the child consistent with Conn. Gen. Stat. § 46b-59.

In re Theresa S., 196 Conn. 18 (1985)

The trial court terminated the mother's parental rights on the ground of acts of commission or omission and found a termination of her parental rights was in the best interest of the children. The Supreme Court affirmed. The mother claimed that the trial court erred in concluding that a TPR was in the best interests of the children because the court did not sever the father's parental rights. She further asserted that the judgment was not logically correct because the children could not be placed for adoption. The Court noted that parental rights can be terminated without a pending adoption. The trial court's decision not to terminate the father's parental rights, did not preclude the termination of the mother's parental rights.

In re Juvenile Appeal (83-BC), 189 Conn. 66 (1983), vacated
Although the trial court proved by was clear and convincing evidence the adjudicatory ground of mental deficiency for a termination of parental rights, the Supreme Court remanded the case to the trial court matter on the best interest ground to determine whether there existed a realistic prospect for finding an adoptive home for the child. The Court ruled that establishing an adjudicatory ground for a TPR does not automatically require terminating a parent's parental rights. **Dissent:** Parskey, J.

In re Juvenile Appeal, 181 Conn. 638 (1980)
The trial court terminated the mother's parental rights on the ground of no ongoing parent child relationship. The Supreme Court affirmed. The mother claimed that the trial court erred in considering evidence regarding the child's preadoptive parents' availability and suitability in the adjudicatory phase. The Supreme Court held that in termination of parental rights proceedings, courts must completely separate the issue of whether an adjudicatory ground is met from whether a proposed adoption is desirable. Nonetheless, the Court held that the trial court properly considered the child's relationship with his foster parents as relevant to the "no ongoing parent child relationship" ground and the finding that therein regarding whether allowing further time for the establishment of such parent-child relationship would be detrimental to the best interest of the child. Here, the mother almost never saw her child in a 3 year period.

In re Juvenile Appeal, 177 Conn. 648 (1979), reversed
The trial court terminated the mother's parental rights on the ground of no ongoing parent child relationship. The Supreme Court reversed in part. The Supreme Court held that the trial court erroneously granted the TPR finding that there was no "meaningful" relationship between the mother and child when the statute clearly required proof that there was "no relationship". The Court noted that only when an adjudicatory ground of a termination of parental rights petition has been proven, may the court assess the suitability and circumstances of adoptive parents. Here, the fact that the child was bonded to the foster parents was insufficient to show that there was no ongoing parent child relationship when the child knew and loved her mother and enjoyed visiting with her. At most, the evidence reveals a relationship in a state of some disrepair.

In re Rafael S., 125 Conn. App. 605 (2010)
The trial court terminated the mother's parental rights finding that it was in the children's best interest. The Supreme Court affirmed. The Supreme Court held even though the child and the mother shared a loving bond and there was no identified preadoptive family, based on the facts presented, a termination of the mother's parental rights was warranted. The trial court found that the mother failed to rehabilitate and the court ruled that even without an impending adoption, a termination of parental rights promotes stability and permanency for the child because it reduces litigation by the parent. Although adoption is the preferred outcome, the foster mother was highly committed to the child while in residential treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap118.pdf

In re Christopher G., 118 Conn. App. 569 (2009)
The trial court terminated the mother's parental rights on the basis of her consent and denied her Motion to Open or Set Aside the TPR judgment that was filed over a year after the consent. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion by denying the motion because the consent was not the result of mutual mistake. Although the parties may have anticipated an adoption by the mother's aunt and uncle, with an Open Adoption Agreement, the record reflects that the mother's consent was knowingly and voluntary, and that her consent was not dependent upon the aunt and uncle ultimately deciding to adopt the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP90.pdf

In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011)
The trial court denied the father's Motion to Open the judgment terminating his parental rights on the basis of his consent finding that there was no mutual mistake. The Appellate Court affirmed. At the hearing, the father claimed mutual mistake on the basis that his consent was made prior to his knowledge that DCF would consider his petition for a declaratory ruling regarding whether DCF has a statutory obligation to pursue open adoption agreements. On appeal, the father claimed that the consent was invalid because he was not aware that the child's preadoptive family would adopt her within a short period of time. The Appellate Court held that the father's new claim was a fraud claim resurrected as a mutual mistake claim and that the record was inadequate for review because the trial court did not address his latter claim.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR57.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP273.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. On appeal, the mother claimed that the TPR judgment should be set aside because the trial court improperly failed to suspend the TPR trial to explore the possibility of an Open Adoption Agreement after the foster mother's testimony that she was willing to adopt the child. The Appellate Court held that the mother knew of the possibility of the foster mother adopting before the trial began and further that the trial court has no statutory obligation, pursuant to Conn. Gen. Stat. § 17a-112(b), to sua sponte invoke the possibility of a consent and Open Adoption Agreement. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Tyqwane V., 85 Conn. App. 528 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that a termination was not in the children's best interest because they share a very strong bond, the psychological parent is unwilling to adopt the children, adoption is unlikely given their extreme emotional and behavioral problems and termination is contrary to their best interests insofar as they will permanently and irretrievably lose their only connection to a parent. The Appellate Court held that the trial court's judgment was not clearly erroneous as the testimony of the expert psychologist supported the trial court's judgment. The psychologist testified that the mother continued to demonstrate poor judgment and took no responsibility for the fact that the children had been in foster care. Despite the court's acknowledgement that the situation was "heartbreaking", the court properly found adoption to be in the children's best interest based on the children's need for permanency even though the children shared a loving bond with their mother and they lacked an adoptive family.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap511.pdf

In re Dorrell R., 64 Conn. App. 455 (2001)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify her with her child because DCF failed to provide reasonable efforts after the mother agreed to consent and that reunification was no longer appropriate. The mother agreed to consent based on her belief that the maternal uncle would adopt the child, but the maternal uncle abandoned the child. The Appellate Court held that the trial court's judgment was correct because DCF provided the mother with reasonable efforts to reunify for 3 years before her agreement and then following the unsuccessful adoption attempt, the mother failed to comply with an additional substance abuse service. http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap500.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. Holding that the trial court improperly denied, in violation of due process, the mother's request for a mistrial or continuance after her children's attorney died midtrial, the Court applied the *Mathews v. Eldrige* balancing test and ruled that the state's primary interest in terminating parental rights is to free the child for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests." http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Denzel A., 53 Conn. App. 827 (1999)
The trial court allowed the grandmother to intervene and terminated the parents' parental rights. The Appellate Court affirmed. The grandmother claimed that a termination of parental rights was not in the child's best interest because the child should be placed with family. She argued that the child should remain committed so that she could establish a relationship with him and then assume guardianship rather than allowing him to be freed for adoption by strangers. Addressing the role of intervenors in TPR cases, the Appellate Court held that the purpose of the grandmother's intervention does not include the right to effect an adoption or custody, but "is solely for the purpose of affecting the termination itself." While the grandmother, at the time, was the only prospective adoptive parent, where and with whom the child should live "are not questions that relate to whether it is in his best interests to terminate his relationship with his parents." The Court further held that the trial court acted properly in terminating the parental rights based on the evidence regarding the statutory best interest factors.

In re Ryan V., 46 Conn. App. 69 (1997)
The trial court denied the grandmother's motion to intervene which was filed after the TPR trial, but before the decision was rendered. The Appellate Court affirmed the judgment. The grandmother claimed that she participated in the underlying neglect proceedings and did not get notice of the TPR proceedings. The Appellate Court held that the grandmother did not have standing to intervene because her purpose in intervening was to ensure adoption or custody to herself, not to affect the result of the termination itself. The Court noted that after the termination, the Probate Court decides the suitability of the prospective adoptive parents together with the best interest of the child and that when deciding whether to terminate a parent's rights, the court must "sever completely the issues of whether termination is statutorily warranted and whether a proposed adoption is desirable."

In re Wayne A. II, 25 Conn. App. 536 (1991)

The father consented to the TPR on the basis of a signed stipulation that DCF would provide him with post TPR contact with his son and that DCF would endeavor to find an adoptive home that would allow post-adoption contact. After finding an adoptive home, DCF moved to have the permanency plan approved. After the contested hearing, the trial court approved the permanency plan of adoption and denied the father's motion to enforce the stipulation and instructed the father to deal with DCF extra judicially. The Appellate Court held that the trial court (1) did not violate the father's due process right to participate in the hearing, (2) did not deny the father his right to confrontation by not allowing him to call cumulative witnesses, and (3) did not err in approving the permanency plan by finding that DCF made reasonable efforts to find an adoptive home that would agree to post-adoption contact with the incarcerated father.

In re Teshea D., 9 Conn. App. 490 (1987)
The trial court terminated the mother's parental rights finding that she abandoned the child and that termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court failed to bifurcate the findings regarding the basis for the termination and the suitability of prospective adoptive parents. The Appellate Court held that the trial court properly terminated the mother's rights even though an adoption of the child was not imminent. Termination of parental rights is not contingent upon an ensuing adoption.

In re Rebecca W., 8 Conn. App. 92 (1986)
The trial court granted the mother's petition to terminate the father's parental rights. The Appellate Court affirmed. Rejecting the father's claim that the trial court lacks jurisdiction to grant a termination petition if a subsequent adoption is not alleged, the Appellate Court held that a parent's rights can be terminated without an ensuing adoption.

ADOPTION AND SAFE FAMILIES ACT

In re Emerald C., 108 Conn. App 839 (2008)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly found that DCF made reasonable efforts to reunify and that he failed to rehabilitate. The Appellate Court held that DCF made reasonable efforts based on DCF's extensive services offered to the father and its actual attempt to reunify by placing the child with the father until her subsequent removal following a domestic violence episode in her presence. The child's attorney's assertion that the "[t]he department worked with [the respondent] for nineteen months, well beyond the suggested time frame spelled out in the Adoption and Safe Families Act" underscored the Court's holding.
Dissent: McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Charles A., 55 Conn. App. 293 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify based on the trial court's numerous findings regarding DCF's failure to recognize the mother as victim of domestic violence and that DCF failed to protect her as the children's mother. The Appellate Court held that the trial court's findings regarding DCF's shortcomings pertaining to the mother as a battered woman did not undermine its findings that DCF provided reasonable efforts in compliance with the Adoption and Safe Families Act. The court's conclusion was amply supported by its findings that the mother was unable to protect her children, that she refused offered counseling and in home services.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights. The Supreme Court ruled the Adoption Assistance and Child Welfare Act of 1980 had no bearing on the Court's holding because it is an appropriations act that establishes guidelines for states to receive federal funding for foster care and it does not apply to individual actions or judicial findings. **Dissent:** MacDonald, Berdon. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Daniel C., 63 Conn. App. 339 (2001)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The Court rejected the parent's claim that DCF failed to provide reasonable efforts to reunify and violated the Adoption Assistance and Child Welfare Act of 1980 because it is an appropriations act that establishes guidelines for states to receive federal funding for foster care and it does not apply to individual actions or judicial findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court erred by denying her motion to enforce her rights to reasonable efforts under the Adoption Assistance and Child Welfare Act. The Appellate Court held that the Act was inapplicable because it was an appropriations act and further that the mother's claim was moot because she asserted that her alleged rights under the Act were violated during the order of temporary custody proceeding. The claim was rendered moot by the uncared for adjudication and commitment that occurred over a year after the order of temporary custody decision.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed, claiming, in part, that DCF failed to make reasonable efforts to reunify the family. The Appellate Court affirmed. The mother based her claim on the Adoption Assistance and Child Welfare Act of 1980 and the Court rejected the mother's claim because it held that the Act is an appropriations act that establishes guidelines for states to receive federal funding for foster care and it does not apply to individual actions or judicial findings.

ADVERSE INFERENCE

"After a prima facie case is established, an adverse inference may be drawn against a party for his or her failure to testify, unless the party was entitled to rely upon one of the few exceptional privileges that carry with it a protection from adverse inferences". (Internal citations and quotation marks omitted). *See, In re Samantha C., 268 Conn. 614 (2004).*

"The failure of a party to produce a witness who is within his power to produce and who would naturally have been produced by him, permits the inference that the evidence of the witness would be unfavorable to the party's cause. To take advantage of this rule permitting an adverse inference, the party claiming the benefit must show that he is entitled to it. That is, the party claiming the benefit of the ruling must show that the witness is available and that the witness is one whom the party would naturally produce. The failure of a party to call as a witness a person who is available to both parties and who does not stand in such a relationship to the party in question or to the issues that party would naturally be expected to produce him if his testimony was favorable affords no basis for an unfavorable inference." (Internal citations and quotation marks omitted). *See, In re Lauren R., 49 Conn. App. 763 (1998).*

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and denied the intervening grandmother's motion to transfer guardianship. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly found that DCF made reasonable efforts because DCF filed a termination too soon and given the mother's significant cognitive and psychological deficits, DCF was required to provide her actual assistance to obtain housing and employment, not merely provide her with access to services. The Appellate Court held that given the plethora of services offered to the mother both in New York and in Connecticut, the evidence supported the trial court's finding that DCF made reasonable efforts. The Appellate Court further concluded that DCF was not obligated to act as a conservator and that the trial court was permitted to draw an adverse inference from the mother's failure to comply with the specific step that she comply with mental health treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence that the mother's boyfriend physically

and sexually abused the child. The Court held that the evidence demonstrated that the mother both allowed and denied the child's injuries that occurred in her care. The Court rejected the mother's claim that the trial court failed to draw an inference against DCF for failing to call certain witnesses finding that the claim to be abandoned. The mother only offered one sentence and no analysis regarding this claim.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred by failing to draw an adverse inference against DCF for not calling a psychologist as a witness. The Appellate Court held that the trial court acted within its discretion in refusing to draw the adverse inference because: (1) either party could have called the court-ordered psychologist to testify, (2) the mother failed to prove that the witness was available to testify and that the testimony was not cumulative, and (3) DCF was not obligated to call the witness if it felt it proved its case in chief.

In re Thomas L., 11 Conn. App. 573 (1987)
The trial court terminated the parents' parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The Court held that the trial court did not draw an adverse inference from the court order that the parents could not visit the child because the trial court properly considered the parents' conduct that caused the visitation to cease and the parents' lack of effort to change the conduct so visitation could resume.

AMERICANS WITH DISABILITIES ACT

"Connecticut does not recognize the ADA as providing a defense or creating special obligations in a termination proceeding." *See, In re Antony B., 54 Conn. App. 463 (1999).*

In re Joseph W., 305 Conn. 633 (2012)
The trial court adjudicated the children neglected under the doctrine of predictive neglect and committed them to DCF. The Supreme Court, on transfer, reversed. The father claimed that the trial court applied an improper standard of proof and it was inconsistent with the standard of proof for neglect as set forth in Conn. Gen. Stat. § 46b-120(8). The parents also claimed that the trial court improperly denied their request for relief under the ADA. The Supreme Court held that the trial court erred by applying an incorrect standard of proof. Regarding the ADA claim, however, the Supreme Court addressed it because it was likely to arise on remand, but held that the ADA was inapplicable to neglect proceedings. Following the holding of *In re Antony B.*, the Court held that the ADA neither provides a defense to nor creates special obligations in neglect proceedings because neglect proceedings are not services, programs or activities under the ADA. This is not an affirmative claim, and the mother cited no authority supporting the claim that an alleged violation under the ADA can be the basis for an appeal from a neglect adjudication. The father's due process claim was also without merit because there is no legal authority supporting his claim that the judicial department must provide them with an ADA coordinator, no proof that they are "disabled" under the ADA, and no finding of incompetency necessitating a GAL for either parent.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR305/305CR76.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the trial court committed plain error by failing make a reasonable accommodation for him pursuant to the ADA while providing reasonable efforts to reunify. The Court held that there was no evidence on the record that the father suffered from a qualifying "disability" under the ADA and further held that the ADA does not provide a defense or create special obligations in a TPR action. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Antony B., 54 Conn. App. 463 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that because she suffered from a schizo-affective disorder that ADA provided a defense to the termination of parental rights action. The Appellate Court held, as a matter of first impression, that the ADA does not provide a defense to a TPR, nor does it create special obligations because a TPR proceeding is not a "service,, program or activity" as defined under the ADA. Here, the mother failed to take her prescribed medication and as a result she was incapable of caring for her children. The Court reiterated that a parent's rights can be terminated because of her mental condition, even if the parent is not at fault. Notwithstanding the Court's holding, the Court noted that it is not ruling that the ADA is inapplicable to DCF reunification services and programs. Moreover, the statutory requirement to make reasonable efforts to reunify requires that DCF

must consider the parent's mental condition. The Court stated, "[a]failure to provide adequate services because of the parent's mental condition would violate not only § 17a-112, but the ADA, 42 U.S.C. § 12132. Such a violation would give rise to a separate cause of action under the ADA. We emphasize, however, that the ADA does not give rise to an affirmative defense to the adjudicatory and dispositional phases of termination of parental rights proceedings."

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court failed to make findings regarding whether DCF's offered services complied with the ADA. The Appellate Court refused to address her claim because the mother did preserve this issue at the trial by asking the trial court to consider the ADA. On appeal, the mother did not claim a constitutional violation or plain error. Thus, the unpreserved claim was unreviewable.

In re Karrlo K., 44 Conn. Supp. 101 (1994), aff'd, 40 Conn. App. 73 (1996)
The trial court terminated the mother's parental rights on the ground of failure to rehabilitate. The Appellate Court affirmed in a per curiam decision. The mother claimed that "terminating the mother's rights as a parent due to her mental disability would violate the [ADA]." The trial court did not address the question of whether the ADA specifically applied to termination of parental rights proceedings. Instead, it stated that it was applying strict scrutiny to the mother's case and found that the mother made no effort to attend psychiatric treatment. The Appellate Court affirmed the trial court's decision without further analysis because the well-reasoned memorandum addressed the arguments raised on appeal.

APPELLATE PRACTICE

Conn. Gen. Stat. § 52- 263 explicitly sets out three criteria that must be met in order to establish subject matter jurisdiction for appellate review: (1) the appellant *must be a party;* (2) the appellant must be aggrieved by the trial court's decision; and (3) the appeal must be taken from a final judgment. *See, In re Joshua S., 127 Conn. App. 723 (2011)*

A. GENERALLY

In re Shanaira C., 297 Conn. 737 (2010)
The Supreme Court reversed the trial court's judgment transferring custody of the child to the mother without allowing the intervening girlfriend to participate fully in the revocation hearing. The Court declined to address the intervening girlfriend's due process claim because it found error in the trial court's judgment and held that the intervenor had a statutory right to an evidentiary hearing and that she was deprived of that right. Accordingly, the Court need not address the intervenor's constitutional claim. "We must be mindful that [t]his court has a basic judicial duty to avoid deciding a constitutional issue if a nonconstitutional ground exists that will dispose of the case."
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Haley B., 262 Conn. 406 (2003), reversed
Applying plenary review, the Supreme Court held the Appellate Court erred in dismissing the grandmother's appeal as untimely because the trial court's alteration of the visitation order gave rise to a new appeal and thus the grandmother's appeal was timely filed according to Practice Book § 63-1(a). The Supreme Court ruled that although DCF's motion was entitled a "motion for clarification," the effect of the motion was to alter or modify the original judgment, not merely clarifying it.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr29.pdf

In re Barbara J., 215 Conn. 31 (1990)
Because the Supreme Court upheld the trial court's termination of parental rights judgment on the failure to rehabilitate ground, it declined to assess the other adjudicatory grounds of the court's decision.

In re Luis C., 210 Conn. 157 (1989)
The Supreme Court declined to review the mother's claim that the "no ongoing parent child relationship" ground of termination statute violated her due process right to family integrity because the Court affirmed the trial court's judgment on a different ground.

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In an appeal from a coterminous action, the mother claimed that the social study was untimely filed. Though her claim was not properly preserved, the Supreme Court reviewed the claim anyway to examine whether no substantial injustice had been done.

State v. Anonymous, 179 Conn. 155 (1979)
In an appeal from a coterminous action, the mother claimed that she was denied effective assistance of counsel. Though her claim was not properly preserved, the Supreme Court reviewed the claim anyway to examine whether no substantial injustice had been done and because both parties briefed the issue.

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that pursuant to Conn. Gen. Stat. § 52- 263, it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court refused to review the mother's claim that DCF failed to present expert testimony in support of the TPR petition because she first raised it in her reply brief. The claim is not reviewable because DCF, the appellee, is not afforded an opportunity to respond to such claims.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Brittany J., 100 Conn. App. 329 (2007)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interest. The Appellate Court affirmed. The Appellate Court decided to give leeway to the pro se parent regarding the rules of Appellate procedure and decided to address the merits of the pro se mother's claims, despite the failure to cite any caselaw or any portions of the record to support the contention that the trial court improperly terminated her parental rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP100/100AP219.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The father claimed that the due process clause of the Connecticut constitution requires that his claims on appeal be reviewed by the "de novo" standard rather than the "clearly erroneous" standard. The Appellate Court held his claim lacked merit because it was untimely in that he improperly raised the claim for the first time in the reply brief and he failed to adequately brief the issue. A reply brief is not the proper vehicle for raising a new argument.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Ashley S., 61 Conn. App. 658, cert. denied, 255 Conn. 950-951 (2001)
The trial court terminated the pro se mother's parental rights finding that the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother listed thirty six issues on appeal. The Appellate Court noted that it gives great latitude to pro se litigants in order that justice may be done, but the Court will not entirely disregard the appellate rules of practice.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap194.pdf

In re Jonathon G., 63 Conn. App. 516 (2001)
The Appellate Court declined to review the father's claim that the trial court improperly found he abandoned his child because the Appellate Court affirmed the trial court's finding that the father had no ongoing parent child relationship. The Court need only affirm one adjudicatory ground found by the trial court to uphold the TPR judgment. "To prevail on claim that the trial court improperly terminated his parental rights, father was required to successfully challenge all of bases of judgment terminating parental rights, and, if any of grounds on which trial court relied were upheld on appeal, termination of parental rights was required to stand." http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap401.pdf

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
Granting the mother's motion for review and reversing the trial court's denial of the mother's motion for application for fees and costs, the Appellate Court, as a matter of first impression, held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. Trial courts are not permitted to consider the merits of an indigent person's appeal and the only factors to be considered are whether the person has a right to appeal and whether the person is indigent. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors that occurred at the time the order of temporary custody (OTC) was granted three years earlier. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. A collateral attack on a judgment is a procedurally impermissible substitute for an appeal. http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

In re Shaun B., 97 Conn. App. 203 (2006)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. Affirming the judgment holding the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous, the Appellate Court declined to review the mother's alternate claim that the trial court erred in finding that there a no ongoing parent child relationship. The Appellate Court may affirm the trial court's decision if Appellate Court finds the trial court properly concluded any one of the statutory circumstances existed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP425.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
Although the parents made numerous claims on appeal that there was insufficient evidence to terminate their parental rights, the Appellate Court declined to review all their claims because it affirmed the judgment on one ground. The Appellate Court may affirm a TPR judgment if its finds that the trial court properly concluded that any one of the statutory grounds was proven. In this case, the Appellate Court affirmed the trial court's judgment terminating the mother's parental rights because she failed to rehabilitate and terminating the father's parental rights because he abandoned the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Destiny D., 86 Conn. App. 77, cert. denied, 272 Conn. 911 (2004)

The Appellate Court declined to address the mother's claim that the trial court improperly found no ongoing parent child relationship because the trial court also found the mother failed to rehabilitate. The Appellate Court may affirm the termination decision as long as any one of the statutory grounds properly existed. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap28.pdf

In re Vanna A., 83 Conn. App. 17 (2004)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. Affirming the judgment holding the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous, the Appellate Court declined to review the mother's alternate claim that the trial court erred in finding that there a no ongoing parent child relationship. The Appellate Court may affirm the trial court's decision if Appellate Court finds the trial court properly concluded any one of the statutory circumstances existed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap290.pdf

In re Brea B., 75 Conn. App. 466 (2003)
Having affirmed the trial court's judgment terminating the mother's parental rights finding that there no ongoing parent child relationship, the Appellate Court declined to address the mother's alternate appellate claim. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap210.pdf

In re Alexander C., 67 Conn. App. 417 (2001) aff'd, 262 Conn. 308 (2003), per curiam
The Appellate Court held that the trial court did not err in finding that there was no ongoing parent child relationship and affirmed the judgment without reviewing the father's other claim. "[I]f any of the grounds on which the trial court relied are upheld on appeal, the termination of parental rights must stand." Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr19.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap105.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The Appellate Court declined to review the mother's claim that the trial court improperly found that there was no ongoing parent child relationship because it upheld the statutory ground, failure to rehabilitate. To succeed on appeal, the mother must be able to successfully challenge all the bases for the termination of parental rights judgment. http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Sheena I., 63 Conn. App. 713 (2001)
The Appellate Court did not address the mother's claim that the trial court, in finding that the mother failed to rehabilitate, improperly considered her conduct after the adjudicatory date because the mother did not also appeal the trial court's finding that she committed an act of commission or omission. "We need uphold only one statutory ground found by the court to affirm its decision to terminate parental rights."
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap441.pdf

In re Shane P., 58 Conn. App. 234 (2000)
Affirming the trial court's finding that there was no ongoing parent child relationship, the Appellate Court did not need to address the mother's additional claim that the trial court's finding that she failed to rehabilitate was clearly erroneous.

In re Shane P., 58 Conn. App. 244 (2000)
The Appellate Court declined to review the father' claim that the failure to rehabilitate finding was clearly

erroneous because the Court affirmed the finding of abandonment. The Appellate Court need only to affirm one ground on appeal to uphold the termination judgment.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights by finding that the father abandoned the child, committed acts of commission or omission, there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that there was no clear and convincing evidence of acts of commission or omission and the Appellate Court agreed. The Appellate Court held that the child could not have been "denied the care, guidance, or control necessary for physical, educational, moral or emotional well-being" by the father if the child was in foster care most of her life. Thus, the Appellate Court did not sustain this ground, but affirmed the termination nonetheless because to prevail on appeal of trial court's decision terminating his parental rights, the father had to successfully challenge all three of the bases of the judgment terminating his parental rights. The termination judgment would be upheld if any of the grounds found by the trial court were sustained on appeal.

In re Kelly S., 29 Conn. App. 600 (1992), reversed
The Appellate Court reversed the trial court's termination of parental rights judgment by finding error in both the "acts of commission or omission" and "no ongoing parent child relationship" grounds.

B. IN/ADEQUATELY BRIEFED CLAIMS—ABANDONED CLAIM

> "We are not required to review issues that have been improperly presented to this court through an inadequate brief.... Analysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly. . . .We will not review claims absent law and analysis." *See, In re Dorrell R., 64 Conn. App. 455 (2001).*

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The Supreme Court declined to review the former DCF employee's constitutional claim that the child abuse statute was overbroad because he provided no independent analysis in support of this claim.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

In re Jeffrey C., 261 Conn. 189 (2002), reversed
The Supreme Court declined to review the father's constitutional claim regarding his contempt finding because "[w]here issue is merely mentioned, but not briefed beyond bare assertion of claim, it is deemed to have been waived on appeal."
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

In re Emile L., 126 Conn. App. 283 (2011)
The trial court terminated the pro se parent's parental rights finding that they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The parents claimed that the trial court should have transferred guardianship to the grandmother. The Appellate Court declined to

review this claim because they did not file a motion to transfer guardianship until after the close of evidence and did not raise this at any time before the trial court. Thus, the record was inadequate for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP199.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court failed to review two of the father's claims because the claims were inadequately briefed. The unreviewable claims were (1) that the trial court improperly found the termination of parental rights was in the best interest of the child and (2) that failing to receive the DCF report prior to the TPR trial violated his 6th Amendment right to due process.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Kaitlyn A., 118 Conn. App. 14 (2009)
The Appellate Court declined to review the mother's claim of ineffective assistance of counsel because she failed to cite any legal authority or provided any legal analysis in support of her claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP31.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The Appellate Court declined to review the mother's hearsay claim that the trial court improperly admitted the DCF social study containing the father's hearsay statements because the claim was not adequately briefed. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The Appellate Court declined to review the parents' claim that due process entitled them to a jury trial when the court terminated their parental rights because their claim was not preserved at trial and was inadequately briefed. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
The Appellate Court declined to review the father's argument that he raised for the first time at oral argument that the trial court committed plain error when it adjudicated his child neglected.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
The Appellate Court declined to review the mother's claim that the trial court violated her due process right to family integrity and equal protection by adjudicating her child neglected because these claims were not raised at trial or adequately briefed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The Appellate Court declined to review the mother's general claim that the trial court failed to consider the mother's right to family integrity when it committed the child to DCF because it was not preserved at the

trial court or adequately briefed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006)
The Appellate Court declined to review the mother's constitutional claim that she was denied substantive due process because she failed to address the prongs of *Golding*. "The mere invocation of the word "Golding" is insufficient to trigger such review of an unpreserved claim."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP474.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The Appellate Court declined to review the claim that the trial court failed to appoint a guardian ad litem for the child pursuant to *Golding* or plenary review because the father failed to provide an adequate record for review and failed to provide any analysis of this claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
The Appellate Court declined to review the mother's claims that the trial court violated the due process clauses of the state and federal constitutions by finding that: 1) she had complied with the court-ordered steps, but failed to achieve sufficient rehabilitation, and 2) the statute is void for vagueness as applied to her. The mother's brief lacked analysis and application of the particular facts of the case to the law.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Haley B., 81 Conn. App. 62 (2004), on remand
The Appellate Court declined to address the grandmother's claim that the trial court improperly relied on hearsay evidence in denying her motion to transfer guardianship because the claim was abandoned as it was improperly briefed. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap125.pdf

In re Dorrell R., 64 Conn. App. 455 (2001)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. On appeal, the mother claimed that the trial court applied an incorrect legal standard, a "sympathy standard" in determining that terminating her parental rights was in the child's best interest. The Appellate Court declined to addressed this claim because it was inadequately briefed because she failed to provide any legal authority or analysis to support her claim. http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap500.pdf

In re Kachainy C., 67 Conn App. 401 (2001)
The Appellate Court declined to review the mother's claim that the trial court improperly found she failed to rehabilitate when the claim was inadequately briefed as it consisted of a one paragraph factual argument devoid of legal analysis. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Michael L., 56 Conn. App. 688 (2000)
The Appellate Court declined to review the mother's claim of ineffective assistance of counsel where the claim was inadequately briefed because she cited no legal authority in support of her claim and she failed to demonstrate how the alleged incompetency contributed to the termination of her parental rights.

In re Shane P., 58 Conn. App. 244 (2000)

The Appellate Court declined to review the father's claim that the trial court's finding of abandonment was an unconstitutional deprivation of due process because it was inadequately briefed since father provided no analysis in support of his allegation of due process violation.

In re Amanda A., 58 Conn. App. 451 (2000)
The Appellate Court declined to review the mother's claim that the trial court violated her due process rights by not sua sponte ordering a competency evaluation and appointing a guardian ad litem because it was considered abandoned due to the mother's lack of legal authority and legal analysis and argument.

In re Matthew S., 60 Conn. App. 127 (2000)
The Appellate Court declined to review the father's equal protection claim that DCF offered the mother more intensive residential treatment programs than it did the father because the claim was inadequately briefed. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap526.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The Appellate Court declined to review the mother's claim that the trial court's decision to preclude her from calling her child as a witness violated her constitutional right to confrontation and due process because it was inadequately briefed. The mother provided no analysis of her constitutional claim.

In re Antonio M., 56 Conn. App. 534 (2000)
The Appellate Court held that the trial court did not abuse its discretion in waiving the one year requirement in a TPR case alleging acts of commission or omission. The Court rejected the mother's claim that the trial court failed to draw an inference against DCF for failing to call certain witnesses because she abandoned her claim. The mother only offered one sentence and no analysis regarding this claim.

In re Shane P., 58 Conn. App. 234 (2000)
The Appellate Court declined to address the mother's Eighth Amendment claim regarding the termination of parental rights because it was inadequately briefed.

In re Hector L., 53 Conn. App. 359 (1999)
The Appellate Court declined to review claim that the trial court terminated his parental rights solely based on his incarceration and therefore was punished twice for the same offense under the Eighth Amendment.

In re Cheyenne A., 59 Conn. App. 151, cert. denied, 254 Conn. 940 (2000)
The Appellate Court declined to review the parents' claim that the termination of parental rights statute violated their due process rights because their claim was not preserved, the parties failed to seek review under *Golding* and their claim lacked constitutional analysis.

In re Adelina G., 56 Conn. App. 40 (1999)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional right to confrontation and due process by not allowing the child to testify in camera. The Appellate Court declined to review this claim because the mother failed to provide a constitutional analysis, failed to provide a standard of review in her brief, and the only cases she did cite undermined her argument. The Court further refused to review the mother's argument that her constitutional right to due process and equal protection were violated by DCF's refusal and rescission of its plan for long term foster care.

In re Tabitha T., 51 Conn. App. 595 (1999)
The Appellate Court declined to review the mother's claim that the trial court improperly denied her motion to stay the visitation pending appeal because the mother offered no authority or analysis for her claim.

In re Shyliesh H., 56 Conn. App. 167 (1999)
The Appellate Court declined to review the father's claim that the termination of his parental rights decision violated his right to substantive due process because it was inadequately briefed in that he only devoted two and one half pages to the constitutional arguments.

In re Bruce R., 234 Conn. 194 (1995), aff'ing, 34 Conn. App. 176 (1994), reversed trial court
The Supreme Court declined to review the father's claim that the trial court denied him due process by requiring the consideration of the parents' financial condition in a consensual termination of parental rights petition because the constitutional claim was inadequately briefed.

In re Nicolina T., 9 Conn. App. 598 (1986), cert. denied, 203 Conn. 804 (1987)
The Appellate Court declined to review four non-specified claims the mother raised in her appeal contesting the termination of her parental rights because they were either inadequately briefed or not preserved at trial.

In re Brianna L., 139 Conn. App. 239 (2012)
Mother, proceeding pro se, appealed termination of her parental rights on many grounds. Her argument that DCF prematurely initiated termination proceedings and was barred from so doing by her child's age was inapposite, because it sounded in a DCF policy that applied only to coterminous petitions, and her case did not involve such a petition. Her additional claims, that the trial court was biased against her, that mother's misdemeanor arrest was improperly admitted in evidence, that the trial court refused to allow her to call certain witnesses, that the trial court had a conflict of interest, and that the termination was not in the child's best interest, were not considered by the Appellate Court because the objections were not preserved or because mother failed to offer any legal analysis to support them.

C. IN/ADEQUATE RECORD FOR REVIEW

"When a trial court has not ruled on an issue before it, the appellant must file a motion for an articulation or rectification asking the court to rule on that matter…. Speculation and conjecture have no place in appellate review. As we have often observed: Our role is not to guess at possibilities, but to review claims based on a complete factual record developed by a trial court…. Without the necessary factual and legal conclusions furnished by the trial court ... any decision made by us respecting [the respondent's claim] would be entirely speculative." (Internal citations and quotation marks omitted). *See, In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011).*

In re Johnson R., 121 Conn. App. 464 (2010), aff'd, 300 Conn 486 (2011)

The trial court terminated the father's parental rights finding a termination was in the best interest of the children. After being found incompetent, the trial court appointed the father a guardian ad litem. The Appellate Court affirmed. The father claimed that the court violated his due process rights by not requiring DCF to collaborate with the father's guardian ad litem regarding reunification efforts. The Appellate Court declined to address the father's claim because it was not preserved at trial. While the father sought *Golding* review, the Appellate Court held that the record was inadequate because the father failed to provide the reviewing court with any transcripts, exhibits, memorandum of decision or motion for articulation from the competency hearing. The father bears the responsibility for providing an adequate record for review and "if the facts revealed by the record are insufficient, unclear or ambiguous as to whether a constitutional violation has occurred, the appellate court will not attempt to supplement or reconstruct the record, or to make factual determinations, in order to decide the appellant's claim."
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP349.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR48.pdf

In re Diamond J., 121 Conn. App. 392, cert. denied, 297 Conn. 927 (2010)
The trial court granted DCF's motion to modify the child's disposition from protective supervision to commitment. The Appellate Court affirmed. The Appellate declined to review the mother's appellate claims because she failed to provide the Appellate Court with a signed transcript of the trial court's oral decision and also failed to file a motion for articulation. The Appellate Court concluded that the hearing transcript, without a motion for articulation, did not clearly identify the basis for the trial court's decision to modify the disposition and it was incumbent upon the mother as the appellant to provide the court with an adequate record for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP341.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in precluding the mother's therapist from testifying as an expert. At trial, the mother failed to disclose the therapist in a timely manner. The grandmother filed a motion in limine seeking to preclude the therapist from testifying as an expert based on the lack of required notice. The Appellate Court held that the claim was inadequate for review either under *Golding* review or an abuse of discretion standard because the mother never provided an offer of proof regarding the testimony the therapist would have given had she been permitted to testify. The Appellate Court concluded that it could only speculate as to what additional testimony the therapist would have provided if permitted to offer opinion testimony as an expert.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Elysa D., 116 Conn. App. 254, cert. denied, 293 Conn. 936 (2009)
The trial court granted the mother's motion to transfer guardianship to the out-of-state grandmother. The father appealed. The father claimed that the trial court improperly granted the motion and that he was denied his due process right to effective assistance of counsel. The Appellate Court declined to review his claims because the record was inadequate for review in that the father never filed a motion for articulation or rectification. Furthermore, the father never raised the due process claim before the trial court and as such the trial court was not able to weigh the *Mathews* factors.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP400.pdf

In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011)
The Appellate Court affirmed the trial court's denial of the father's Motion to Open the judgment terminating his parental rights on the basis of his consent finding that there was no mutual mistake. The Appellate Court held that the father's new claim was a fraud claim resurrected as a mutual mistake claim and that the record was inadequate for review because the father did not raise this latter claim with the trial court and trial court did not address it.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR57.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP273.pdf

In re Emerld C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the court's finding that he failed to rehabilitate violated his due process rights. The Appellate Court declined to review the father's due process claim because the father did not raise the claim at trial, nor did he file a motion for articulation or request review pursuant to *State v. Golding* or the plain error doctrine. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
Affirming the trial court's adjudication of neglect, the Appellate Court concluded that the record was adequate for review even though the appellant father never filed a memorandum of the decision or signed transcript of the trial court's oral decision, but only submitted an unsigned transcript. The transcript sufficiently set forth the trial court's findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re Coby C., 107 Conn. App. 395 (2008)
The Appellate Court held that it could not review the mother's claim that the trial court erred in terminating her parental rights by failing to consider a best interest dispositional factor, namely whether the child had emotional ties to his foster parent. The Appellate Court concluded that the claim was unreviewable because the record did not reveal the trial court's basis for the omission and the mother never filed a motion for articulation to rectify the trial court's omission. There were not exceptional circumstances warranting appellate review of a claim that was not raised or decided at the trial court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP257.pdf

In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006), reversed
After the children had been adjudicated neglected and sole custody was transferred to the father, the trial court later granted the mother's motion to modify custody and granted the parents shared custody. The father appealed. The Appellate Court reversed the trial court's judgment by holding that the trial court misapplied the law and abused its discretion by modifying the custody order without making a finding that the modification was in the children's best interests. Before reversing the judgment, the Appellate Court concluded that the record was adequate for review even though the father failed to provide the Appellate Court with either a written memorandum of decision or a signed transcript. The father did provide, however, an unsigned transcript of the proceedings and the Court found the record was adequate for review. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96AP351.pdf

In re Jessica M., 71 Conn. App. 417 (2002)
The Appellate Court declined to review the mother's claim that the prior pending action doctrine applied to dismiss the appeal of her termination of parental rights case because the mother failed to submit the pleadings from the allegedly ancillary proceedings to compare with the mother's case. Thus, the record was inadequate to review. http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

In re Amanda A., 58 Conn. App. 451 (2000)
The Appellate Court declined to review the mother's claim that the trial court violated her right to equal protection by failing to order sua sponte order a competency evaluation and to appoint a guardian ad litem because the record presented was inadequate for review. Although the record contained claims and disputes about the mother's mental illness, the record contained no findings of fact regarding the mother's mental condition and no evidence that the mother's condition was a "mental disability" protected under the Connecticut Constitution.

In re David L., 54 Conn. App. 185 (1999)
Despite DCF's assertion that the record was inadequate for review because the father neither provided the Appellate Court with a copy of a written memorandum of decision or a signed transcript of the oral decision, the Appellate Court reviewed the father's claim finding that it could determine the trial court's reasoning from the hearing transcript alone. P.B. 64-1.

In re Thomas L., 11 Conn. App. 573 (1987)
The Appellate Court declined to review the parents' insufficiency claim regarding the judgment terminating their parental rights on the ground of no ongoing parent child relationship because the parents failed to provide a transcript of the proceedings. The Court does not decide issues in a vacuum.

In re Azareon Y. et al., 139 Conn. App. 457 (2012)
Mother appealed termination of parental rights, arguing that the court failed to find by clear and convincing evidence that there was a permanency plan less restrictive than termination, and that the court should have conducted a hearing to determine her competence, sua sponte, on the basis of evidence adduced by DCF that she suffered from significant ongoing mental health problems. Neither claim was raised at trial, so both were evaluated - and rejected - under the State v. Golding standard. Mother's first claim failed because the record was insufficient to indicate whether mother proposed an alternative permanency plan or whether any other plan was considered, and under Golding, the court declined to speculate whether the trial court had considered other options or not. Mother's second claim was rejected because the record contained no indication or assertion that she could not understand the proceedings.

In re Kaleb H., 306 Conn 22 (2012)
A mother appealed after her motion for a competency evaluation, made during a hearing on a motion to revoke commitment, was denied. During the revocation motion hearing, mother's trial counsel asked for a competency evaluation for three reasons: (1) mother stated that she did not understand what she was signing when she agreed to the neglect adjudication; (2) according to a court-ordered evaluation, mother's IQ classified her as borderline mentally retarded; and (3) a conservator had previously been appointed to handle mother's finances. The Appellate Court declined to reach the question of whether the right to a competency evaluation in a TPR proceeding (In re Alexander V., 223 Conn. 557 (1992)) should be extended

to pre-termination proceedings, reasoning that the trial record was insufficient to trigger any obligation to conduct such an evaluation. The Supreme Court affirmed the Appellate Court entirely, noting that trial counsel's reasons for requesting the evaluation, while not apparently specious, did not, without more, constitute "substantial evidence of mental impairment." The Supreme Court also noted that the trial judge had observed mother's conduct at multiple hearings, including instances when she appeared to be engaging actively with trial counsel, and was able to rely on his impressions of her competence and understanding. The record did not reflect the circumstances or details of the conservatorship in a way that would necessarily suggest mother's incompetence.

D. PRESERVATION OF ERROR

> "[I]t is well established that [w]e will not decide an appeal on an issue that was not raised before the trial court. . . . To review claims articulated for the first time on appeal and not raised before the trial court would be nothing more than a trial by ambuscade of the trial judge." *See, In re Christopher L., 135 Conn. App. 232 (2012).*

In re Christopher L., 135 Conn. App. 232 (2012)
The Appellate Court declined to review the mother's claim that she was denied notice of DCF's claim because DCF failed to check the box on the TPR petition alleging it made reasonable efforts to reunify. The mother's claim was not adequately preserved because the mother never filed an objection to DCF's motion for technical correction and the issue was not raised at trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP329.pdf

In re Ellis V., 120 Conn. App. 523 (2010)
The Appellate Court declined to address the parents' claim that the trial court improperly admitted hair toxicology results into evidence to substantiate DCF's claim of drug use by the parents without a foundation of expert testimony. The parents' claim was not preserved at trial because the hair toxicology results were admitted without objection, and the parents never requested a hearing.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court held that the father did not preserve his claim that the DCF report was allegedly based on hearsay should have been stricken. Thus, the Appellate Court declined to address this claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The Appellate Court declined to review the mother's numerous hearsay claims regarding improperly admitted exhibits because the mother failed to adequately preserve the record by failing to object with specificity which parts and statements in the proposed exhibits that she claimed were inadmissible hearsay. The Court discussed this issue at length. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;

Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The Appellate Court declined to review the mother's general claim that the trial court failed to consider the mother's right to family integrity when it committed the child to DCF because it was not raised at the trial court or adequately briefed. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Hector L., 53 Conn. App. 359 (1999)
The father claimed, in part, that the trial court violated his constitutional rights by improperly using a "clear and convincing" instead of a "beyond a reasonable doubt" standard of proof as well as using an improper legal standard to find there was "no ongoing parent child relationship." The Appellate Court declined to review this claim because the father neither raised the issue at trial nor raised it on appeal pursuant to the plain error doctrine.

In re James L., 55 Conn. App. 336 (1999)
The Appellate Court declined to review the parents' claim that the trial court improperly considered their choice to exercise their constitutional right to abort previous pregnancies as a collateral basis for terminating their parental rights by finding that they abandoned their child because this claim was proffered for the first time on appeal.

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The Appellate Court refused to address the mother's ADA claim in her appeal from the trial court's judgment terminating her parental rights because the mother did not preserve this issue at the trial. On appeal, the mother did not claim a constitutional violation or plain error. Thus, the unpreserved claim was unreviewable.

In re Jessica B., 50 Conn. App. 554 (1998)
The Appellate Court declined to review the mother's claim that DCF failed to provide reasonable efforts because the mental retarded mother was entitled to greater services. The mother did not raise her claim before the trial court, did not raise the plain error doctrine on appeal, nor did she adequately brief the issue.

In re Michael A., 47 Conn. App. 105 (1997)
In a transfer from probate court, the trial court first granted the father's motion for temporary custody to vest in the grandmother. The trial court later granted the father's petition to remove the mother as the child's guardian and to grant sole guardianship and custody to the father. The Appellate Court affirmed. The mother claimed that the probate removal of guardian statutes were procedurally and substantively unconstitutional. The Appellate Court declined to review this claim because it was never raised at the trial court and the mother's constitutional right to family integrity alone did not constitute an exceptional circumstance warranting review of an unpreserved claim.

In re Soncheray H., 42 Conn. App. 664 (1996)
The Appellate Court declined to review the mother's claim, raised for the first time on appeal, that the trial court erroneously denied her motion to expunge and seal the children's trial brief because it violated her statutory rights to confrontation and due process. The Appellate Court stated, "[to] review claims articulated for the first time on appeal and not raised before the trial court would be nothing more than a

trial by ambuscade of the trial judge."

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the trial court erred in admitting her boyfriend's past child abuse criminal conviction to show a modus operandi of child abuse. The state claimed that the error was not properly preserved because the mother objected at trial to the conviction record as being too remote in time to be probative. The Appellate Court reviewed the mother's claim because she preserved the claim on at least one ground, and as such it would consider the other related grounds.

In re Juvenile Appeal (84-7), 3 Conn. App. 30 (1984)
The Appellate Court declined to review the mother's claim that the trial court improperly terminated her parental rights without making a finding of adoptability of her children because she did not raise the issue at trial.

In re Aziza S.-B. et al., 138 Conn. App. 639 (2012)
Father in a TPR action could not argue on appeal that the trial judge's failure to recuse himself was reversible error because the claim was not preserved: the motion for recusal at trial was made by counsel for the mother (see In re Messiah S., 138 Conn. App. 606 (2012)) and the father never joined the motion, either orally or in writing. Father also raised challenges substantially similar to those raised by mother in Messiah S., which were rejected by the Appellate Court because the record amply supported the trial court's decision to terminate father's rights and not to transfer guardianship to the paternal aunt. Father's claim that the trial court pre-judged him was neither preserved at trial nor adequately briefed on appeal.

In re Brianna L., 139 Conn. App. 239 (2012)
Mother, proceeding pro se, appealed termination of her parental rights on many grounds. Her argument that DCF prematurely initiated termination proceedings and was barred from so doing by her child's age was inapposite, because it sounded in a DCF policy that applied only to coterminous petitions, and her case did not involve such a petition. Her additional claims, that the trial court was biased against her, that mother's misdemeanor arrest was improperly admitted in evidence, that the trial court refused to allow her to call certain witnesses, that the trial court had a conflict of interest, and that the termination was not in the child's best interest, were not considered by the Appellate Court because the objections were not preserved or because mother failed to offer any legal analysis to support them.

E. STANDARD OF REVIEW

"Our standard of review regarding challenges to a trial court's evidentiary rulings is that these rulings will be overturned on appeal only where there was an abuse of discretion and a showing ... of substantial prejudice or injustice.... Additionally, it is well settled that even if the evidence was improperly admitted, the [party challenging the ruling] must also establish that the ruling was harmful and likely to affect the result of the trial." (Internal citations and quotation marks omitted.) *See, In re Stacy G., 94 Conn. App. 348 (2006).*

"Unless an evidentiary ruling involves a clear misconception of the law, the trial court has broad discretion in ruling on the admissibility of evidence. Trial court's ruling on evidentiary matters will be overturned only upon a showing of a clear abuse of the court's discretion. An appellate court will make every reasonable presumption in favor of upholding the trial court's evidentiary ruling." (Internal citations and quotation marks omitted.) *See, In re Ellis V., 120 Conn. App. 523 (2010).*

a. ABUSE OF DISCRETION

In re Tayler F., 296 Conn. 524 (2010)
The Supreme Court held that the trial court did not abuse its discretion in admitting children's hearsay statements under the residual hearsay exception. **Appellate Court Dissent:** Lavery, J. Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf; Appellate Dissent:http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Melody L., 290 Conn. 131 (2009)
The Supreme Court held that the trial court did not abuse its discretion in relying heavily on the expert evaluator's opinion and allowing the expert to testify regarding the ultimate issue of the mother's failure to rehabilitate during the termination of parental rights trial. **Concurring:** Schaller, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The Supreme Court first held that the hearing officer did not act arbitrarily, illegally or abuse its discretion in placing him on the child abuse registry. Thus, the Supreme Court reversed the trial court's remand on the basis of insufficient evidence.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

In re Devon B., 264 Conn. 572 (2003), reversed
The Appellate Court reversed the trial court's neglect judgment because the trial court abused its discretion in denying the mentally retarded mother's motion to cite in the Department of Mental Retardation as a party in the neglect proceedings.

Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98e.pdf

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The Supreme Court, reversing the Appellate Court, held that the trial court did not abuse its discretion by refusing to strike the court-appointed expert's testimony because of the ex parte contact between the expert witness and DCF. The trial court properly rejected a per se exclusion of the testimony rule and allowed the parents to cross examine the expert regarding bias.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
Declining to apply plenary review, the Supreme Court held that the trial court did not abuse its discretion when it granted the mother's motion to open the judgment terminating her parental rights. Moreover, the trial court also did not abuse its discretion in denying the foster parents permissive intervention because their intervention would be of little value in determining whether the TPR adjudicatory grounds are proven. **Dissent:** Borden, Norcott, JJ.

In re Christopher C., 134 Conn. App. 464 (2012)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to recuse himself because although the judge sentenced the father in an earlier criminal case, there was no evidence presented that the judge was no longer objective, but rather the judge stated that he had no recollection of the prior criminal case.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP287.pdf

In re Nathan B., 116 Conn. App. 521 (2009), reversed
The Appellate Court reversed the trial court's denial of the father's motion for a new trial based on the comments made by the court demonstrating the court's lack of impartiality and fairness.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116ap420.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
Rejecting applying plenary review, the Appellate Court held that the trial court did not abuse its discretion by denying the intervening grandmother's motion to open the termination of parental rights judgment after the child's preadoptive placement failed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Ja-Lyn R., 132 Conn. App. 314 (2011)
The Appellate Court held that the trial court did not abuse its discretion in committing the child to DCF. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP75.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The Appellate Court held that the trial court did not abuse its discretion (1) by denying the mother's motion for continuance because DCF did not provide timely discovery, or (2) by granting the grandparents' motion in limine to preclude the mother's therapist from testifying as an expert.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Kaleb H., 131 Conn. App. 829 (2011)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion for a competency evaluation at a motion to modify the disposition hearing.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP131/131AP21.pdf

In re Brian W., 124 Conn. App. 787 (2010)
The Appellate Court held that the trial court did not abuse its discretion in granting the mother's petition to reinstate herself as guardian of her children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP46.pdf

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion in limine seeking to exclude evidence of his past criminal history in a TPR proceeding. The trial court properly found the criminal history relevant evidence of the father's continuing course of conduct demonstrating that the father was not in a position to support an ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

Albright-Lazzari v. Commissioner of Children and Families, 120 Conn. App. 376, cert. denied, 297 Conn. 908, cert. denied, 131 S.Ct. 516 (2010)
The Appellate Court first held that the hearing officer decision was supported by "substantial evidence" and the hearing office did not act arbitrarily, illegally or abuse its discretion in placing the mother on the child abuse registry for emotional neglect when she refused to believe the doctor's opinion that her child was not sexually abused and in front of her child she insisted that the doctor perform invasive procedures on her child and acted bizarrely.
http://jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP225.pdf

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court did not abuse its discretion when it denied the father's motion for contempt and revocation of commitment, and granted DCF's motion to transfer guardianship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The Appellate Court held that the trial court did not abuse its discretion in deciding to commit the children to DCF after it adjudicated them neglected.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Ellis V., 120 Conn. App. 523 (2010)
The Appellate Court held that the trial court's admission of DCF's social study as a business record was not an abuse of discretion.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The Appellate Court held that the trial court did not abuse its discretion in precluding the mother

from questioning the foster mother regarding post-adoption contact because the information was cumulative. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The Appellate Court held that the trial court did not abuse its discretion by denying the mother's motion to reopen the evidence to allow for the results of a not-yet-taken hair drug test.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The Appellate Court held that the trial court did not abuse its discretion in denying the intervening grandmother's motion to transfer guardianship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The Appellate Court held that the trial court did not abuse its discretion when it considered the admitted social study, arrests for social security fraud and bigamy, information that was allegedly beyond the scope of direct examination and inadmissible hearsay information.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Kaitlyn A., 118 Conn. App. 14 (2009)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's request for appointment of new counsel despite her claim that she was unable to communicate effectively with her assigned counsel.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP31.pdf

In re Christopher G., 118 Conn. App. 569 (2009)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's Motion to Open or Set Aside the TPR judgment finding that the mother's consent was not based on mutual mistake or dependent upon her aunt and uncle adopting her child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP90.pdf

In re Karl J., 110 Conn. App. 22 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to reinstate guardianship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP458.pdf

In re Ilyssa G., 105 Conn. App. 41 (2007), cert. denied, 285 Conn. App. 41 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to open the default judgment to terminate his parental rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105ap63.pdf

In re Cameron C., 103 Conn. App. 746 (2007), cert. denied, 285 Conn. 906 (2008)
The Appellate Court held that the trial court did not abuse its discretion in granting the father's motion to reinstate guardianship even though the grandmother had guardianship for six years.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP103/103AP419.pdf

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the Appellate Court held that the trial court did not abuse its discretion in denying the injunctive relief to expunge the parents' records because the parents failed to exhaust their administrative remedies and properly denied the relief to instruct the social workers regarding wrongful removals because the parents failed to allege that DCF failed to educate their social workers accordingly.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006), reversed
The Appellate Court reversed the trial court's judgment by holding that the trial court misapplied the law and abused its discretion by modifying the custody order without making a finding that the modification was in the children's best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96AP351.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The Appellate Court held that the trial court did not abuse its discretion when it adjudicated the child neglected and committed her to DCF when no actual harm befell the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Patricia C., 93 Conn. App. 25, cert. denied, 277 Conn. 931 (2006)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to revoke commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP100.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The Appellate Court reversed the trial court's denial of the father's motion for continuance to obtain an independent psychological evaluation to rebut evaluations that the trial court improperly admitted into evidence and the trial court's improper admission of psychological evaluations that were hearsay. The denial of the continuance and improper admission of evidence was an abuse of the trial court's discretion.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Travis R., 80 Conn. App. 777 (2004), cert. denied, 268 Conn. 904 (2004)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to open the judgment based on her alleged consent submitted under duress.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP80/80ap107.pdf

In re Haley B., 81 Conn. App. 62 (2004), on remand
The Appellate Court held that the trial court did not abuse its discretion in denying the grandmother's motion to transfer guardianship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap125.pdf

In re Salvatore P., 74 Conn. App. 23 (2002), cert. denied, 262 Conn. 934 (2003)

The Appellate Court held that the trial court did not abuse its discretion in denying the motion to open. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap62.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
Affirming the granting of the TPR, the Appellate Court held that the trial court did not abuse its discretion when it opened the disposition to order a psychological evaluation. The father was unable to show prejudice or bias as result of the court's decision.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. Ordinarily, a denial of a continuance is reviewed under an abuse of discretion standard, but when the denial contains a constitutional claim, the review is de novo and whether there was a denial of due process. The Court provided a thorough analysis of the two standards.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
The Appellate Court held that the trial court did not abuse its discretion in denying the parents' request for independent psychological evaluations or in denying the parents' motion for contempt against DCF for cancelling the court-ordered visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The Appellate Court held that the trial court did not abuse its discretion in allowing the foster parents to intervene and by permitting them to be present during the adjudicatory phase of the termination trial. http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The Appellate Court held that the trial's denial of the mother' motion to preclude the state from calling her independent expert witness to testify was not an abuse of discretion because the evidence was cumulative and harmless. http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Brianna B., 66 Conn. App. 695 (2001)
The Appellate Court held that the trial court did not abuse its discretion in awarding attorney fees pertaining to finding that the mother in contempt for violating a protective order regarding confidentiality of child protection proceedings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The Appellate Court held that the trial court did not abuse its discretion in waiving the one year requirement in TPR case alleging acts of commission or omission.

In re Alexander C., 60 Conn. App. 555 (2000)

The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to transfer guardianship. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap33.pdf

In re Deana E., 61 Conn. App. 197 (2000), cert. denied, 255 Conn. 941 (2001)
The Appellate Court held that the trial court's denial of the father's motion to bifurcate the termination proceedings was not an abuse of discretion.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap126.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The Appellate Court held that the trial court did not abuse its discretion in precluding the mother from calling her child to testify regarding sex abuse allegations in a neglect trial. The Court concluded that "'sound discretion'" means a discretion that is not exercised arbitrarily or willfully, but, rather, with regard to what is right and equitable under the circumstances and the law, and it requires knowledge and understanding of the material circumstances surrounding the matter."

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The Appellate Court held that the trial court did not abuse its discretion in refusing to sequester DCF's witnesses during the TPR trial.

In re James L., 55 Conn. App. 336 (1999)
The Appellate Court held that the trial court did not abuse its discretion in denying the parents' motion for a new trial, and motion to remove documents.

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The Appellate Court held that the trial court abused its discretion by ordering the release of its confidential decision to the foster parents to use in any future applications for restraining orders against the father.

In re Jessica B., 50 Conn. App. 554 (1998)
The Appellate Court held that the trial court did not abuse its discretion in admitting the mother's statement to the DCF social worker that her husband hit her as an admission of a party opponent.

In re Lauren R., 49 Conn. App. 763 (1998)
The Appellate Court held that the trial court did not abuse its discretion in deciding not to question the child in camera.

In re Angellica W., 49 Conn. App. 541 (1998)
The Appellate Court held that in terminating the mother's parental rights, the trial court did not abuse its discretion by granting the father's motion to amend the petition, by allowing the social study to be admitted into evidence and by referring to a secondary text in its decision.

In re Helen B., 50 Conn. App. 818 (1998)
The Appellate Court held that the trial court did not abuse its discretion when it allowed the aunt to amend the petition to remove the father as guardian to add the acts of commission or omission ground and when it admitted the father's arrest for drug and weapon possession even though it did not result in a conviction.

In re Jason S., 9 Conn. App. 98 (1986)
The Appellate Court held that the trial court did not abuse its discretion in admitting a past conviction record of the mother's boyfriends prior child abuse conviction to show modus operandi.

In re Christina V., 38 Conn. App. 214 (1995)
The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to open the termination of parental rights judgment claiming that DCF was biased.

In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994)
The Appellate Court held that the trial court's admission of treatment plans as relevant and police records as business records was not an abuse of discretion.

In re Wayne A. II, 25 Conn. App. 536 (1991)
The Appellate Court held that the trial court did not abuse its discretion in denying the incarcerated father's motion for continuance so that he could be physically present when the incarcerated father was allowed to participate in the contested permanency plan hearing. The trial court also did not abuse its discretion in not allowing him to call cumulative witnesses. Note: the Court applied an abuse of discretion standard in reviewing the father's due process claims.

In re Bobby Jo S., 10 Conn. App. 36 (1987)
The Appellate Court held that the trial court did not abuse its discretion by denying the motion to set aside and for a new trial because the statute and practice book provides that the trial court may appoint an attorney in the interests of justice and an attorney is not statutorily required when a parent fails to request an attorney or appear for the hearing after receiving adequate notice.

In re Jose C., 11 Conn. App. 507 (1987)
The Appellate Court held that the trial court did not abuse its discretion by denying the mother's motion to bifurcate the termination proceeding because the trial court was able to distinguish properly between the adjudicatory and dispositional evidence.

In re Angela C., 11 Conn. App. 497 (1987)
The Appellate Court held that the trial court did not abuse its discretion in sua sponte continuing the termination of parental rights matter.

In re Cynthia A., 8 Conn. App. 656 (1986)
The Appellate Court held that the trial court did not abuse its discretion in denying the motion for continuance or denying the mother's motion to have her boyfriend undergo a court-ordered psychological evaluation.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not abuse its discretion in denying the mother's continuance, admitting a DCF statutorily mandated report with an attached letter or admitting children's statements as verbal acts.

In re Juvenile Appeal (84-1), 1 Conn. App. 298 (1984)
The Appellate Court held that the trial court did not abuse its discretion by denying the mother's motion for a new trial or motion to open the judgment.

In re Juvenile Appeal (1983-4), 39 Conn. Supp. 490 (1983)(appellate session)
The trial court adjudicated the child neglected and committed her to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the trial court erred in allowing DCF to amend the neglect petition. The Appellate Court held that the trial court complied with the Practice Book and did not abuse its discretion.

b. CLEARLY ERRONEOUS

"Our standard of review on appeal from a termination of parental rights is whether the challenged findings are clearly erroneous.... The determinations reached by the trial court that the evidence is clear and convincing will be disturbed only if [any challenged] finding is not supported by the evidence and [is], in light of the evidence in the whole record, clearly erroneous.... On appeal, our function is to determine whether the trial court's conclusion was legally correct and factually supported. In doing so, however, [g]reat weight is given to the judgment of the trial court because of [the court's] opportunity to observe the parties and the evidence.... We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached.... [Rather] every reasonable presumption is made in favor of the trial court's ruling. A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. In applying the clearly erroneous standard to the findings of a trial court, we keep constantly in mind that our function is not to decide factual issues de novo.... The question for this court ... is not whether it would have made the findings the trial court did, but whether in view of the evidence and pleadings in the whole record it is left with the definite and firm conviction that a mistake has been committed." (Internal citations and quotation marks omitted). *See, In re Ellis V., 120 Conn. App. 523 (2010).*

In re Melody L., 290 Conn. 131 (2009)
The Supreme Court held that the trial court's judgment terminating the mother's parental rights by finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous. **Concurring:** Schaller, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Jorden R., 293 Conn. 539 (2009), reversed
The Supreme Court reversed the Appellate Court's decision that held that the trial court's finding that the mother was 'unwilling or unable' was clearly erroneous. The Supreme Court held that Appellate Court erred and the trial court's decision was amply supported by the evidence.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Davonta V., 285 Conn. 483 (2008)
The Supreme Court held that the trial court's decision to grant the TPR finding that a termination was in the 14 year old child's best interest was supported by the record and was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR285/285CR35.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The Supreme Court held that the trial court judgment terminating the parents' parental rights by finding that they failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The Supreme Court held that the trial court's judgment terminating the mother's parental rights on the grounds that the she failed to rehabilitate and that the termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The Supreme Court, reversing the Appellate Court, held that the trial court judgment terminating the mother's parental rights by finding that she failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Romance M., 229 Conn. 345 (1994)
The Appellate and Supreme Court held that the trial court's judgment terminating the mother's rights by finding that she failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous.

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court held that the trial court's decision to deny the TPR by finding insufficient evidence of abandonment and no ongoing relationship was not clearly erroneous. **Dissent:** Borden, Norcott, JJ.

In re Luis C., 210 Conn. 157 (1989)
The Supreme Court held that the trial court's determination that the mother failed to rehabilitate was not clearly erroneous even though cultural and language barriers existed due to the child's placement in a non-Hispanic foster home.

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The Appellate Court held that the trial court's decision to terminate the parents' parental rights finding that they failed to rehabilitate, the mother abandoned the child and had no ongoing parent child relationship was clearly erroneous.

In re Brian T., 134 Conn. App. 1 (2012)

Affirming the trial court's judgment, the Appellate Court held that the trial court's finding that the father failed to rehabilitate and that the termination was in the child's best interest was not clearly erroneous. However, the Appellate Court also held that the trial court's finding of abandonment as an adjudicatory ground was clearly erroneous.

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The Appellate Court held that the trial court's finding that DCF provided reasonable efforts and that the mother failed to rehabilitate was not clearly erroneous.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Kamora W., 132 Conn. App. 179 (2011)
The Appellate Court held that the trial court's finding that the father failed to rehabilitate was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP55.pdf

In re Ja-Lyn R., 132 Conn. App. 314 (2011)
The Appellate Court held that the trial court's finding that the child was predictively neglected was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP75.pdf

In re Anvahnay S., 128 Conn. App. 186 (2011)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts and he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP349.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The Appellate Court held that the trial court's decision terminating the mother's parental rights by finding that DCF made reasonable efforts, that she failed to rehabilitate and that a termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Christopher C., 129 Conn. App. 55 (2011)
The Appellate Court held that the trial court's judgment denying the father and grandmother's motion to transfer guardianship to the grandmother was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP427.pdf

In re Gianni C., 129 Conn. App. 227 (2011)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP431.pdf

In re Luciano B., 129 Conn. App. 449 (2011)
The Appellate Court held that the trial court's judgment terminating the parents' rights finding that DCF made reasonable efforts, they failed to rehabilitate and a termination was in the child's best

interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP448.pdf

In re Dylan C., 126 Conn. App. 71 (2011)
The Appellate Court held that the trial court's judgment terminating the mother's rights by finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP165.pdf

In re Emile L., 126 Conn. App. 283 (2011)
The Appellate Court held that the trial court's decision to terminate the parents' parental rights finding that they failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP199.pdf

In re Alison M., 127 Conn. App. 197(2011)
The Appellate Court held that the trial court's decision that the mother failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Mia M., 127 Conn. App. 363 (2011)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP286.pdf

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had both abandoned the child and there was no ongoing parent-child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Keyashia C., 120 Conn. App. 452, cert. denied, 297 Conn. 909 (2010)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP242.pdf

In re Kelsey M., 120 Conn. App. 537 (2010)
The Appellate Court held that the trial court's finding that the children were in imminent physical danger to sustain the OTC was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP253.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child and the termination of parental rights was in the best interest of the child.

Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Jaiden S., 120 Conn. App. 795, cert. denied, 297 Conn. 923 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts and he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP264.pdf

In re Jazmine B., 121 Conn. App. 376, cert. denied, 297 Conn. 924 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts and he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP336.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The Appellate Court held that the trial court's judgment adjudicating the children neglected and committing them to DCF was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Albert M., 124 Conn. App. 561, 299 Conn. 920 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts, he failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP22.pdf

In re Summer S., 124 Conn. App. 540 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts and he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP19.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights by finding that she failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Katia M., 124 Conn. App. 650, cert. denied, 299 Conn. 920 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts and he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP33.pdf

In re Jocquyce C., 124 Conn. App. 619 (2010)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP29.pdf

In re Brian W., 124 Conn. App. 787 (2010)

The Appellate Court held that the trial court's findings that it was in the children's best interests to reinstate the mother's guardianship because the factors that led to the removal of her guardianship were resolved was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP46.pdf

In re Paul O., 125 Conn. App. 212 (2010)
The Appellate Court held that the trial court's finding that the child would be in immediate physical danger if returned to the mother's custody was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap75.pdf

In re Rafael S., 125 Conn. App. 605 (2010)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved by clear and convincing evidence that a termination of the mother's parental rights was in the children's best interest even though there were no preadoptive home.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap118.pdf

In re Chevol G., 125 Conn. App. 618 (2010)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap120.pdf

In re Sole S., 119 Conn. App. 187 (2010)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts, he failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP133.pdf

In re Ellis V., 120 Conn. App. 523 (2010)
The Appellate Court held that the trial court's judgment terminating the parents' rights by finding that they failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The Appellate Court held that the trial court's finding that the mother failed to rehabilitate was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Kaitlyn A., 118 Conn. App. 14 (2009)
The Appellate Court held that the trial court's judgment that the mother failed to rehabilitate was amply supported by the record and was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP31.pdf

In re S.D., 115 Conn. App. 111 (2009)

The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child and had no ongoing parent child relationship and that the termination of parental rights was in the best interest of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Gabrielle M., 118 Conn. App. 374 (2009)
The Appellate Court held that the trial court's judgment terminating the mother' rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP64.pdf

In re Zion R., 116 Conn. App. 723 (2009)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP444.pdf

In re Tremaine C., 117 Conn. App. 590, cert. denied, 294 Conn. 920 (2009)
The Appellate Court held that the trial court's determination that the mother failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. **Dissent:** Schaller, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493.pdf;
Appellate Dissent:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493E.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The Appellate Court held that the trial court's judgment terminating the parents' rights finding that they failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Cheila R., 112 Conn. App. 582 (2009)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP148.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The Appellate Court reversed the trial court's judgment denying the termination of parental rights petition because the trial court's finding that the lack of an ongoing parent child relationship parent child relationship was the direct result of the child being in foster care was clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Trevon G., 109 Conn. App. 782 (2008)

The Appellate Court held that the trial court's judgment terminating the mother's parental rights by finding that DCF made reasonable efforts, the mother failed to rehabilitate and that a termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP448.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The Appellate Court held that the trial court's findings terminating the parents' parental rights on the basis that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children was not clearly erroneous. The Appellate Court also rejected the father's contention that the constitution required proof "beyond a reasonable doubt" in TPR proceedings.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that DCF proved by clear and convincing evidence that the mother failed to rehabilitate and had no ongoing parent child relationship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The Appellate Court held that the trial court's judgment terminated the parents' parental rights by finding that they failed to rehabilitate and DCF provided reasonable efforts was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
The Appellate Court held that the trial court's finding that the child was predictively neglected was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved by clear and convincing evidence that the mother had abandoned the child and that the termination of parental rights was in the best interest of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Emerald C., 108 Conn. App 839 (2008)
The Appellate Court held that the trial court's judgment terminating the father's parental rights finding that DCF provided reasonable efforts and that the father failed to rehabilitate was supported by the evidence and not clearly erroneous. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights by finding that DCF made reasonable efforts to reunify, she failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights on the grounds that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Selena O., 104 Conn. App. 635 (2007), reversed
The Appellate Court reversed the trial court decision to deny the petition to terminate the mother's parental rights finding that her rehabilitation was foreseeable. The Appellate Court held that the trial court's reliance on a nonexistent fact was harmful to the outcome of the case and reversed because the erroneous finding undermined the appellate confidence in the trial court's fact finding process.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP30.pdf

In re Anthony H., 104 Conn. App. 744 (2007), 285 Conn. 920 (2008)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights because the mother failed to rehabilitate and a termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP42.pdf

In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008)
The Appellate Court held that the alleged error that the trial court improperly relied on an erroneous factual finding regarding was harmless in light of the other sufficient evidence demonstrating the child was predictively neglected.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP95.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
The Appellate Court held that the trial court's finding that the child was neglected was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Jorden R., 120 Conn. App. 65 (2010)
On remand, the Appellate Court held that the trial court's finding that the termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP195.pdf

In re Coby C., 107 Conn. App. 395 (2008)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP257.pdf

In re Nelmarie O., 97 Conn. App. 624 (2006)
The Appellate Court held that the trial court's judgment terminating the mother's rights by finding that she committed an act of commission or omission was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP470.pdf

In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006), reversed
The Appellate Court held that the trial court's finding that a material change in the mother's circumstances occurred justifying a modification of custody was not clearly erroneous. But, the Appellate Court reversed the trial court's judgment by holding that the trial court misapplied the law and abused its discretion by modifying the custody order without making a finding that the modification was in the children's best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96AP351.pdf

In re Shaiesha O., 93 Conn. App. 42 (2006), reversed
The Appellate Court held that there was inadequate support for the trial court's finding that DCF made reasonable efforts or that the father was unwilling or unable to benefit from such efforts. The Appellate Court concluded that DCF failed completely, in its responsibility, to make any efforts, let alone reasonable efforts, because it did nothing on behalf of the father to foster a relationship between the father and the child prior to filing a termination petition because his paternity was not established. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP103.pdf

In re Shaun B., 97 Conn. App. 203 (2006)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP425.pdf

In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006)
The Appellate Court held that the trial court's findings that the child sustained a "serious bodily injury" under Conn. Gen. Stat. § 17a-112(j)(3)(F) and a termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP474.pdf

In re Christian P., 98 Conn. App. 264 (2006), reversed
The Appellate Court held that the trial court judgment terminating the mother's parental rights was not clearly erroneous. Although in this case, the Appellate Court reversed the judgment with respect to one child because DCF failed to allege in the termination petition itself the 'no ongoing parent children relationship' ground.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP9.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The Appellate Court held that the trial court's decision to adjudicate the child neglected and commit her to DCF was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)

The Appellate Court held that the trial court's findings that DCF made reasonable efforts to reunify and that a termination of parental rights was in the best interest of the child were not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Krystal J., 88 Conn. App. 311 (2005)
The Appellate Court held that the trial court's findings that cause for commitment still existed and that reasonable efforts to reunify were no longer appropriate were not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP88/88AP229.pdf

In re Alejandro L., 91 Conn. App. 248 (2005)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP91/91AP476.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The Appellate Court held that the trial court's ruling sustaining the order of temporary custody was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The Appellate Court declined to review the father's claim that the standard of review for TPR cases should be a "de novo" review instead of a "clearly erroneous" standard. The Appellate Court ruled the issue was not reviewable because it was not raised on appeal pursuant to the plain error doctrine or under *Golding*.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Destiny D., 86 Conn. App. 77, cert. denied, 272 Conn. 911 (2004)
The Appellate Court held that the trial court's determination that DCF made reasonable efforts was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap28.pdf

In re Tyqwane V., 85 Conn. App. 528 (2004)
The Appellate Court held that the trial court's judgment finding termination was in the best interest of the children was not clearly erroneous, despite the loving parent-child bond and the lack of an adoptive family. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap511.pdf

In re Kaurice B., 83 Conn. App. 519 (2004)
The Appellate Court held that the trial court's finding granting the OTC because the child would be in immediate physical danger if returned to the stepmother was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap359.pdf

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Vanna A., 83 Conn. App. 17 (2004)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap290.pdf

In re Ashley M., 82 Conn. App. 66 (2004)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP82/82ap211.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The Appellate Court held that the trial court's decision that DCF made reasonable efforts and the mother failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Victoria B., 79 Conn. App. 245 (2003)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the child's best interests was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP79/79ap501.pdf

In re Ebony H., 68 Conn. App. 342 (2002)
The Appellate Court held that the trial court's finding that DCF made reasonable efforts to reunify was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap203.pdf

In re Clark K., 70 Conn. App. 665 (2002)
The Appellate Court held that the trial court's findings that as a result of the mother causing serious skull fractures to her infant child, the child was neglected, the mother committed an act of commission or omission and inflicted a serious physical injury to the child's sibling (ground F) were not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Vincent B., 73 Conn. App. 637 (2002), reversed
The Appellate Court held that the trial court's findings that DCF made reasonable efforts and that the father was unable or unwilling to benefit from reunification services were clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP73/73ap33.pdf

In re Jennifer W., 75 Conn. App. 485 (2003)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap215.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that

terminating the father's parental rights was in the best interest of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The Appellate Court held that the trial court's findings that DCF provided reasonable efforts to reunify and that the mother failed to rehabilitate were not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Jonathon G., 63 Conn. App. 516 (2001)
The Appellate Court held that the trial court's judgment that the father had no ongoing parent child relationship and that a termination was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap401.pdf

In re Dorrell R., 64 Conn. App. 455 (2001)
The Appellate Court held that the trial court's judgment granting TPR petition was not clearly erroneous as the evidence supported the finding that DCF provided reasonable efforts to reunify and that terminating the mother's parental rights was in the best interest of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap500.pdf

In re William R., 65 Conn. App. 538 (2001)
The Appellate Court held that the trial court's judgment terminating the mother' rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap556.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

In re Gary B., 66 Conn. App. 286 (2001)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap598.pdf

In re Ashley S., 61 Conn. App. 658 (2001)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap194.pdf

In re Deana E., 61 Conn. App. 185 (2000)
The Appellate Court held that the trial court's judgment granting TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. **Concurring:** Spear, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring

Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
The Appellate Court held that the trial court's judgment in a coterminous petition finding that the parents' failed to rehabilitate and that a termination was in the children's best interest was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Shane P., 58 Conn. App. 244 (2000)
The Appellate Court held that the trial court's finding that the father abandoned his child was not clearly erroneous.

In re Shane P., 58 Conn. App. 234 (2000)
The Appellate Court held that the trial court's finding that there was no ongoing parent child relationship was not clearly erroneous.

In re Cesar G., 56 Conn. App. 289 (2000)
The Appellate Court held that the trial court's decision denying the mother's motion to revoke commitment was not clearly erroneous.

In re Cheyenne A., 59 Conn. App. 151 (2000)
The Appellate Court held that the trial court's judgment finding terminating the parents' parental rights by finding that they committed an act of commission or omission based on the infant having suffered serious, life threatening physical injuries, and seventeen rib fractures, occurring at different times, was not clearly erroneous.

In re Quanitra M., 60 Conn. App. 96, cert. denied, 255 Conn. 903 (2000)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights because it was in the best interest of the child was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap521.pdf

In re Tyscheicka H., 61 Conn. App. 19 (2000)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap59.pdf

In re Stanley D., 61 Conn. App. 224 (2000)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that he failed to rehabilitate was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap110.pdf

In re Hector L., 53 Conn. App. 359 (1999)
The Appellate Court held that the trial court's judgment terminating the father's parental rights because DCF made reasonable efforts to reunify and he failed to rehabilitate was not clearly erroneous.

In re Kasheema L., 56 Conn. App. 484 (2000)

The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests was not clearly erroneous.

In re Antonio M., 56 Conn. App. 534 (2000)
The Appellate Court held that the trial court judgment terminating the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission was not clearly erroneous.

In re Michael L., 56 Conn. App. 688 (2000)
The Appellate Court held that the trial court's findings that the mother failed to rehabilitate and that a termination was in the best interest of the children were not clearly erroneous.

In re Amber B., 56 Conn. App. 776 (2000)
The Appellate Court held that the trial court's judgment terminating the father's parental rights by finding that DCF made reasonable efforts to reunify, the father failed to rehabilitate and that the termination was in the best interest of the child was not clearly erroneous.

In re Sarah Ann K., 57 Conn. App. 441 (2000)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that he failed to rehabilitate was not clearly erroneous.

In re Steven N., 57 Conn. App. 629 (2000)
The Appellate Court held that the trial court's finding that DCF did not prevent the mother from maintaining a relationship with the children and that DCF made reasonable efforts were not clearly erroneous.

In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000)
The Appellate Court held that the trial court's denial of the grandmother's petition to terminate the mother's parental rights was not clearly erroneous.

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights on the ground that she failed to rehabilitate and that a termination was in the best interest of the child was not clearly erroneous.

In re Kristina D., 51 Conn. App. 446 (1999)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests was not clearly erroneous.

In re Denzel A., 53 Conn. App. 827 (1999)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous as the evidence supported the finding that terminating the mother's parental rights was in the best interest of the child. The grandmother's intervention did not include the right to effect an

adoption or custody, but was "solely for the purpose of affecting the termination itself."

In re Galen F., 54 Conn. App. 590 (1999)
The Appellate Court held that the trial court's judgment terminating the father's rights finding that he failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous.

In re Natalia G., 54 Conn. App. 800 (1999)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that DCF made reasonable efforts, he failed to rehabilitate and a termination was in the child's best interests was not clearly erroneous.

In re Tricia A., 55 Conn. App. 111 (1999)
The Appellate Court held that the trial court's judgment terminating the mother' rights finding that she failed to rehabilitate and a termination was in the children's best interest was not clearly erroneous.

In re Charles A., 55 Conn. App. 293 (1999)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights by finding that DCF made reasonable efforts was supported by the record and not clearly erroneous. The trial court's findings regarding DCF's failure to recognize the mother as a victim of domestic violence did not undermine its findings that DCF provided reasonable efforts in compliance with the Adoption and Safe Families Act.

In re Carissa K., 55 Conn. App. 768 (1999)
The Appellate Court held that the trial court's judgment terminating the father's parental rights by finding that he committed an act of commission or omission because he sexually abused his daughter, that he failed to rehabilitate and that a termination was in the best interest of the child was not clearly erroneous.

In re Savanna M., 55 Conn. App. 807 (1999)
The Appellate Court held that the trial court's judgment terminating the father' rights finding that DCF made reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship was not clearly erroneous.

In re John G., 56 Conn. App. 12 (1999)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate, there was no ongoing parent child relationship, she abandoned the child and a termination was in the child's best interests was not clearly erroneous.

In re Tabitha T., 51 Conn. App. 595 (1999)
The Appellate Court held that the trial court's decision terminating the mother's parental rights on the grounds of acts of commission or omission, no ongoing parent child relationship, failure to rehabilitate and best interest was not clearly erroneous.

In re Danuael D., 51 Conn. App. 829 (1999)

The Appellate Court held that the trial court's judgment terminating the father' rights finding that DCF made reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship was not clearly erroneous.

In re Pascacio R., 52 Conn. App. 106 (1999)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights finding that she failed to rehabilitate was not clearly erroneous.

In re Antony B., 54 Conn. App. 463 (1999)
The Appellate Court held that the trial court's finding that DCF made reasonable efforts to reunify and that the termination of parental rights was in the best interest of the child was not clearly erroneous.

In re Jessica B., 50 Conn. App. 554 (1998)
The Appellate Court held that the trial court's finding that DCF provided reasonable efforts and that the mother failed to rehabilitate was not clearly erroneous.

In re Lauren R., 49 Conn. App. 763 (1998)
The Appellate Court held that the trial court's judgment terminating the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission was not clearly erroneous.

In re Helen B., 50 Conn. App. 818 (1998)
The Appellate Court held that the trial court's judgment removing the father as guardian of the child on the commission or omission ground was not clearly erroneous.

In re Roshawn R., 51 Conn. App. 44 (1998)
The Appellate Court held that the trial court's decision to terminate the father's parental rights finding that he failed to rehabilitate regarding two of his children, but not the other two, and a termination was in the children's best interests was not clearly erroneous.

In re Tabitha P., 39 Conn. App. 353 (1995)
The Appellate Court held that the trial court's finding that the mother failed to rehabilitate was not clearly erroneous.

In re Christina V., 38 Conn. App. 214 (1995)
The Appellate Court held that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests was not clearly erroneous.

In re Wayne A. II, 25 Conn. App. 536 (1991)
The Appellate Court held that the trial court's approval of the permanency plan finding that DCF made efforts to find an adoptive home that would allow post-adoption contact with the incarcerated father was not clearly erroneous.

In re Teshea D., 9 Conn. App. 490 (1987)

The Appellate Court held that, based on a review of the entire record, the trial court's judgment granting the TPR petition was supported by "clear and convincing evidence". The trial court terminated the mother's parental rights finding that she abandoned the child and that termination was in the child's best interest.

In re Cynthia A., 8 Conn. App. 656 (1986)
The Appellate Court held that the trial court's decision to commit the child to the care and custody of DCF was legally correct and factually supported.

c. DE NOVO

> "When a party contests the burden of proof applied by the trial court, the standard of review is de novo because the matter is a question of law." (Internal citations and quotation marks omitted). *See, In re Zamora S., 123 Conn. App. 103 (2010), reversed*

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
Applying de novo review, the Appellate Court held that based on the entirety of the trial court's memorandum of decision and subsequent articulations, the trial court did not improperly shift the burden of proof to the mother to prove she rehabilitated. "When a party contests the burden of proof applied by the trial court, the standard of review is de novo because the matter is a question of law."
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The Appellate Court applied a de novo standard of review because DCF's claim challenged the burden of proof and this raised a question of law. Reversing the judgment, the Appellate Court held that the trial court erred in requiring DCF to prove a subordinate fact to its failure to rehabilitate claim by clear and convincing evidence.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The father claimed that the due process clause of the Connecticut constitution requires that his claims on appeal be reviewed by the "de novo" standard rather than the "clearly erroneous" standard. The Appellate Court held his claim lacked merit because it was untimely in that he improperly raised the claim for the first time in the reply brief and he failed to adequately brief the issue. A reply brief is not the proper vehicle for a new argument and furthermore the father provided no support whatsoever for his constitutional claim.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)

The Appellate Court declined to review the father's claim that the standard of review for TPR cases should be a "de novo" review instead of a "clearly erroneous" standard. The Appellate Court ruled the issue was not reviewable because it was not raised on appeal pursuant to the plain error doctrine or under *Golding*. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Tyqwane V, 85 Conn. App. 528 (2004)
The Appellate Court rejected the mother's contention that the appellate standard of review for termination cases should be 'de novo' and held that the 'clearly erroneous' standard comports with due process. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap511.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. Ordinarily, a denial of a continuance is reviewed under an abuse of discretion standard, but when the denial contains a constitutional claim, the review is de novo and whether there was a denial of due process. The Court provided a thorough analysis of the two standards.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

d. PLAIN ERROR

> The plain error doctrine is not a rule of reviewability, and instead, it is a rule of reversibility, that is, it is a doctrine that the reviewing court invokes in order to rectify a trial court ruling that, although either not properly preserved for appellate review or never raised at all in the trial court, nonetheless requires reversal of the trial court's judgment, for reasons of policy. Plain error review is reserved for truly extraordinary situations where the existence of the error is so obvious that it affects the fairness and integrity of and public confidence in the judicial proceedings.... A defendant cannot prevail under [the plain error doctrine] ... unless he demonstrates that the claimed error is both so clear and so harmful that a failure to reverse the judgment would result in manifest injustice." (Internal citations and quotation marks omitted). *See, In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009).*

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The Appellate Court held that the trial court did not commit plain error when it ordered the mother to submit to an evaluation without holding a hearing absent an objection from any of the parties.

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The Appellate Court held that the trial court's reliance upon the child's attorney's post-trial position statement that was never admitted into evidence was not plain error because it found the extra-record information cumulative and harmless.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Devon W., 124 Conn. App. 631 (2010)

The Appellate Court held that the mother's claim that the trial court violated her constitutional rights by terminating her parental rights solely on the basis of her mental illness did not constitute plain error. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Tremaine C., 117 Conn. App. 521, cert. denied, 294 Conn. 920 (2009)
The Appellate Court held that the trial court's failure to sua sponte order a new hearing did not result in manifest injustice was not plain error because the father was properly notified of the termination of parental rights trial and chose not to participate to avoid reincarceration.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP462.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The Appellate Court held that the trial court's failure to sua sponte suspend the TPR proceedings to pursue the possibility of an Open Adoption Agreement was not plain error.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Candids E., 111 Conn. App. 210 (2008)
The Appellate Court held that the trial court did not commit plain error by proceeding with the termination trial in her absence instead of ordering a default because the mother knew of the trial dates, failed to appear, but was represented by counsel at all times.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP27.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's failure to order specific steps for a mother was not plain error. Although the trial court failed to order the specific steps as required by statute, the mother suffered no manifest injustice because her parental rights were terminated on the ground of abandonment, not on the ground of failure to rehabilitate.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The father claimed that the trial court committed plain error by improperly shifting the burden of proof to him during the dispositional phase of the termination of parental rights petition as well as the motion to revoke commitment and transfer of guardianship. Based on review of the court's memorandum of decision, the Appellate Court summarily held that the father's claim was without merit and therefore was not "plain error".
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The mother claimed plain error because she failed to preserve her objections to the father's hearsay statements contained in the admitted police record. The Appellate Court, however, declined to review her plain error claim because it was not adequately briefed. There was no separate analysis.
Dissent: Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent:

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The Appellate Court held that the trial court did not commit plain error by failing to appoint a separate guardian ad litem for the child or the mildly mentally retarded father in a TPR proceeding. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the trial court granted DCF's motion for summary judgment finding that DCF and the social workers were statutorily immune from suit by the parents and their children claiming infliction of emotional distress after DCF removed the children from the home for 5 days via a 96 hour hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease. The Appellate Court affirmed. The Court held that the trial court did not commit plain error by relying on DCF's argument raised in its brief that the parents did not respond to. At the time of trial, the parents never objected to the trial court's order of filing simultaneous briefs or to DCF's "new" arguments, and the parents never requested an opportunity to file a reply brief. http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
Although the trial court erred in applying the amended TPR statute instead of the one that was in effect when the petition was filed, the error was harmless because the court implicitly found that the circumstances constituting abandonment existed for more than a year. Based on the facts clearly demonstrating abandonment, the court's error likely would not have affected the result. The Court noted that the error was not "plain error" because "plain error" by its definition can never be "harmless" error. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The Appellate Court declined to find that the trial court's decision to terminate the mother's parental rights finding that she failed to rehabilitate was plain error.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

In re Denzel A., 53 Conn. App. 827 (1999)
The trial court allowed the grandmother to intervene and terminated the parents' parental rights. The Appellate Court affirmed. The grandmother claimed that a termination of parental rights was not in the child's best interest because the child should be placed with family. She also claimed that the trial court failed to consider her motion for revocation and transfer guardianship. The Court held that the court's inaction was not plain error, in part because the grandmother agreed that court did not have to address the motion.

In re Shana M., 26 Conn. App. 414 (1992)
The Appellate Court held that the trial court did not commit plain error when it shared a copy of a legal decision with DCF's attorney before it shared it with the other parties.

In re Mark C., 28 Conn. App. 247, cert. denied, 223 Conn. 922 (1992)
The Appellate Court held that the trial court did not commit plain error when it took judicial notice

of the neglect proceedings in determining to terminate the mother's parental rights.

In re Jonathan P., 23 Conn. App. 207 (1990), reversed
The Appellate Court held that in the termination of parental rights proceeding, the trial court committed plain error by allowing the expert witness to testify in the incarcerated father's absence, knowing that the incarcerated father was on his way to court, in violation of statute, practice book rule, and due process.

In re Lori Beth D., 21 Conn. App. 226 (1990)
The Appellate Court held that the trial court did not commit plain error when it allegedly failed to appoint, sua sponte, the father a guardian ad litem or allegedly failed to grant the father, sua sponte, a continuance after the court granted the motion to amend the TPR petition.

e. PLENARY

"Because the claim involves one of statutory authority and raises a question of law requiring our interpretation … our review is plenary. Our duty, when the legal conclusions of the court are challenged, is to determine whether those conclusions are legally and logically correct and find support in the facts appearing in the record." (Internal citations and quotation marks omitted). *See, In re Thomas J., 77 Conn. App. 1 (2003), cert. denied, 265 Conn. 902 (2003).*

In re Jose B., 303 Conn. 569 (2012)
Applying plenary review regarding an issue that required statutory interpretation, the Supreme Court held that the trial court properly granted DCF's motion to dismiss because the child's 18th birthday rendered the neglect petition moot based on the trial court's lack of statutory authority.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf

In re Lukas K., 300 Conn. 463 (2011) aff'ing, 120 Conn. App. 465 (2010)
Applying a plenary standard of review, the Supreme Court affirmed the Appellate Court's conclusion that the trial court's denial of a transcript and continuance to an incarcerated father did not violate his constitutional due process rights.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Jorden R., 293 Conn. 539 (2009), reversing, 107 Conn. App. 12 (2008)
The Supreme Court applied a plenary standard of review to interpret Conn. Gen. Stat. § 17a-112 (j)(1) and held that DCF is required to prove *either* that it had made reasonable efforts to reunify or, alternatively, that a parent was 'unwilling or unable to benefit' from reunification efforts, and in a termination proceeding, DCF is not required to prove both circumstances.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Zowie N., 135 Conn. App. 470 (2012)
Applying plenary review, the Appellate Court affirmed the trial court's decision to terminate the pro se father's parental rights after holding that the trial court properly advised the father of his right to counsel when the father first appeared in court at the termination of parental rights plea date in accordance with Conn. Gen. Stat. § 45a-717(b).
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Iliana M., 134 Conn. App. 382 (2012)
Applying plenary review, the Appellate Court affirmed the trial court's denial of the parents' motion to dismiss because the trial court had jurisdiction to grant an order of temporary under the UCCJEA, Conn. Gen. Stat. § 46b-115k(a)(3), and Conn. Gen. Stat. § 46b-121 for a child born in Massachusetts and brought to Connecticut by DCF.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP267.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The Appellate Court applied plenary review when determining that the mother's appeal of the neglect adjudication and order of commitment was not rendered moot by the trial court's underlying denial of the mother's motion to revoke commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf
In re Devon W., 124 Conn. App. 631 (2010)
The Appellate Court applied plenary review in determining that the trial court properly denied the mother's motion to dismiss the termination petition because DCF established a prima facie case of failure to rehabilitate.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Joseph W., Jr., 301 Conn. 245 (2011), affirmed, 121 Conn. App. 615 (2010), reversing trial court.
The Supreme Court applied plenary review when it concluded that Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b) should be interpreted to allow a parent, regardless if the parent was custodial or noncustodial, the right to enter a plea to contest whether his/her child is neglected.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf;
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf;
Appellate Dissent:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Matthew F., 297 Conn. 673 (2010), reversed
In conducting a plenary review, the Supreme Court, relying on *In re Shonna K*, held that the Superior Court for Juvenile Matters ("SCJM") is not per se divested of jurisdiction when a person turns eighteen. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services compelling DCF to pay for his placement. **Concurring:** Rogers, C.J., Palmer, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf; Concurring Opinion:http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Shanaira C., 297 Conn. 737 (2010), reversed
Applying plenary review, the Supreme Court reversed the judgment of the trial court and held that

pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c), the intervening girlfriend was entitled to a full evidentiary hearing when considering the proper disposition of a neglect petition, especially a contested motion for revocation.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

Earl B. v. Commissioner of Children and Families, 288 Conn. 163 (2009), reversed
Applying a plenary standard of review regarding an issue involving statutory construction regarding Conn. Gen. Stat. § 17a-15, the Supreme Court held that the trial court erred in dismissing a delinquent child's appeal of DCF's administrative decision denying him a hearing regarding the treatment plan. Majority:
http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318E.pdf

In re Tayler F., 296 Conn. 524 (2010), aff'ing, 111 Conn. App. 28 (2008)
The Supreme Court applied a plenary standard of review when it assessed whether the trial court abused its discretion in admitting children's hearsay statements under the residual hearsay exception because the mother challenged the procedures and standards used by the trial court to reach its decision. The Court again applied plenary review to assess whether the admission of the children's hearsay statements violated the mother's statutory right to confrontation and cross-examination as well as constitutional right to due process. **Appellate Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf; Supreme Court:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re S.D., 115 Conn. App. 111 (2009)
Applying a plenary standard of review, the Appellate Court interpreted the language of Conn. Gen. Stat. § 17a-112(j) and held that the statute permits the trial court to determine at the TPR trial, that reasonable efforts are not required. Based in part on the father's clear abandonment of the child, the trial court properly found at trial that efforts were not required.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re DeLeon J., 290 Conn. 371 (2009)
On transfer, the Supreme Court, applying plenary review, held that the trial court violated the mother's procedural due process rights by improperly expanding the scope of the hearing to deny the mother's motion to reinstate guardianship on the merits without providing prior notice to the mother. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR34.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
Applying a plenary standard of review, the Appellate Court held that Conn. Gen. Stat § 46b-129(j) clearly required the trial court to order specific steps to facilitate reunification. Although the trial court failed to order the specific steps as required by statute, the mother suffered no manifest injustice and the failure was not plain error because the mother's parental rights were terminated on the ground of abandonment, not on the ground of failure to rehabilitate.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Leah S., 284 Conn. 685 (2007), reversed
Applying a plenary standard of review, the Supreme Court reversed the Appellate Court's ruling affirming the trial court's judgment holding DCF in contempt for failing to comply with the court-ordered specific steps regarding a psychiatrically disabled child.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR284/284CR14.pdf

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
Applying a plenary standard of review, the Appellate Court held that the trial court properly granted DCF's motion for summary judgment on the basis of statutory sovereign immunity when the parents and their children claimed infliction of emotional distress after DCF wrongfully removed the children from their home for 5 days via a 96 hours hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Claudia F., 93 Conn. App. 343 (2006)
The Appellate Court applied plenary review when it dismissed the mother's appeal of the neglect adjudication as moot after she consented to the termination of parental rights petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP152.pdf

In re Allison G., 276 Conn. 146 (2005), reversed
Applying plenary review, the Supreme Court reversed the Appellate Court and held that DCF was aggrieved by the trial court adjudicating the child uncared for instead of neglected, and sua sponte dismissing the neglect allegation. The Supreme Court concluded a neglect adjudication or lack thereof has future ramifications in child protection proceedings.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

Teresa T. v. Ragaglia, 272 Conn. 734 (2005)
The Supreme Court exercised plenary review over an issue of statutory construction regarding Conn. Gen. Stat. § 17a-101g. The Court held that the statute did not mandate that DCF remove a child upon determining that probable cause exists to believe children were at imminent risk of physical harm while living with their abusive stepfather.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR272/272CR12.pdf

In re Travis R., 80 Conn. App. 777 (2004), cert. denied, 268 Conn. 904 (2004)
The Appellate Court did not undertake a plenary review of the merits of a decision of the trial court to grant or to deny a motion to open a judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP80/80ap107.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
Applying a plenary standard of review, the Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not

harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Haley B., 262 Conn. 406 (2003), reversed
Applying plenary review, the Supreme Court held the Appellate Court erred in dismissing the grandmother's appeal as untimely because the trial court's alteration of the visitation order gave rise to a new appeal and thus the grandmother's appeal was timely filed according to Practice Book § 63-1(a). http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr29.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
In this case of first impression, the Appellate Court, applying plenary review, held the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

In re Shawn S., 262 Conn. 155 (2002)
Applying a plenary standard of review, the Supreme Court held that it lacked subject matter to hear the appeal because the parents did not have standing to appeal because they were not aggrieved by the order of commitment. The parents had waived their right to contest the commitment because they agreed to the commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

In re Jeffrey C., 261 Conn. 189 (2002), reversed
Applying a plenary standard of review, the Supreme Court reversed the Appellate Court's ruling reversing the trial court's finding of the father in contempt for failing to comply with the court-ordered specific steps.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The trial court's decision to dismiss the father's petition for writ of habeas corpus was a matter of law, subject to plenary review. The Supreme Court held that due process does not entitle the father to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. In doing so, the Court reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits.
Dissent: McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The Supreme Court applied plenary review when it reversed the judgment of the Appellate Court and decided that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike and pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and

credibility of the expert's testimony.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
Applying plenary review, the Supreme Court reversed the trial court and held that the probate court and the Commissioner of public health lacked subject matter jurisdiction to order the removal of the biological father's name from child's birth certificate.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re Quanitra M., 60 Conn. App. 96, cert. denied, 255 Conn. 903 (2000)
The Appellate Court, applying plenary review, held that the statute, Conn. Gen. Stat. § 17a-112(e), does not require that DCF prove the seven statutory best interest factors by clear and convincing evidence prior to determining whether a termination of parental rights is in the best interest of the child. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap521.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The Supreme Court, reversing the Appellate Court, applied a plenary standard of review and determined that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights based on rules of statutory construction. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Yarisha F., 121 Conn. App. 150 (2010), reversed
Applying plenary review, in this case of first impression, the Appellate Court held that the trial court erred in transferring guardianship to the grandmother in Florida without first notifying and receiving approval from Florida pursuant to the Interstate Compact on the Placement of Children ("ICPC").
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP297.pdf

In re A.R., 123 Conn. App. 336 (2010), reversed
Applying plenary review, the Appellate Court held that the trial court erred in dismissing, sua sponte, the intervenor's motion to transfer guardianship. Specifically, the Appellate Court reversed the trial court's ruling prohibiting an intervenor from filing a motion to transfer guardianship by incorrectly construing it as a motion to revoke commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP514.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
Applying a plenary standard of review, the Appellate Court affirmed the trial court's denial of an incarcerated father's motion for continuance. The Court held that the denial of a continuance when the immigration authorities did not allow the father access to a telephone to participate in the TPR trial did not violate his constitutional due process rights.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
Reversing the judgment, the Appellate Court applied plenary review in determining that the trial court erred as a matter of law when it found the child neglected by the father, but not neglected by the mother. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Jose B., 303 Conn. 569 (2012)
Applying plenary review, the Appellate Court held that the trial court properly dismissed the youth's petition, who turned eighteen, for lack of subject matter jurisdiction because the youth failed to establish the statutory requirements regarding commitment.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap91.pdf

In re Xavier D., 113 Conn. App. 478 (2009)
Applying plenary review, the Appellate Court held that the termination of parental rights judgment was not barred by res judicata because the dismissal was not based on the merits of the case, but rather on procedural grounds.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP113/113AP223.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
Applying plenary review, the Appellate Court reversed the trial court's judgment denying the termination of parental rights petition because the trial court improperly reconsidered the neglect adjudication during the termination of parental rights proceedings. The legal issue of collateral estoppel involved the application of factual determinations to the child protection statutory scheme and thus presented a mixed question of fact and law.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
The Appellate Court held, applying plenary review, that the trial court properly determined that the child was neglected, under the doctrine of predictive neglect, at the time the petition was filed even though there was no evidence that the child actually had been harmed. "We review the application of a statute to a particular set of facts by the plenary standard of review."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re Cameron C., 103 Conn. App. 746 (2007), cert. denied, 285 Conn. 906 (2008)
The Appellate Court applied plenary review when it held that the trial court did not apply the incorrect legal standard in granting the father's motion to reinstate guardianship even though the grandmother had guardianship for six years.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP103/103AP419.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
Applying plenary review, the Appellate Court held that the trial court's determination that the child was neglected on the day the neglect petition was filed even though the child was safely in the care of his grandparents was proper.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
Applying plenary review, the Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority pursuant to Conn. Gen. Stat § 46b-129 (m) and (o) when it did so sua sponte without any notice to the parties.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
Applying plenary review, the Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judgment to modify the previous order. The Appellate Court also held that the ten day hearing requirement in Conn. Gen. Stat. § 46b-129(d)(4) was directory not mandatory because the word "shall" does not invariably create a mandatory duty and the statute does not invalidate a hearing not held within that timeframe. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Thomas J., 77 Conn. App. 1 (2003, cert. denied, 265 Conn. 902 (2003)
Applying a plenary standard of review, the Appellate Court construed Conn. Gen. Stat. 17a-6 to hold that while Conn. Gen. Stat. § 17a-6 permits a child who is in DCF custody to file petitions when his statutory rights are violated, the child's "motion for review" was not a "petition" because the "motion" was not made under oath as required by the statute. Thus, the trial court should have dismissed the motion.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap323.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In conducting a plenary review, the Appellate Court concluded that the mother's confession was voluntary and therefore admissible. The proper scope of appellate review as to whether a statement made to police was made voluntarily, is not to ascertain whether the trial court's finding was supported by substantial evidence. Rather, the Appellate Court must conduct a plenary review of the record in order to make an independent determination of voluntariness.
http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
Rules of statutory construction also apply to the rules of practice, and the Appellate Court's review of an issue of construction is plenary. Granting the mother's motion for review and reversing the trial court's denial of the mother's motion for application for fees and costs, the Appellate Court, as a matter of first impression, held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

In re Michael D., 58 Conn. App. 119 (2000), reversed
Applying plenary review, the Appellate Court held that the trial court improperly granted the motions to strike because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect.

In re Brandon W., 56 Conn. App. 418 (2000)
The Appellate Court applied plenary review when determining that P.B. § 13-4(4) pertaining to the disclosure of expert witnesses in civil trials was inapplicable to juvenile matters.

In re Antony B., 54 Conn. App. 463 (1999)
Applying a plenary standard of review, the Appellate Court affirmed the trial court's judgment terminating the parental rights of mother with a schizo-affective disorder and held, as a matter of first impression, that the Americans with Disabilities Act (ADA) does not provide a defense to a TPR nor does it create special obligations in a TPR action.

f. SCRUPULOUS REVIEW

In re Melody L., 290 Conn. 131 (2009)
The Supreme Court held that the trial court's judgment terminating the mother's parental rights by finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of the children was not clearly erroneous. Justice Schaller concurred and argued at length that our reviewing courts should adopt a higher standard of review for termination of parental rights cases, given the significant liberty interest involved. Justice Schaller reasoned that due process "requires that a reviewing court examine the record scrupulously to determine whether the trial court's termination of parental rights is supported by substantial evidence." He noted the standard is already utilized in criminal cases and under this standard, he argued that the decision should have been reversed. **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Chevol G., 125 Conn. App. 618 (2010)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts, the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the Appellate Court should apply a 'scrupulous' standard of review set forth by Justice Schaller in his concurring opinion in *In re Melody L.* The Appellate Court noted that it had no authority to apply that standard of review because the Supreme Court had not adopted that standard in termination cases.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap120.pdf

In re Sole S., 119 Conn. App. 187 (2010)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts, the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the Appellate Court should apply a 'scrupulous' standard of review set forth by Justice Schaller in his concurring opinion in *In re Melody L.* The Appellate Court noted that it had no authority to apply that standard of review because the Supreme Court had not adopted that standard in termination cases.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP133.pdf

In re Keyashia C., 120 Conn. App. 452 (2010)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the Appellate Court should apply a 'scrupulous' standard of review set forth by Justice Schaller in his concurring opinion in *In re Melody L.* The Appellate Court noted that it had no authority to apply that standard of review because the Supreme Court has not adopted that standard in termination cases. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP242.pdf

In re Tremaine C., 117 Conn. App. 590 (2009)
The Appellate Court held that the trial court's determination that the mother failed to rehabilitate and a termination was in the child's best interest was not clearly erroneous. Justice Schaller filed a dissenting opinion arguing that the court's best interest determination was based on speculation. In his dissent, he wrote, "As I have stated elsewhere, when ... the factual findings implicate a [respondent's] constitutional rights and the credibility of witnesses is not the primary issue ... a scrupulous examination of the record [should be undertaken] to ensure that the findings are supported by substantial evidence.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493.pdf;
Appellate Dissent:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493E.pdf

ARRESTS

"The court may consider the respondent's prior arrests, even if they did not result in convictions, when assessing the respondent's ability to provide a safe and secure home for the children and to provide the necessary care for them." *See, In re Helen B., 50 Conn. App. 818 (1998).*

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The Appellate Court rejected the mother's claim that the trial court improperly admitted evidence regarding the mother's social security application and arrest for social security fraud because she had not been convicted of fraud. The Court held that the trial court did not abuse its discretion by admitting the information because the trial court relied on the information to determine whether the mother had failed to rehabilitate and not to determine whether she committed a crime. The information was relevant to her ability to care for her children. If she was truly disabled as she claimed on her social security application then she was not able to care for her children and if she lied then this was cumulative information regarding the mother's credibility. Further, the mother admitted that information regarding her arrest was "minimally" relevant to her specific steps.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian based on the acts of commission or omission ground. The Appellate Court affirmed. The father claimed that the trial court improperly admitted evidence of the father's arrest for drug and weapon possession because it did not result in a conviction. The Appellate Court held that the trial court did not abuse its discretion in admitting the arrest record because the evidence was not admitted to impugn his credibility, nor was the evidence admitted as his bad character or criminal tendencies. Rather, the trial court properly considered the evidence because a police officer with firsthand knowledge testified regarding the father's conduct as impeachment of the father's testimony. Moreover, the evidence was relevant to the statutory criteria requiring removal of a parent based on the parental habits or misconduct.

ATTORNEY

"There is no unlimited opportunity to obtain alternate counsel.... It is within the trial court's discretion to determine whether a factual basis exists for appointing new counsel.... Moreover, absent a factual record revealing an abuse of that discretion, the court's failure to allow new counsel is not reversible error.... Such a request must be supported by a substantial reason and, [i]n order to work a delay by a last minute discharge of counsel there must exist exceptional circumstances. A request for the appointment of new counsel must be supported by a substantial reason and may not be used to cause delay.... In order to work a delay by a last minute discharge of counsel there must exist exceptional circumstances.... It is within the trial court's discretion to determine whether a factual basis exists for appointing new counsel." (Internal citations and quotation marks omitted). *See, In re Kaitlyn A., 118 Conn. App. 14 (2009).*

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court, on transfer, affirmed. The mother claimed, in part, that the trial court improperly took judicial notice of a prior finding that continuing efforts to reunify the mother with her child were no longer appropriate. The mother further asserted that the alleged error was due to her newly appointed counsel not unfamiliarity with the prior hearing and order. Finding no legal support for the mother's claim, the Supreme Court rejected the mother's argument and held that the trial court properly took judicial notice of the prior finding because the trial court gave the mother opportunity to be heard and the recently appointed attorney had ample time to familiarize himself with the prior procedural history of the case prior to the TPR trial.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Kaitlyn A., 118 Conn. App. 14 (2009)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and that the termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly denied her request for a new attorney because of her inability to communicate with her existing attorney. The Appellate Court held that no substantial reason existed to justify replacing the mother's counsel on the eve of trial when counsel represented her for nineteen months without any former complaints. The trial court adequately remedied the mother's claims that the attorney failed to subpoena certain witnesses and did not allow the mother ample opportunity to review the psychological evaluation. The Court ruled that the disagreements were strategically related and did not rise to the level of a conflict causing an irretrievable breakdown in communication.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP31.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. The Court applied the *Mathews v. Eldrige* balancing test and stated that the "bottom line question is whether the denial rendered the

trial fundamentally unfair in view of the *Mathews* factors." The Court ruled that the burden on the state in granting the continuance was slight and the risk of erroneous deprivation of the mother's parental rights outweighed the other factors. Noting the difference between the child's attorney and the guardian ad litem, the Court ruled that a continuance to obtain the transcripts were necessary to represent the children's best interest adequately. The other factor was the state's primary interest in terminating parental rights to free the children for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

State Grievance Committee v. Presnick, 18 Conn. App. 316 (1989)
The trial court disciplined the attorney by suspending his license to practice law. The Appellate Court affirmed. The Appellate Court held that the attorney's out of control behavior including shouting insults at DCF social workers by calling them "Nazis" and "child molesters" in public in the courthouse were "fighting words" not constitutionally protected. Such conduct warranted disciplinary action.

ATTORNEY CLIENT PRIVILEGE

"The policy behind protecting attorney-client confidentiality is designed to encourage clients to make a full disclosure of facts to their counsel. Clients will be encouraged to do so only if they alone remain the masters of those secrets that they share with their counsel. The privilege is therefore reserved for those whose interests it is designed to protect and not adverse parties or the general population. To extend the protection beyond those whose interests it was conceived to protect would accomplish only the suppression of relevant evidence without promoting the purpose of the privilege. It is therefore well settled that the client alone is the holder of the privilege." (Internal citations and quotation marks omitted). *See, In re Sean H., 24 Conn. App. 135 (1991).*

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to preclude the state from calling her independent expert witness to testify. The mother's independent psychologist accidentally submitted her report to the DCF attorney and the court. The mother claimed that DCF and the court's use of her independent evaluation violated the attorney client privilege and work product rule. The Appellate Court held that any error that occurred by the trial court's denial of the motion and reliance upon the testimony or report was not an abuse of discretion because it was cumulative and harmless. The alleged error was harmless because the trial court also relied on another psychologist's testimony and report to terminate the mother's rights and thus the court had sufficient evidence without the mother's independent evaluation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Sean H., 24 Conn. App. 135 (1991)
The trial court terminated the father's parental rights finding that he committed acts of commission or omission when he stabbed to death his children's mother. The Appellate Court affirmed. The father claimed, in part, that the statements made by the deceased mother to her attorney were protected by the attorney client privilege. The Appellate Court held that the father could not assert the mother's attorney client privilege to exclude testimony by the mother's attorney regarding statements the now deceased mother made to him about the father's abuse towards her. The Court ruled that the client alone is the holder of the attorney client privilege. "Further, it is absurd to think that the law would give standing to the [father] to assert the attorney-client privilege because it was his homicidal act that prevented [the mother] from either asserting the privilege or testifying herself."

ATTORNEY'S FEES

In re Leah S., 284 Conn. 685 (2007), reversed
The Appellate Court affirmed the trial court's judgment holding the Commissioner of DCF in contempt for failing to comply with the specific steps and ordering DCF to pay $500 to the mother to assist her with attorney's fees. The Supreme Court reversed. The Commissioner claimed that the specific steps were ambiguous in that they provided the Commissioner with broad discretion regarding the services offered to the child and her family. The Supreme Court held that the specific steps were not sufficiently clear and unambiguous to support a finding of civil contempt.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR284/284CR14.pdf

In re Jeffrey C., 261 Conn. 189 (2002), reversed
The Appellate Court reversed the trial court's judgment holding the father in contempt for failing to comply with the specific steps and ordering the father to pay attorney's fees to the State. The Supreme Court reversed the Appellate Court and upheld the trial court's finding of contempt. DCF claimed that the Appellate Court improperly held that the specific steps were not court orders subject to contempt. The Supreme Court held that the supplemental orders to the specific steps that the trial court issued to the father during the period of protective supervision were like any other court orders and were subject to contempt.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

BILL OF ATTAINDER

"Bills of attainder are legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. The bill of attainder clause of the constitution was intended to implement the separation of powers, acting as a general safeguard against legislative exercise of the judicial function. A bill of attainder has three requirements: (1) specification of the affected persons; (2) punishment; and (3) lack of a judicial trial. U.S.C.A. Const. Art. 1, § 10, cl. 1." (Citations and quotations marked omitted). *See, Hogan v. Department of Children and Families, 290 Conn. 545 (2009).*

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The trial court found that DCF's administrative decision to place a former DCF employee on the child abuse registry was unsupported by the evidence in the record and remanded the case to DCF for further reconsideration. The trial court further rejected the former employee's constitutional claims. Both the former employee and DCF appealed. The Supreme Court, on transfer, affirmed the trial court's denial of his constitutional claims. The Court held that the registry scheme did not constitute a bill of attainder because it did not inflict punishment on the former employee. Although placement on the registry may impair his ability to obtain employment in certain sectors, it did not ban employment altogether. The burden imposed upon the former employee furthers the legislative purpose of child abuse registry statute--to ensure that children are protected from the risk of physical and emotional harm.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

BURDEN OF PROOF

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983), reversed
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard. The statute was constitutional because when read together with another temporary custody statute containing the requirement that "serious physical illness or serious physical injury" or "immediate physical danger", the State must prove that the child is "at risk of harm" to justify removal. The statute is justified by a compelling state interest to protect children and is narrowly drawn to express that legitimate state interest. The Supreme Court further held that due process requires the burden of proof to be on the State and the standard of proof to be a 'fair preponderance of the evidence,' and that the trial court erred by applying the 'probable cause' standard. Moreover, the trial court erroneously granted the order of temporary custody when no immediate risk of danger to the children was shown. The trial court's conclusion that the children were "presumptively neglected" impermissibly shifted to the defendant the burden of proof to show that the children were not neglected, and was, therefore, error. **Concurring:** Peters, Parskey, Grillo, Shea, JJ.

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly shifted the burden of proof to the mother to prove she rehabilitated. The Appellate Court held that although the trial court stated in its decision that the mother had not made "significant progress to persuade the court by clear and convincing evidence that she met the objectives" and that the mother had not "established to the court's satisfaction that she is prepared . . . to assume the primary role of caring for her children", the decision as a whole indicated that the court required DCF to prove its case by clear and convincing evidence and that the court found that DCF in fact met its burden. The Court further held that the trial court's articulation did not change the basis of its memorandum of decision nor substitute its original decision. **Dissent:** Robinson, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The father claimed that the trial court committed plain error by improperly shifting the burden of proof to him during the dispositional phase of the termination of parental rights petition as well as the motion to revoke commitment and transfer of guardianship. Based on review of the court's memorandum of decision,

the Appellate Court summarily held that the father's claim was without merit and therefore was not "plain error". http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Amber B., 56 Conn. App. 776 (2000)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly shifted the burden of proof to him when it allowed DCF to show that it provided reunification services to the family in general and not to the father individually. The Appellate Court held that the trial court did not improperly shift the burden of proof to him because although the father was not the primary caretaker of the children, he was not denied access to the services offered to the family as a whole and DCF offered numerous services to him individually.

In re Drew R., 47 Conn. App. 124 (1997)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The out-of-state father claimed that the trial court improperly shifted the burden of permanency planning from DCF to him and that the evidence was insufficient to prove abandonment. Without any analysis, the Appellate Court held that the father's claim regarding burden shifting was baseless and without merit. The Appellate Court further held that the trial court properly found that the father did not provide financial support and his contact with the child was sporadic. The father failed to write or call often. The father's minimum interest by requesting custody (but then changing his mind), submitting to interstate studies and phoning DCF did not preclude a finding of abandonment.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that the parents "have not established all the prerequisites necessary in order to grant the [motion]", was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal bases for the court's decision.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother and children appealed. They claimed that the trial court violated her right to due process by failing to render a timely decision within ten days on the order of temporary custody. They further asserted that by consolidating the order of temporary custody with the neglect proceeding and allowing the children to remain in DCF's care until the neglect proceeding, there was a presumption that the children were neglected and the burden of proof shifted to the mother to prove that the children were not neglected. The Appellate Court held that the trial court need not render a decision on the OTC within ten days and that there was no presumption of neglect or improper burden shifting. Although there was no reversible error in this case, the Court noted

however, that the procedure of consolidating the OTC and neglect, "although designed to avoid a repetition of testimony and to economize court time, is improper because the issue of the continuation of ex parte temporary custody orders is not resolved in a timely fashion and can result in lengthy separations between parents and children."

In re Jason R., 306 Conn. 438 (2012)

After her parental rights were terminated, mother filed two motions for articulation, arguing the trial court had improperly shifted the burden of proof. Specifically, she objected to the court's stating in its memorandum that she had failed "to persuade the court by clear and convincing evidence" of her rehabilitation and that she had "not established to the court's satisfaction that she [was] prepared" to care for the children. The trial court articulated its decision twice in response to mother's motions, conceding that its language may have suggested burden shifting, but affirming that DCF had adequately proved its case. Mother appealed and the Appellate Court affirmed, 129 Conn. App. 746 (2011). The Supreme Court rejected mother's original argument concerning burden shifting, noting that the trial court's decision should be viewed in its entirety and in light of the correct recitations of the burden of proof in the initial decision and in the articulations. Mother's argument that the articulations modified the initial ruling and should not have been relied upon by the Appellate Court was rejected, as the articulations clarified but did not contradict the initial decision. Justice Zarella, dissenting, opined that the trial court's initial decision contained "statements unambiguously shifting the burden of proof to the respondent," and that a parent's constitutional right to family integrity required strict application of procedural protections.

BUSINESS RECORDS EXCEPTION

"To be admissible under the business record exception of General Statutes § 52-180, the business record must be one based upon the entrant's own observations or upon information transmitted to him by an observer whose business duty it was to transmit it to him. Statements obtained from volunteers are not admissible though included in a business record because it is the duty to report in a business context which provides the reliability to justify this hearsay exception. Information in a business record obtained from a person with no duty to report is admissible only if it falls within another hearsay exception." (Internal citations and quotation marks omitted). *See, In re Barbara J., 215 Conn. 31 (1990).*

"The business record exception "is derived from the recognition that the trustworthiness of such documents comes from their being used for business purposes and not for litigation. Business records are excepted from the hearsay rule when three conditions are met: (1) the records are made in the regular course of business; (2) it is the regular course of the business to make such records; and (3) the records were made at the time of the incident described in the record or shortly thereafter." (Internal citations and quotation marks omitted). *See, In re Ellis V., 120 Conn. App. 523 (2010).*

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the foster mother's letters to the DCF social worker were inadmissible hearsay. The Supreme Court held that the trial court properly admitted the foster mother's letters because the foster mother had a statutory duty to report to DCF and DCF had a statutory duty to collect and maintain the records of children in foster care.

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court erroneously admitted the parents' hospital records regarding their hospitalizations for their mental illnesses as business records. The Supreme Court held that the trial court improperly admitted the hospital records as business records because the parents timely objected to the confidential information and they did not consent or waive their statutory right to confidentiality. Nonetheless, the Court held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony.

In re Ellis V., 120 Conn. App. 523 (2010)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly admitted the DCF social studies as a business record. The Appellate Court held that DCF met the requirements for the business record exception to hearsay and further that the parents failed to show that the admission of the social study was harmful and likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted an anonymous report of suspected child abuse to DCF as a business record. The Appellate Court agreed and held the report contained hearsay information, but the error was harmless. The Court found the error harmless because an eyewitness to the allegations contained in the report testified and there was overwhelming evidence that the children were neglected. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court abused its discretion in admitting police reports. The Appellate Court held that the police reports contained observations by the police officers who made the reports and were properly admitted under the business record exceptions.

In re Kelly S., 29 Conn. App. 600 (1992), reversed
In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother claimed, in part, that the trial court improperly admitted the mother's hospital records as business records.
The Appellate Court held that the mother's hospital records were admissible as business records even though the hospital records contained records from another out-of-state medical facility. The challenged documents came from a coordinate health or human service agency and were part of the hospital's records. Not only were the documents relied on by the hospital in its treatment of the mother, they were also provided to the hospital pursuant to the mother's valid written release. The Appellate Court further held that while the child was removed from the mentally ill mother's care at birth from the hospital, the trial court could properly find the child neglected, but could not, as a matter of law, find that the mother committed acts of commission or omission or that there was no ongoing parent child relationship.

CHILD'S ATTORNEY

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The children's dually appointed attorney and GAL advocated for the termination despite the fact that the children wanted to return to the care of their parents. The parents claimed that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem to represent their children's best interests and the children's attorney's failure to request a separate attorney to advocate for the children's best interest violated their children's constitutional rights. The Appellate Court held that the constitution did not require that the trial court sua sponte appoint a separate GAL and as a result, the parents' unpreserved claim failed under the *Golding* analysis because they were unable to establish "a clear violation of their constitutional rights." Neither party requested a separate GAL. The constitution did not require that the trial court sua sponte appoint a separate GAL. Further, the Appellate Court held that the parents could not prevail on their ineffective assistance of counsel claim on behalf of their children because it was not raised at the trial level. Side stepping the issue of whether the children have a constitutional right to counsel, the Supreme Court affirmed the Appellate Court and held that the trial court did not have a constitutional obligation to appoint a separate GAL because the factual record did not support a finding that the trial court knew or should have known that a conflict existed between what the children wanted and what their attorney advocated for. The Supreme Court applied the test utilized in a criminal context to determine whether the trial court had a duty to inquire if an attorney conflict existed: 1) when there was a timely conflict objection at trial, or 2) when the trial court knew or reasonably should have known that a particular conflict exists.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the child's attorney's post-trial position statement containing extra record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless and thus the mother's claim also failed under the fourth prong of *Golding*. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Lyric H., 114 Conn. App. 582, cert. denied, 292 Conn. 921 (2009)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The child's attorney was acting as attorney and guardian ad litem and he supported the termination of parental rights petition. The mother claimed that her child was erroneously deprived of her constitutional right to conflict free legal representation because she indicated a preference for reunification. The mother further asserted that the trial court had an independent obligation to appoint a separate guardian ad litem. The Appellate Court side-

stepped the issue of whether the child had a constitutional right to conflict free counsel and held that even if the Court were to assume she held such a constitutional right, the trial court did not have a duty to appoint a separate guardian ad litem sua sponte. Applying the test set forth in *In re Christina M.,* regarding whether a trial court has a duty to inquire regarding a conflict of interest, the Appellate Court held that the record in this case did not support the assertion that the trial court "knew or should have known that such a conflict existed." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP114/114AP302.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The father claimed that the child's attorney advocated for the termination contrary to one child's expressed interest and asserted that the trial court erred in denying his motion for the appointment of a separate guardian ad litem. The Appellate Court held that the trial court did not err in denying the motion because the father did not present sufficient independent evidence demonstrating that a conflict existed. The father merely stated that the child expressed to him that the child wanted to return home. Further, the child's attorney stated there was no conflict of interest and the father did not request an evidentiary hearing on the matter. The Court also held that the father failed to demonstrate how the trial court's alleged failure to appoint a separate guardian ad litem would have likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. The Court applied the *Mathews v. Eldrige* balancing test and stated that the "bottom line question is whether the denial rendered the trial fundamentally unfair in view of the *Mathews* factors." The Court ruled that the burden on the state in granting the continuance is slight and the risk of erroneous deprivation of the mother's parental rights outweighed the other factors. Noting the difference between the child's attorney and the guardian ad litem, the Court ruled that a continuance to obtain the transcripts was necessary to represent the children's best interest adequately. The other factor weighed was the state's primary interest in a termination proceedings to free the children for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000)
On appeal from probate court, the trial court denied the grandmother's petition to terminate the mother's parental rights and granted the grandmother guardianship. The Appellate Court affirmed. The grandmother claimed that the trial court improperly relied on the guardian of the child's estate's opinion regarding the best interest of the child. The guardian of the child's estate testified and submitted a letter advocating against terminating the mother's parental rights. The Appellate Court held that the submission of the letter was not improper and distinguished *Ireland v. Ireland* by reasoning that in this case the guardian of the estate was not the child's attorney--a role that is limited to submitting argument through briefs and questioning witnesses.

In re Soncheray H., 42 Conn. App. 664 (1996)
The trial court terminated the mother's parental rights because she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to expunge and seal the children's trial brief because it contained facts not in evidence and it was untimely. The Appellate Court held that the trial court's decision was proper because the mother failed to demonstrate anywhere in the memorandum of decision or the record as a whole where the trial court relied on any of the facts not in evidence as contained in the children's trial brief.

CHILD'S LEGAL INTEREST

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K*, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Here, pursuant to Conn. Gen. Stat. § 17a-11, it was undisputed that the child was not admitted to DCF through its voluntary services program. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction. **Concurring:** Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The Supreme Court held, for the first time, that children have standing to appeal a trial court's judgment terminating their parent's parental rights. The Supreme Court concluded that the rights of the children here are inextricably intertwined with those of their parent and "both the [parents] and the children have a mutual interest in the perseveration of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship." **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors that occurred at the time the order of temporary custody (OTC) was granted three years earlier. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. The Court reasoned that by holding that an OTC is a final judgment and a collateral attack is impermissible, the Court is protecting the best interests of the child as well as the parent-child relationship and the important legal interests of children in family stability in either the biological or foster family. http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The Appellate Court noted that the children have standing to appeal pursuant to *In re Melody L.* http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The parents claimed on appeal to the Supreme Court that the children have a constitutional right to effective assistance of counsel and the trial court erred by not sua sponte appointing a separate GAL for the children. DCF claimed that the parents did not have standing to assert their children's constitutional rights. The Supreme Court held that the parents have standing to bring an appeal on behalf of their children and to challenge the adequacy of their children's legal representation because the parents' rights are inextricably intertwined with those of their children and inadequate representation of their children could harm the parents and their own rights in a termination proceeding. The Court declined to decide whether the children had a constitutional right to conflict free representation. The Court held that the trial court did not err in failing sua sponte to appoint a separate guardian ad litem to advocate for the children's wishes because there was insufficient evidence to support that the trial court knew or reasonably should have known that a conflict existed between what the children wanted and what their attorney advocated.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Lyric H., 114 Conn. App. 582, cert. denied, 292 Conn. 921 (2009)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The child's attorney was acting as attorney and guardian ad litem and he supported the termination of parental rights petition. The mother claimed that her child was erroneously deprived of her constitutional right to conflict free legal representation because the child indicated a preference for reunification. The mother further asserted that the trial court had an independent obligation to appoint a separate guardian ad litem. The Appellate Court side-stepped the issue of whether the child had a constitutional right to conflict free counsel and held that even if the Court were to assume she held such a constitutional right, the trial court did not have a duty to appoint a separate guardian ad litem sua sponte. Applying the test set forth in *In re Christina M.,* regarding

whether a trial court has a duty to inquire regarding a conflict of interest, the Appellate Court held that the record in this case did not support the assertion that the trial court "knew or should have known that such a conflict existed." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP114/114AP302.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the child. The mother and child both appealed. The Appellate Court affirmed. The Appellate Court noted that at the time, Connecticut courts had not decided whether a child could appeal from a termination of parental rights judgment. The Court declined to decide the issue of whether a child was a party to the termination proceeding because the child and the mother both claimed on appeal that the trial court erred in finding that a termination was in the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue. The issue of venue was waived because DCF included venue as a basis in its objection to the child's application. Distinguishing *In re Elisabeth H.,* the Appellate Court further held that the matter was not moot because although the child turned eighteen, the court may still provide her practical relief based on the agreement between the parties preceding the application for temporary injunction. Moreover, the record does not reflect whether the placement is appropriate. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Roshawn R., 51 Conn. App. 44 (1998)
The trial court terminated the father's parental rights on the grounds of abandonment, failure to rehabilitate and found that a termination was in the children's best interest. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove a termination was in the children's best interests because DCF did not provide reasonable efforts. The Appellate Court held that the trial court's findings were not clearly erroneous because the evidence supported the finding that based on the father's lifestyle of substance abuse and reoccurring incarcerations, DCF was prevented from providing services other than visitation which it did provide. In this case, the children's attorney filed an appellate brief asserting that the termination was proper for one child, but not the other child. In a footnote, the Court concluded that the children's attorney's brief was devoid of evidence and was merely an opinion regarding the child's emotionally fragile state. Based on Practice Book § 5-1 and *Ireland v. Ireland*, the children's counsel was not permitted to submit his personal opinion in legal proceedings.

In re Brianna F., 50 Conn. App. 805 (1998)
DCF filed a coterminous petition and while the trial court found the adjudicatory grounds were met, the trial court denied the termination petition finding that it was not in the child's best interest. The trial court found that the child suffered serious life threatening injuries at the hand of the mother's boyfriend and the

mother failed to prevent the abuse, but also determined that the mother may be able to overcome her deficient judgment. The child's attorney subsequently filed a second termination of parental rights petition alleging that the mother failed to rehabilitate. The child's attorney filed a "motion for advice" regarding the effect of the denial of the first termination on the second termination petition. The trial court ruled that collateral estoppel did not apply to the first termination judgment and that the child's attorney could not proceed directly to the best interest/dispositional phase of the termination proceeding without relitigating the adjudicatory grounds. The child's attorney appealed. The Appellate Court first held that "motions for advice" were not recognized in Connecticut and the Court treated it as a "motion for clarification" and ruled that the "motion for clarification" was an appealable final judgment. The Court further affirmed the trial court's ruling on the motion for advice/clarification and held that collateral estoppel did not apply to the first termination adjudication because the parent has a fundamental right to raise and care for his/her children and whenever the parent child relationship is at issue, all the relevant facts at the time of the termination petition should be considered. "The parent-child relationship presents an ongoing dynamic that cannot be frozen in time. The entire picture of that relationship must be considered whenever the termination of parental rights is under consideration by a judicial authority." Although the trial court's ruling on the motion for advice appeared inconsistent, the Appellate Court ruled that the child's attorney could introduce evidence related to the first termination proceeding to be considered in the second termination proceeding.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother and the children appealed and made numerous claims. (1) They claimed that the trial court erroneously found the children neglected because the proceedings were based on fraud. Specifically, they asserted that DCF did not disclose the entire DCF record and as a result the mother was not able to prepare adequately for trial. The Appellate Court held that the only information excluded from the DCF record was the foster parent's address that was not essential to the case. (2) They claimed that the evidence was insufficient to find the children neglected. The Appellate Court held that the evidence amply demonstrated that the children were subjected to their parents' domestic violence, the mother suffered from psychiatric issues and the children exhibited aggression and depression. (3) They further claimed that the trial court improperly included an allegation of uncared for. The Appellate Court found the trial court erred in finding that the child uncared for since the mother did not have an opportunity to defend against the allegation, but found the error harmless because the court also found the child neglected. (4) They further asserted that by consolidating the order of temporary custody with the neglect proceeding and allowing the children to remain in DCF's care until the neglect proceeding, there was a presumption that the children were neglected and the burden of proof shifted to the mother to prove that the children were not neglected. The Appellate Court held that the trial court need not render a decision on the OTC within ten days and that there was no presumption of neglect or improper burden shifting. Although there was no reversible error in this case, the Court noted however, that the procedure of consolidating the OTC and neglect, "although designed to avoid a repetition of testimony and to economize court time, is improper because the issue of the continuation of ex parte temporary custody orders is not resolved in a timely fashion and can result in lengthy separations between parents and children."

CHILD'S RIGHT TO REMAIN SILENT

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial. In so holding, the Court also construed Conn. Gen. Stat. § 46b-137 and held that parents do not have the same right to silence in child protection proceedings that accused children have in a delinquency proceedings. The language of P.B. § 34-1 set forth a child's right to remain silent in delinquency matters, derived from § 46b-137 (a), contemporaneously with a parent's right to remain silent in neglect or termination proceedings, derived from § 46b-137 (b). However, the two rights are distinct and do not have the same legal protections. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

CHILD'S TESTIMONY

In re Tayler F., 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits. The Supreme Court held, as a matter of first impression, that a child's out of court statement may be admissible under the residual hearsay exception if the child is "unavailable," and a child is "unavailable" if there is "competent evidence that the children will suffer psychological harm" by testifying. A finding that it is not in the children's best interest to testify is insufficient. Here, although the trial court applied the best interest of the child standard instead of the psychological harm standard, and the trial court's procedures did not follow the ones set forth in this decision, the Supreme Court found that the court-ordered expert's testimony met the burden of proof regarding the children's unavailability. The Court analyzed and applied *State v. Jarzbek,* which held that a child who is the victim of sexual abuse may testify via videotape outside the physical presence of the defendant, in certain circumstances, without violating the defendant's right to confrontation. Practice Book § 32a-4 was inapplicable because no party requested that the children testify. The Supreme Court further found that the admission of the children's hearsay statements did not violate the mother's right to confrontation or to due process. **Note:** this case was decided before the enactment of the "tender years" exception in the Code of Evidence, § 8-10. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly precluded her from calling her own child as a witness. The Appellate Court held that the trial court did not abuse its discretion in precluding the mother from calling her child as a witness because there was expert testimony that requiring the child to testify would have been harmful and the child's testimony would have been unreliable. Accordingly, the mother's statutory right to confrontation pursuant to Conn. Gen. Stat. § 46b-135(b) was not violated. Further, the child's testimony would have been cumulative. "[C]ases involving the testimony of abused children require special consideration."

In re Adelina G., 56 Conn. App. 40 (1999)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional and statutory rights to confrontation and due process by not allowing the child to testify in camera. The Appellate Court declined to review this claim because the mother failed to provide a constitutional analysis, failed to provide a standard of review in her brief, and the only cases she did cite undermined her argument.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court violated her statutory right to confrontation under Conn. Gen Stat. § 46b-135(b) by not allowing the child to testify in camera. The Appellate Court held that the trial court acted within its discretion and did not violate her right to confrontation because the child's testimony was not necessary based on "all of the evidence". Requiring the child to testify would be "destructive" and would further victimize her. Further, the child's testimony in camera would have been cumulative. The adduced evidence demonstrated that during the four years that the child had been in foster care, the mother failed to believe the child's disclosures of sexual abuse, failed to protect her, failed to cooperate with police and DCF regarding the charges, and failed to seek counseling. This evidence clearly supported the judgment. Moreover, the mother continued a relationship with the abusive boyfriend.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional and statutory rights to confrontation and cross-examination when the trial court prevented her attorney from cross examining the child during the child's testimony in the judge's chambers. The Appellate Court held that parents in neglect proceedings have no constitutional right to confrontation and cross-examination pursuant to the Sixth Amendment. Parents, do however have a statutory right to confrontation and cross-examination pursuant to Conn. Gen. Stat. § 46b-135(b). The Court further held that the trial court's procedure in which the child testified in camera without the mother present did not violate her statutory rights to confrontation and cross-examination because the trial court properly followed the Practice Book provision and allowed all the counsel to be present and submit and resubmit questions during the child's interview.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the child's out-of-court statements were inadmissible hearsay. The Appellate Court held that the child's statements were inadmissible hearsay because they were not admissions by a party opponent or verbal acts and they did not meet requirements under the residual hearsay exception. Nonetheless, in light of the additional clear evidence of abuse, namely the child's own testimony and the mother's admission that her boyfriend urinated on the child, the Appellate Court held the error was harmless and thus not reversible.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not err when it admitted as evidence the children's statements as verbal acts. The children's statements, such as a threat by one child to "make love" to his five year old sister and recounting being sodomized by his father were statements demonstrating the children possessed knowledge beyond their years. The statements were relevant to the conditions in which the children lived and to an inference of the parents' acts of commission or omission.

CIRCUMSTANTIAL EVIDENCE

"The law does not distinguish between direct and circumstantial evidence as far as probative force is concerned. In a criminal case, the jury may draw reasonable, logical inferences from the facts proven as long as they do not resort to speculation and conjecture. In a case involving substantial circumstantial evidence, the cumulative impact of a multitude of facts, and not any one fact, may establish guilt. Insofar as circumstantial evidence can be and is routinely used to meet the higher standard of proof in a criminal prosecution, so can it be used in a case such as this where the applicable standard is that of clear and convincing proof." (Internal citations and quotation marks omitted*). See, In re Cheyenne A., 59 Conn. App. 151, cert. denied, 254 Conn. 940 (2000).*

In re Cheyenne A., 59 Conn. App. 151, cert. denied, 254 Conn. 940 (2000)
The trial court terminated the parents' parental rights on the acts of commission or omission ground. The Appellate Court affirmed. The parents claimed that the trial court erred in finding that a prima facie showing of unexplained injuries was sufficient to prove acts of commission or omission to terminate the parents' rights. The Appellate Court held that the trial court's decision was not clearly erroneous because there was clear and convincing evidence that the infant suffered serious, life threatening physical injuries, and seventeen rib fractures, occurring at different times. The injuries were unexplained at the time of the child's removal and then the parents later claimed that the injuries happened while in the grandmother's care. The Court further held that although the evidence presented was largely circumstantial, such evidence is sufficient to meet a "clear and convincing" burden of proof because circumstantial evidence is adequate to prove criminal charges requiring proof "beyond a reasonable doubt." The trial court, as a criminal jury, may draw reasonable and logical inference from proven facts as long as they do not resort to speculation and conjecture.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find that he sexually abused his child and that he committed acts to deny his child necessary care, guidance and control because his expert witness contradicted DCF's expert witness. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence based on the child's multiple statements about the sexual abuse and DCF's expert's testimony describing the child as articulate and clear about distinguishing between the abuse she suffered from her father versus her uncle. The Court ruled that the trial court may consider circumstantial evidence as there is no difference between circumstantial and direct evidence so far as probative force is concerned. "In considering the evidence introduced in a case, [triers of fact] are not required to leave common sense at the courtroom door nor are they expected to lay aside matters of common knowledge or their own observations and experience in the affairs of life, but, on the contrary, to apply them to the facts at hand, to the end that their action may be intelligent and the conclusions correct."

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court's judgment was amply supported by the evidence. In this case, the evidence demonstrated that the children were sexually abused by their father. The mother claimed that the judgment was based on speculation because there was no direct evidence presented of the sexual abuse. The Appellate Court ruled that though the evidence was largely circumstantial, the evidence was nonetheless sufficient because the "law does not distinguish between direct and circumstantial evidence as far as probative force is concerned." If circumstantial evidence can be used in the criminal context where there is a higher standard of proof, then it can be used in TPR cases where the standard of proof is clear and convincing evidence.

CLEAR AND CONVINCING EVIDENCE

"The clear and convincing standard of proof is substantially greater than the usual civil standard of a preponderance of the evidence, but less than the highest legal standard of proof beyond a reasonable doubt. The clear and convincing standard of proof is sustained if the evidence induces in the mind of the trier a reasonable belief that the facts asserted are highly probably true, that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist." (Internal citations and quotation marks omitted*). See, In re Dylan C., 126 Conn. App. 71 (2011).*

In re Juvenile Appeal (83-AB), 189 Conn. 58 (1983), reversed
The trial court terminated the parental rights of parents in six cases. The appeals were consolidated. The Supreme Court reversed. The parents claimed that the trial court erroneously failed to set forth a standard of proof in its decisions. The Supreme Court held that in the absence of an articulated standard of proof, the Court assumes that a fair preponderance of the evidence standard was used. Based on the United States Supreme Court holding in *Santosky v. Kramer* concluding that due process requires termination of parental rights cases to be proven by clear and convincing evidence, the Supreme Court reversed the judgments of the trial court and ordered new trials.

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The trial court adjudicated one child neglected as to the father, but not as to the mother and the trial court denied the termination of parental rights petitions as to the mother regarding all the children on the grounds that DCF did not prove that the mother failed to rehabilitate. The Appellate Court reversed. DCF claimed, in part, that the trial court erred in denying the termination petitions because it required that DCF prove a subordinate fact by clear and convincing evidence. The Appellate Court agreed and held that the trial court erroneously required DCF to prove by clear and convincing evidence that the mother continued to live with the abusive father in order to prove the mother failed to rehabilitate. The Court concluded that only the elements of the termination of parental rights claim must be proven by clear and convincing evidence, not a subordinate fact underlying the failure to rehabilitate claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Dylan C., 126 Conn. App. 71 (2011)
The trial court terminated the mother's parental rights on the ground that she failed to rehabilitate. The Appellate Court affirmed. On appeal, the pro se mother claimed that the trial court lacked sufficient evidence. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence that the mother failed to rehabilitate. The Court defined "clear and convincing" proof and held the evidence demonstrated that while the mother made some progress regarding understanding the effects of domestic violence, the mother still exposed her children to domestic violence by living with a roommate who was in a domestic violence relationship. Moreover, the psychologist opined that the mother could not parent safely and would not be able to do so in a reasonably foreseeable time. Moreover, the child had been in foster care his entire life and he was then two and half years old.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP165.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved by clear and convincing evidence that the mother had abandoned the child and that the termination of parental rights was in the best interest of the child. In doing so, the Appellate Court set forth the legal standard for clear and convincing proof. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

COMISSION/OMISSION

" General Statutes § 17a-112 (c) provides in relevant part: "The Superior Court, upon hearing and notice as provided in sections 45a-716 and 45a-717, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence ... (3) that ... (C) the child has been denied, by reason of an act or acts of parental commission or omission ... the care, guidance or control necessary for his physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facia evidence of acts of parental commission or omission sufficient for the termination of parental rights...." (Internal citations and quotation marks omitted*). See, In re Antonio M., 56 Conn. App. 534 (2000).*

In re Valerie D., 223 Conn. 492 (1992), reversed
The trial court terminated the mother's rights by finding that she committed an act of commission or omission and there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court reversed the Appellate Court. The mother claimed that the statute did not permit a finding of "serious physical injury to [the] child" that constituted "acts of parental commission or omission" based solely on the mother's prenatal conduct of injecting cocaine hours before the labor and delivery of her baby. Based on statutory construction, the Supreme Court held that the statutory terms "parent" and "child" contemplate only a child that has been born, not a child in utero, even though the infant child was harmed upon birth.

In re Theresa S., 196 Conn. 18 (1985)
The trial court terminated the mother's parental rights on the ground of acts of commission or omission and found a termination of her parental rights was in the best interest of the children. The Supreme Court affirmed. The mother claimed that the trial court erred in an incorrect legal standard in determining the commission or omission ground. She also claimed that there was insufficient evidence. The Supreme Court held that the trial court applied the correct legal standard of "clear and convincing" evidence and the trial court's use of the phrase "strong evidence" was merely an expression directed at one of many factors considered by the court. The Supreme Court also held that the evidence presented regarding the mother's psychotic episodes and her attempt to take her own life and her two year old children's lives by cutting their wrists overwhelmingly supported the trial court's decision to terminate the mother's parental rights.

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. The parents made numerous claims. (1) The parents claimed that the trial court applied the wrong standard of proof. They claimed specifically that because the proceedings were not bifurcated, the trial court erred by applying a fair preponderance of the evidence standard to the neglect as well as the termination proceedings. After providing a detailed explanation of the elements of coterminous proceedings, the Court held that the trial court properly adjudicated the child neglected by more evidence than a fair preponderance of the evidence and found that, based on the child's serious physical injuries, the parents committed an act of commission or omission by

clear and convincing evidence. (2) They also claimed that because *Santosky v. Kramer's* holding that clear and convincing evidence was required in termination proceedings was handed down during their termination action, there was reversible error because the new standard of proof was not set forth at the onset of the proceedings. The Supreme Court held that the trial court properly applied the clear and convincing standard in light of the *Santosky* holding and the parents failed to show any harm, i.e., that they would have presented their case any differently had the *Santosky* decision was rendered prior to the inception of their case.

In re Nelmarie O., 97 Conn. App. 624 (2006)
The trial court terminated the mother's parental rights by finding that she committed an act of commission or omission. The Appellate Court affirmed. The mother claimed that the trial court improperly found that she failed to provide for her children's emotional well-being because she never physically abused her own children. She further claimed that 'ground c' does not apply because her stepchild, who died from physical abuse she participated in, was not related to her. The Appellate Court held that 'ground c', acts of commission or omission, does not require that the children subject to the termination petitions be physically abused. The fact that the fatally abused stepchild was not related to her was irrelevant. The trial court's decision finding that the mother committed an act of commission or omission was amply supported by the evidence because the mother failed to provide for the emotional well-being of her children by abusing her stepchild in their presence and ordering them to participate in the abuse. The mother further claimed that the trial court improperly considered evidence gathered after the filing of the petition. The Appellate Court held that Practice Book § 35a-7(a) provides that the trial court is limited to "evidence of events preceding the filing of the petition" and this clearly means that the limitation applies to *events* preceding the filing of the petition, not the *evidence* preceding the filing of the petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP470.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the evidence was insufficient to prove neglect. The Appellate Court held that there was sufficient evidence to support the finding that the mother deliberately and nonaccidentally slammed the child's head against the floor which supported an adjudication of neglect and a termination of parental rights based on non-accidental or inadequately explained physical injury. The mother had made a written statement to the police that she had placed her hand on the child's head and pushed it against the floor. The medical testimony presented was that the resulting fracture of the skull caused the child to have impaired functioning of the brain, seizures and the potential for permanent brain injury or death. http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Cheyenne A., 59 Conn. App. 151, cert. denied, 254 Conn. 940 (2000)
The trial court terminated the parents' parental rights on the acts of commission or omission ground. The Appellate Court affirmed. The parents claimed that the trial court erred in finding that a prima facie showing of unexplained injuries was sufficient to prove acts of commission or omission to terminate the parents' rights. The Appellate Court held that the trial court's decision was not clearly erroneous because there was clear and convincing evidence that the infant suffered serious, life threatening physical injuries, seventeen rib fractures, occurring at different times. The injuries were unexplained at the time of the child's removal and then the parents later claimed that the injuries happened while in the grandmother's care. The

Court further held that although the evidence presented was largely circumstantial, such evidence is sufficient to meet a "clear and convincing" burden of proof because circumstantial evidence is adequate to prove criminal charges requiring proof "beyond a reasonable doubt." The trial court, as a criminal jury, may draw reasonable and logical inference from proven facts as long as they do not resort to speculation and conjecture.

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence that the mother's boyfriend physically and sexually abused the child. The Court held that the evidence demonstrated that the mother both allowed and denied the child's injuries that occurred in her care. The child had knowledge beyond his years of acts of sexual and physical abuse. The mother further claimed that the trial court failed to credit any of her witnesses. Rejecting the mother's claim, the Court ruled that the trial court is the sole arbitrator of the credibility of witnesses and the "quintessential function of the fact finder is to reject or accept certain evidence."

In re Tabitha T., 51 Conn. App. 595 (1999)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, no ongoing parent child relationship, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found that she committed acts of commission or omission. The Appellate Court held that the evidence sufficiently proved this ground because the mother failed to protect the children from sexual abuse by their older brothers and told one child not to disclose to the therapist anything about the abuse or what happens at home.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find that he sexually abused his child and that he committed acts to deny his child necessary care, guidance and control because his expert witness contradicted DCF's expert witness. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence based on the child's multiple statements about the sexual abuse and DCF's expert's testimony describing the child as articulate and clear about distinguishing between the abuse she suffered from her father versus her uncle. The Court ruled that the trial court may consider circumstantial evidence as there is no difference between circumstantial and direct evidence so far as probative force is concerned.

In re Anna B., 50 Conn. App. 298 (1998)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF failed to provide clear and convincing evidence that she committed acts of commission or omission. The Appellate Court summarily held that based on the pivotal issue that the mother failed to accept that her children were sexually abused by her older children, despite her own therapy, together with her poor parenting skills and personality disorder, that the record

supported the trial court's findings. The Appellate Court stated that the trial court is not required to rely solely on certain specified portions of evidence and the mother's interpretation thereof.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence because she prevented her boyfriend, who sexually abused her child, from visiting her home prior DCF removing the child and because she believed the child's disclosures. The Appellate Court held that the evidence demonstrated that the mother failed to believe the child's disclosure of sexual abuse, failed to protect her, failed to cooperate with police and DCF regarding the charges, and failed to seek counseling. This evidence clearly supported the judgment. Moreover, the mother continued a relationship with the abusive boyfriend and the court weighed the various expert testimony accordingly.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian based on the acts of commission or omission ground. The Appellate Court affirmed. The father claimed that the trial court improperly found this ground because the evidence regarding the father's conduct did not adversely affect the child. The Appellate Court held that the father's lifestyle, marred with illegal conduct, including selling drugs, engaging in domestic violence and sexually abusing the child's half-sister, denied the child the proper care necessary for her well-being and that it was in the child's best interest to terminate the father's parental rights. The father also claimed that the trial court improperly admitted evidence of the father's arrest for drug and weapon possession because it did not result in a conviction. The Appellate court held that the trial court properly considered the evidence because a police officer with first-hand knowledge testified regarding the father's conduct as impeachment of the father's testimony and the evidence was relevant to the statutory criteria requiring removal of a parent based on parental habits or misconduct.

In re Felicia D., 35 Conn. App. 490 (1994)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found that she denied her child by acts of commission or omission the care necessary for her well-being. The Appellate Court held that the record supported the trial court's decision. The record demonstrated that the child was sexually abused and sustained serious head injuries while in the mother's care. Although the mother was not the person who inflicted the injuries, she continuously exposed the child to dangerous men and refused to acknowledge that it was possible that her husband who was convicted of risk of injury likely caused the injuries.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights by finding that the father abandoned the child, committed acts of commission or omission, there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that there was no clear and convincing evidence of acts of commission or omission and the Appellate Court agreed. The Appellate Court held that the child could not have been "denied the care, guidance, or control necessary for physical, educational, moral or emotional well-being" by the father if the child was in foster care most of her life. Thus, the Appellate Court did not sustain this ground, but affirmed the termination

nonetheless because to prevail on appeal of trial court's decision terminating his parental rights, the father had to successfully challenge all three of the bases of the judgment terminating his parental rights. The termination judgment would be upheld if any of the grounds found by the trial court were sustained on appeal.

In re Mark C., 28 Conn. App. 247, cert. denied, 223 Conn. 922 (1992)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, committed acts of commission or omission and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that there was not clear and convincing evidence that she "denied the care, guidance, or control necessary for physical, educational, moral or emotional well-being" because the father, not her, physically and sexually abused the children. The Appellate Court held the evidence supported the trial court's findings because although the father inflicted the abuse, the mother was not relieved of her responsibilities to protect the children. The mother continued to expose the children to the father and the mother failed to attend therapy regularly.

In re Kelly S., 29 Conn. App. 600 (1992), reversed
In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother claimed that the trial court erred because there was no actual parental acts of commission or omission that denied the child necessary care. Reversing the trial court's judgment on this ground, the Appellate Court held that where child was removed from her mentally ill mother at the hospital right after birth and no injury had befallen child, the court cannot terminate the mother's parental rights based on speculation as to what might happen if the child was placed in the mother's care. This ground requires proof of specific conduct that has caused serious injury to the child. The Appellate Court further held however, that this evidence is sufficient to affirm the trial court's neglect/uncared for adjudication.

In re Sean H., 24 Conn. App. 135 (1991)
The trial court terminated the father's parental rights finding that he committed acts of commission or omission when he stabbed to death his children's mother. The Appellate Court affirmed. The father claimed that the acts of commission or omission statute was inapplicable to the father because he was the noncustodial parent and because he never seriously abused the children. The Appellate Court held that the statute applies to custodial and noncustodial parents. Further, there was nothing in the statute that limited the acts of commission or omission to acts resulting in the serious physical injury of a child, rather than serious emotional injury of a child. The father stabbed the mother to death in front of the children, leaving them homeless, with no caregiver and with permanent emotional injury. "In striking at the heart of the family, the respondent demonstrated total disregard for the impact of his actions upon the emotional well-being of his children."

In re Nicolina T., 9 Conn. App. 598 (1987)
The trial court terminated the mother's parental rights finding that she committed an act of commission or omission and there was no ongoing parent child relationship and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF failed to prove by clear and convincing evidence that she denied the children "the care, guidance or control necessary for their physical, educational, moral or emotional well-being." The Appellate Court held that the trial court's findings were supported by the record because the mother was repeatedly hospitalized due to her schizophrenia, unable to

care for them, violent and erratic. Moreover, the children were physically and sexually abused while in her care.

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents made multiple claims pertaining to the sufficiency of the evidence. They first claimed that because the experts' testimony did not exclude, to a reasonable degree of medical probability, the hypothesis that the child's injuries were accidental, the evidence was legally insufficient to establish the cause of the sexual abuse. They further argued because the cause was unclear, namely whether the father or the boyfriend, sexually abused her that the judgment was speculative. The Appellate Court held that despite the failure of the physician and the psychologist to formulate opinions as to the cause of the child's sexual abuse, the expert testimony clearly established that sexual abuse had occurred. Based on the totality of the evidence, including the child's statements to her neighbor and foster mother that the father had inappropriately touched her, sufficient evidence supported the trial court's findings. Moreover, the child had pornographic pictures and stated to the neighbor and social worker that her father gave them to her.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court's judgment was amply supported by the evidence. In this case, the evidence demonstrated that the children were sexually abused by their father. The mother claimed that the judgment was based on speculation because there was no direct evidence presented of the sexual abuse. The Appellate Court ruled that though the evidence was largely circumstantial, the evidence was nonetheless sufficient because the "law does not distinguish between direct and circumstantial evidence as far as probative force is concerned." If circumstantial evidence can be used in the criminal context where there is a higher standard of proof, then it can be used in TPR cases where the standard of proof is clear and convincing evidence.

COMMITMENT

"In determining the disposition portion of the neglect proceeding, the court must decide which of the various custody alternatives are in the best interest of the child. To determine whether a custodial placement is in the best interest of the child, the court uses its broad discretion to choose a place that will foster the child's interest in sustained growth, development, well-being, and in the continuity and stability of [the child's] environment. At trial, the commissioner had the burden of proving by a fair preponderance of the evidence that it was in the child's best interest to be committed to the commissioner rather than to remain with the respondent. On appeal, we must determine whether there was sufficient evidence before the court so that it reasonably could find, by a fair preponderance of the evidence, that the best interest of the child was to commit custody of her to the commissioner. . . . We first note that the commitment in this case is not one of "permanency," such as a judgment of termination of parental rights, but one that requires, pursuant to § 46b-129 (j), the court to order specific steps which the parent must take to facilitate the return of the child or youth to the custody of such parent." (Internal citations and quotation marks omitted.) *See, In re Brianna C., 98 Conn. App. 797 (2006).*

In re Jose B., 303 Conn. 569 (2012)
Two days before his 18th birthday, the youth filed a neglect petition seeking to have himself committed to DCF and the trial court dismissed the petition for lack of jurisdiction after the youth turned 18. The Appellate Court affirmed. The child appealed. The Supreme Court affirmed the Appellate Court. The Supreme Court concluded that the trial court lacks statutory authority under Conn. Gen. Stat. §46b-129(a) to adjudicate a person eighteen years or older and to commit such person to DCF under Conn. Gen. Stat. §46b-129(j). The Court held that the trial court properly granted DCF's motion to dismiss because the child's 18th birthday rendered the neglect petition moot based on the trial court's lack of statutory authority. Worth noting, the Supreme Court ruled that a claim based on the failure to establish an essential fact for obtaining relief pursuant to a particular statute is not a matter of subject matter jurisdiction, but of statutory authority.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf

In re Jessica M., 303 Conn. 584 (2012)
Before her 18th birthday, the youth filed a neglect petition seeking to have herself committed to DCF. By the time the trial court held a trial on the petition, the youth had reached her eighteenth birthday. The trial court then dismissed the petition for lack of jurisdiction because the youth turned 18. The Appellate Court affirmed. The Appellate Court held that pursuant to its recent holding in *In re Jose B.*, the trial court properly dismissed the petition for lack of subject matter jurisdiction because there is no statutory authority under Conn. Gen. Stat. § 46b-129(j) to permit retroactive commitment. The youth appealed to the Supreme Court. The Supreme Court affirmed the Appellate Court. The Supreme Court held that the trial court lacked statutory authority to adjudicate a person neglected or to provide dispositional relief after the person reached eighteen years of age. The petition was rendered moot and does not fall within the collateral consequences doctrine. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR19.pdf

In re Shawn S., 262 Conn. 155 (2002)
The trial court accepted the parents' nolo pleas, adjudicated the children uncared for and accepted their express agreement to a commitment. The parents appealed. The parents claimed that the commitment order violated their statutory right to voluntary services pursuant to Conn. Gen. Stat. § 17a-129 and also violated their constitutional rights. The Appellate Court dismissed the appeals holding that the parents failed to exhaust their administrative remedies. The Supreme Court affirmed. The Supreme Court held that the Appellate Court incorrectly applied the exhaustion doctrine, but that the Court lacked subject matter to hear the appeal nonetheless because the parents lacked standing to appeal because they were not aggrieved by the order of commitment. While the parents clearly have a personal and legal interest in the matter, the parents did not prove that their legal interest was injured by the trial court's decision. The parents had waived their right to contest the commitment because they agreed to the commitment. "The fact that the respondents expressed their unhappiness at having their children committed does not change the fact that the commitment was a disposition to which the respondents agreed."
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

In re Ja-Lyn R., 132 Conn. App. 314 (2011)
The trial court adjudicated the infant child neglected and committed him to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly committed the child to DCF's custody. The Appellate Court held that the trial court did not abuse its discretion in committing the child to DCF based on the evidence that demonstrated that: the mother had a prior history with DCF, her oldest child was already in DCF's custody, during visitation she had a difficult time managing both children simultaneously, she had unresolved anger management and parenting issues, she refused to accept parenting instruction, she was arrested for risk of injury regarding her older child, failed to complete substance abuse or mental health treatment, tested positive for marijuana at the time of the baby's birth, and was involved in repeated domestic violence episodes with the now incarcerated father.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP75.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother appealed and the children filed their own brief. The mother and children both claimed that the trial court improperly committed them to DCF. The children further claimed that the trial court utilized the incorrect legal standard and should have applied a balancing test in *In re Juvenile Appeal (83-CD)*. The Appellate Court held that there was sufficient evidence to commit the children to DCF based on the mother's unstable housing, and failure to follow through with substance abuse and mental health treatment. The Appellate Court further ruled that the balancing test was inapplicable and the court must decide which place will foster the "child's interest in sustained growth, development, well-being, and in the continuity and stability of [the child's] environment."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The trial court adjudicated the infant child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court abused its discretion when it committed the child to DCF instead of ordering protective supervision. The Appellate Court held that there was sufficient evidence for the trial court to have found that it was in the child's best interest to be committed to DCF rather than the child be in the care and custody of the parents in light of the liberal, unsupervised visits the mother was permitted with her child while the child remained in foster care with her aunt. The Court acknowledged

that in this case, "there may be no 'best,' but only a 'better,' solution." The evidence demonstrated that the father was a paranoid schizophrenic who had not been taking his medication and the mother alone could not protect the child from the father. In one incident, the mother discovered the father resting his hand on the baby's chest while the baby was naked on a wet towel. The father said the baby needed to "air out." Although the Appellate Court acknowledged that no actual harm befell the child, the Court nonetheless upheld the trial court's findings because neither the mother nor the father understood or attempted to learn the extent of the risk that the father posed to the child when not medicated.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Stanley D., 45 Conn. App. 606, cert. denied, 243 Conn. 910 (1997)
The trial court granted DCF's motion to modify the disposition from protective supervision to commitment. The Appellate Court affirmed. The father claimed that the trial court improperly granted the motion to modify disposition. The Appellate Court held if a parent fails to comply with the orders of protective supervision, the court can modify the disposition. The trial court had sufficient evidence to modify the disposition to commitment because the father and mother created an unhealthy environment for the child by engaging in domestic violence disputes, the father was arrested and charged with criminal misconduct, the father failed to cooperate with DCF and announced visits, and the mother had left the home and disappeared for weeks.

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court erred by committing the child to DCF. The Appellate Court held that the evidence was sufficient to support the trial court's judgment because at the time of the child's birth the father issued death threats to the hospital staff and was preoccupied with astrological signs accompanying child's birth and showed no concern for any planning required for care of newborn child, and the mother did not respond at all to the hospital's routine questions regarding preparations for baby's care upon discharge and she displayed aberrant behavior both during prenatal visits and after child's birth.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the evidence was insufficient to support the judgment. The Appellate Court affirmed. The Appellate Court held that the judgment committing the child to DCF was legally correct and factually supported because the mother's boyfriend burned the child on 55% of her body and the mother would likely expose the child to him again, the mother had only cared for the child for 4 months out of 37 months prior to the child's hospitalization, the grandmother cared for the child and had a strong bond with her, and the psychologists testified that placement with the grandmother was in the child's best interest. Although the court in its order stated that placement would be with the grandmother in Puerto Rico, the child was legally committed to DCF. The court's statement was merely a suggestion to DCF, not an order, to place the child there as it was in her best interest. Contrary to the mother's assertion, the suggestion that the child be placed in Puerto Rico was not a de jure or de facto termination of the mother's parental rights.

In re Juvenile Appeal (1983-4), 39 Conn. Supp. 490 (1983)(appellate session)
The trial court adjudicated the child neglected and committed her to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she was unable to

protect her child and that commitment was in the child's best interest. The Appellate Court held that the trial court properly found that committing the child to DCF was in the child's best interest because the mother was unable to protect her child from the violent and abusive boyfriend. Despite the child's fears of the boyfriend, the mother continued to expose the child to the boyfriend in violation of a court order. The Appellate Court ruled that the state's intervention into the family is only justified when it is in the best interests of the child and that to determine what is in the child's best interest, trial courts must balance the child's interests in safety and in a stable family environment with the mother's interest in the integrity of the family. "It is only when the child's interest no longer coincides with that of the parent, thereby diminishing the magnitude of the parent's right to family integrity, that the state may intervene to protect the child."

COMPETENCY

"[U]nder certain circumstances, due process requires that a hearing be held to determine the legal competency of a parent in a termination case. It is evident that the parent has an important interest to be protected and that the statutory procedure currently in place leaves that interest at risk of wrongful deprivation. We also recognize, however, that the state has an important interest in containing costs and in rapidly effectuating a resolution to the termination question. Moreover, in those cases in which the parent is mentally competent, a hearing would be of no utility. Accordingly, we conclude that due process does not require a competency hearing in all termination cases but only when (1) the parent's attorney requests such a hearing, or (2) in the absence of such a request, the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte. In either case, the standard for the court to employ is whether the record before the court contains specific factual allegations that, if true, would constitute substantial evidence of mental impairment. . . . Evidence is substantial if it raises a reasonable doubt about the [parent's] competency . . . ." (internal citations and quotation marks omitted.) See, *In re Alexander V.,* 223 Conn. 557 (1992); *In re Zowie N.*, 135 Conn. App. 470 (2012).

In re Johnson R., 121 Conn. App. 464 (2010), aff'd, 300 Conn 486 (2011)
The trial court terminated the father's parental rights finding a termination was in the best interest of the children. After being found incompetent, the trial court appointed the father a guardian ad litem. The Appellate Court affirmed. The father claimed that the court violated his due process rights by not requiring DCF to collaborate with the father's guardian ad litem regarding reunification efforts. The Appellate Court declined to address the father's claim because it was not preserved at trial. While the father sought *Golding* review, the Appellate Court held that the record was inadequate because the father failed to provide the reviewing court with any transcripts, exhibits, memorandum of decision or motion for articulation from the competency hearing. The father bears the responsibility for providing an adequate record for review and "if the facts revealed by the record are insufficient, unclear or ambiguous as to whether a constitutional violation has occurred, appellate court will not attempt to supplement or reconstruct the record, or to make factual determinations, in order to decide the appellant's claim."
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP349.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR48.pdf

In re Alexander V., 223 Conn. 557 (1992), aff'ing, 25 Conn. App. 741 (1991)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Supreme Court affirmed. The mother claimed that her right to due process required the trial court to sua sponte order a competency evaluation. Applying the *Mathews* due process balancing test, the Supreme Court held that due process requires that a hearing be held to determine whether a parent in a termination of parental rights cases is legally competent when (1) the parent's attorney requests such a hearing, or (2) if the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte. Substantial evidence of the parent's mental impairment must exist. The Court also held that in this case the trial court was not obligated to order a competency hearing sua sponte because the evidence did not raise a reasonable doubt regarding whether the mother could understand the proceedings or assist in the presentation of her case. Although the evidence established that the respondent suffered from a personality disorder and at times exhibited bizarre and inappropriate behavior, there was no testimony demonstrating that such her disorder interfered with the mother's ability to present her case and

the testimony also indicated that the mother understood the nature of proceedings. **Concurring:** Glass, Berdon, Santani-Ello, Borden, JJ.

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed.
The father claimed that while he was pro se at the termination trial, the trial court violated his federal and state due process rights by failing to order a competency evaluation to determine specifically whether he was competent to represent himself. The Appellate Court held, relying on *In re Alexander V.,* that the first competency evaluation, ordered upon the child's attorney's request, finding that the father was competent to understand the proceedings was sufficient to comply with the law. The father failed to provide any "substantial evidence" in the record that the court abused its discretion. The father further failed to demonstrate that a second competency evaluation was warranted or that the trial court had a sua sponte obligation to order the evaluator to assess the pro se father's competency for self-representation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Kaleb H., 131 Conn. App. 829 (2011)
DCF filed a motion to modify the disposition from protective supervision to commitment. The mother's attorney requested a competency evaluation because the mother never remembered agreeing to the child's previous adjudication of neglect. The trial court denied the motion for a competency evaluation and committed the child to DCF. The Appellate Court affirmed. The mother claimed that the trial court violated her due process rights by denying her motion for a competency evaluation. The Appellate Court held that the trial court did not abuse its discretion when it denied the competency evaluation because the mother failed to assert specific factual allegations that raised a reasonable doubt as to her competency and as such, the Court declined to decide whether in commitment proceedings a parent has a due process right to a competency evaluation in certain circumstances. The allegation that the mother did not recall agreeing to the child's adjudication of neglect was a bald assertion and while she had mild mental retardation, this limitation did not render her incompetent. Further, the trial court was in the best position to observe her demeanor and assess whether she behaved irrationally.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP131/131AP21.pdf

In re Brendan C., 89 Conn. App. 511 (2005) cert. denied 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the trial court committed plain error by failing to appoint him a guardian ad litem pursuant to Conn. Gen. Stat. § 45a-708(a). The Court held that the trial court's alleged error did not affect the fairness or integrity of the TPR trial. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole demonstrated that the father understood the purpose of the TPR proceeding. The father was unable to demonstrate from the record that he was unable to assist his counsel at trial and there was no showing that the appointment of a GAL would have affected the outcome of the TPR judgment. Secondly, the father claimed that the termination of parental rights violated his substantive due process rights because the trial court failed to appoint him a GAL and erroneously terminated his parental rights because of his mental impairment. The Appellate Court held that the father failed to satisfy the third prong of *Golding*, that an "alleged constitutional violation clearly exists and clearly deprived him of a fair trial." The father failed to prove a GAL was warranted because his trial attorney could have presented whatever alternative a GAL may have proposed. Moreover, the evidence showed that the parental relationship was detrimental to the

child's well-being. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Amanda A., 58 Conn. App. 451 (2000)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the trial court violated her right to equal protection by failing to sua sponte order a competency evaluation and to appoint a guardian ad litem. She further claimed that her due process rights were violated by her trial attorney's ineffective assistance of counsel by failing to request a competency hearing and an appointment of a guardian ad litem. Regarding her first claim, the Appellate Court held that the mother's equal protection claim was not reviewable because the record presented was inadequate for review. Although the record contained claims and disputes about the mother's mental illness, the record contained no findings of fact regarding the mother's mental condition and no evidence that the mother's condition was a "mental disability" protected under the Connecticut Constitution. Regarding her second claim, the Appellate Court held that the mother's due process claim fails because she failed to prove that the evidence would have raised a reasonable doubt in the mind of the trial judge and consequently the trial attorney as to whether the mother understood the proceedings or could have assisted her counsel in her defense. Moreover, the mother failed to present sufficient evidence regarding the standard of competency for attorneys in this field and whether the trial attorney's conduct fell below the standard.

In re Jessica B., 50 Conn. App. 554 (1998)
The trial court terminated the mentally retarded mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, because the trial court already heard from two witnesses, that the trial court improperly denied her motion for a mistrial once her competency was at issue. The Appellate Court held that the trial court did not abuse its discretion by denying the motion for a mistrial because the mother's due process rights were adequately protected by the court, sua sponte ordering a competency evaluation and then also providing all the parties with transcripts of the proceedings, as well as permitting the mother's attorney and guardian ad litem to recall the witnesses and to take as many recesses as needed to assist the mother in her defense. Furthermore, there was no evidence that the mother was prejudiced in any manner by the witnesses testifying prior to the evaluation.

In re Karrlo K., 44 Conn. Supp. 101 (1994), aff 'd, 40 Conn. App. 73 (1996)
The trial court terminated the mother's parental rights on the ground of failure to rehabilitate. The Appellate Court affirmed in a per curiam decision. The mother claimed that the trial court should have suspended the TPR proceedings until her competency could be restored. After a full competency hearing, the trial weighed the competing factors, including the best interest of the children and denied her request. The Appellate Court affirmed the trial court's decision without further analysis because the well-reasoned memorandum addressed the arguments raised on appeal.

In re Lori Beth D., 21 Conn. App. 226 (1990)
The probate court transferred the mother's petition to terminate the father's parental rights to the Superior Court. The Superior Court terminated the father's rights by finding that he abandoned his child. The Appellate Court affirmed. The father claimed that the trial court committed plain error by failing to appoint him a guardian ad litem based on his mental illness. The Appellate Court held that the trial court did not commit plain error because there was sufficient evidence demonstrating that the father did not appear incompetent. Furthermore, the father failed to prove that he was harmed by the trial court's alleged failure to appoint him a guardian ad litem.

In re Kaleb H., 306 Conn 22 (2012)
A mother appealed after her motion for a competency evaluation, made during a hearing on a motion to revoke commitment, was denied. During the revocation motion hearing, mother's trial counsel asked for a competency evaluation for three reasons: (1) mother stated that she did not understand what she was signing when she agreed to the neglect adjudication; (2) according to a court-ordered evaluation, mother's IQ classified her as borderline mentally retarded; and (3) a conservator had previously been appointed to handle mother's finances. The Appellate Court declined to reach the question of whether the right to a competency evaluation in a TPR proceeding (In re Alexander V., 223 Conn. 557 (1992)) should be extended to pre-termination proceedings, reasoning that the trial record was insufficient to trigger any obligation to conduct such an evaluation. The Supreme Court affirmed the Appellate Court entirely, noting that trial counsel's reasons for requesting the evaluation, while not apparently specious, did not, without more, constitute "substantial evidence of mental impairment." The Supreme Court also noted that the trial judge had observed mother's conduct at multiple hearings, including instances when she appeared to be engaging actively with trial counsel, and was able to rely on his impressions of her competence and understanding. The record did not reflect the circumstances or details of the conservatorship in a way that would necessarily suggest mother's incompetence.

CONDUCT OF DCF

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The testamentary guardians alleged that DCF intentionally destroyed documents and ignored the wills. The Supreme Court acknowledged DCF's alleged misconduct, yet held that the trial court properly determined that it was in the children's best interest that the foster parents serve as the children's legal custodian and DCF as the child's statutory parent. Nonetheless, the Court ruled that any misconduct by DCF neither compelled the appointment of the testamentary guardians nor precluded DCF being appointed as the children's statutory parent. http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Ebony H., 68 Conn. App. 342 (2002)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable efforts to reunify because DCF responded inadequately to her request for housing assistance. The Appellate Court found DCF's response to mother's request for housing shameful and unacceptable because the social worker only made one phone call to a local community agency with no follow up. Nonetheless, the evidence overwhelming supported the trial court's finding that DCF made reasonable efforts because it provided her with numerous services including substance abuse treatment, anger management and visitation. The trial court properly discounted DCF's lapse in services in light of the evidence as a whole. http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap203.pdf

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Appellate Court agreed with the trial court's finding that DCF notice by publication for a father it knew was incarcerated was "particularly disturbing". The Court noted that it looks unfavorably on this type of notice. **Concurring:** Spear, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Shyina B., 58 Conn. App. 159 (2000)
The trial court granted the maternal aunt and uncle the right to intervene and adjudicated the child neglected. The trial court then transferred guardianship to the maternal aunt and uncle instead of allowing the child to remain with her foster family. The Appellate Court affirmed. DCF claimed that the trial court improperly applied the best interest standard by attempting to remedy DCF's prior decision to not place the child with the relatives based on the aunt's prior DCF "record." The court found that DCF was not able to produce the "record" that served as the basis for denying the relatives foster care license until seven months later and the record was unsubstantiated and vague. The Appellate Court held that the trial court properly applied the best interest standard because the trial court considered the history of the relatives and their relationship with DCF as it related to the issue of whether the relatives were suitable to care for the child. This determination was clearly relevant to what placement option was in the child's best interest.

CONFESSION

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that her written statement to the police admitting that she pushed her child's head into the floor was not voluntarily. The Appellate Court concluded that the mother's confession was voluntary and therefore admissible. In conducting a plenary review, the Appellate Court determined that the amount of time the mother was questioned was not inordinately long because she had changed her story, she was offered food and drink, was questioned in an open room, and there were no claims that she was threatened or coerced. The Court also considered that the mother was twenty-one years old, was intelligent and able to read, had been advised of her rights and had initialed the waiver of rights form.
http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

CONFIDENTIALITY

A. PSYCHIATRIC/PSYCHOLOGICAL/MENTAL HEALTH AND SUBSTANCE ABUSE/DRUG & ALCOHOL RECORDS

"Communications or records may be disclosed in a civil proceeding in which the patient introduces his mental condition as an element of his claim or defense ... and the court or the judge finds that it is more important in the interests of justice that the communications be disclosed than that the relationship between patient and psychiatrist be protected." (Internal citations and quotation marks omitted). *See, In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994).*

"Courts determining whether to admit psychiatric and substance abuse treatment records must distinguish, as a threshold matter, between confidential and nonconfidential communications; records containing confidential communications cannot be admitted unless they fall within statutory exception to exclusion requirement and good cause exists for disclosure, but records containing no such communications can be admitted upon showing of good cause. Under the federal regulations, non-confidential communications in psychiatric and substance abuse treatment and psychiatric treatment records were subject to disclosure upon showing of good cause. The good cause requirement is met if: (1) other ways of obtaining the information are not available or would not be effective, and (2) The public interest and need for disclosure outweigh the potential injury to the patient, the physician-patient relationship and the treatment services." (Internal citations and quotation marks omitted). *See, In re Marvin M., 48 Conn. App. 563, cert. denied, 245 Conn. 916 (1998).*

In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994)

The trial court terminated the mother's parental rights by finding that she failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial erroneously admitted her substance abuse treatment records in violation of her statutory right to confidentiality. The Appellate Court, noting that the mother was drunk during the trial, held that the trial court properly admitted portions of the mother's confidential treatment records and that the children's best interest outweighed the mother's privilege. Providing an in-depth analysis of state and federal substance abuse treatment confidentiality provisions, the Court held that the trial court properly determined that there was good cause for the limited disclosure. The trial court properly ruled that the disclosure was highly relevant to the mother's mental health, an issue that the mother raised when she testified that she was capable of parenting her children again. For similar reasons, the Court further held that the trial court did not err in disclosing portions of the records that contained a psychiatric consultation. Pursuant to a statutory exception in Conn. Gen. Stat. § 52–146f(5), the Court held that the trial court carefully reviewed the records and only admitted those records that were relevant after showing the mother's mental health was at issue in the termination of parental rights case, and thus the mother's psychiatric privilege must give way to the children's best interest.

In re Marvin M., 48 Conn. App. 563, cert. denied, 245 Conn. 916 (1998)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court erred in granting DCF's motion to disclose the parents' medical records from substance abuse and psychiatric treatment facilities. The Appellate Court held, as a matter of first impression, based on federal regulations and state statutes, nonconfidential communications made to psychiatrist and substance abuse providers are subject to disclosure upon a showing of good cause. The intake, discharge, attendance, and drug screen records did not disclose confidential information, but rather contained information regarding whether the parents complied with the court order to refrain from substance abuse and were thus admissible. In other words, only facts demonstrating the parents were still using drugs were disclosed, not their confidential statements.

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court erroneously admitted the parents' hospital records regarding their hospitalizations for their mental illnesses as business records. The Supreme Court held that the trial court improperly admitted the hospital records as business records because the parents timely objected to the confidential information and they did not consent or waive their statutory right to confidentiality pursuant to Conn. Gen. Stat. §§ 52-146d and e. Nonetheless, the Court held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony.

B. DCF/SOCIAL WORKER RECORDS

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the parents' parental rights on the ground of abandonment after finding that they tried to sell their baby in exchange for rent. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly denied his motion for disclosure of the witness' records held by DCF. In an unclear manner, the Appellate Court declined to review this claim reasoning that the basis for the father's motion for disclosure at trial was distinct from the basis for the father's appeal of the denial of the motion. The Court cited the following rule: "It is axiomatic that a party cannot submit a case to the trial court on one theory and then seek a reversal in the reviewing court on another. A party is not entitled to raise issues on appeal that have not been raised in the trial court." The Appellate Court, however, noted if the claim were reviewable, it would lack merit pursuant to Conn. Gen. Stat. § 17a-28, which only permits court-ordered disclosure of DCF records when a parent, child or legal representative of either had been denied access to the records. In some instances, such as a criminal case, a defendant can request access to the confidential DCF records, only if the court, after an in camera review, determines that the record contains exculpatory data.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court erroneously found the children neglected because the proceedings were based on fraud. Specifically, the mother asserted that DCF did not disclose the entire DCF record and as a result the mother

was not able to prepare adequately for trial. The Appellate Court held that the only information excluded from the DCF record was the foster parent's address that was not essential to the mother's case.

C. JUVENILE RECORDS

In re Brianna B., 66 Conn. App. 695 (2001)
The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held her in contempt. The Appellate Court affirmed. The former foster mother claimed that the nondisclosure order violated her constitutional First Amendment rights to free speech. Recognizing the presumption of confidentiality of juvenile records, the Appellate Court held that the trial court properly limited the foster mother's First Amendment rights to disclose confidential information obtained during the course of the habeas proceedings. The court's order was narrowly tailored because it did not restrict her from speaking freely about information of which she had prior knowledge and it allowed her permission to speak with the child advocate or her legislative representative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly allowed the foster parents to append the trial court's memorandum of decision to any requests for protective orders to restrain the father from contacting them. The Appellate Court agreed and vacated the trial court's order. The Appellate Court held that the trial court abused its discretion by ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and without a showing of compelling need, the court's decision cannot be released.

CONFLICT OF INTEREST

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The parents claimed on appeal to the Supreme Court that the children have a constitutional right to effective assistance of counsel and the trial court erred by not sua sponte appointing a separate GAL for the children. DCF claimed that the parents did not have standing to assert their children's constitutional rights. The Supreme Court held that the parents have standing to bring an appeal on behalf of their children and to challenge the adequacy of their children's legal representation because the parents' rights are inextricably intertwined with those of their children and inadequate representation of their children could harm the parents and their own rights in a termination proceeding. The Court declined to decide whether the children had a constitutional right to conflict free representation. The Court held that the trial court did not err in failing sua sponte to appoint a separate guardian ad litem to advocate for the children's wishes because there was insufficient evidence to support that the trial court knew or reasonably should have known that a conflict existed between what the children wanted and what their attorney advocated.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Lyric H., 114 Conn. App. 582, cert. denied, 292 Conn. 921 (2009)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The child's attorney was acting as attorney and guardian ad litem and he supported the termination of parental rights petition. The mother claimed that her child was erroneously deprived of her constitutional right to conflict free legal representation because she indicated a preference for reunification. The mother further asserted that the trial court had an independent obligation to appoint a separate guardian ad litem. The Appellate Court side-stepped the issue of whether the child had a constitutional right to conflict free counsel and held that even if the Court were to assume she held such a constitutional right, the trial court did not have a duty to appoint a separate guardian ad litem sua sponte. Applying the test set forth in *In re Christina M.,* regarding whether a trial court has a duty to inquire regarding a conflict of interest, the Appellate Court held that the record in this case did not support the assertion that the trial court "knew or should have known that such a conflict existed." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP114/114AP302.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The parents claimed that the trial court committed plain error by failing to appoint a separate guardian ad litem for the child pursuant to Conn. Gen. Stat. 46b-129a. The Appellate Court held that there was no obvious conflict between the child's expressed wishes and his attorney's position. While the child expressed love and affection for the parents, his behavior before and after the visits indicated otherwise. The child was anxious, angry, aggressive and bedwetting. Furthermore, the parents failed to prove how this alleged affect the result of the trial. The parents failed to explain how a person advocating solely for the child's best interest

would have affected the outcome.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

CONSENT

In re Bruce R., 234 Conn. 194 (1995), aff'ing, 34 Conn. App. 176 (1994), reversed trial court
The father petitioned the probate court to terminate his own parental rights via consent. On transfer from probate court to the Superior Court, the Superior Court terminated the father's parental rights. The mother appealed. The Appellate Court reversed the trial court holding that the trial court failed to consider the financial status of the parents in determining whether it was in the best interest of the children to terminate the father's parental rights. The father appealed. The Supreme Court affirmed the Appellate Court. The father claimed that the relevant statute does not require the court to consider the financial condition of the parents in determining whether a termination is in the best interest of the children. Upholding state and federal public policy regarding child support, the Supreme Court held that the legislative scheme requires the court in consensual termination of petition proceedings to find that: (1) that the consent is voluntarily and knowingly, and (2) that the termination would be in the child's best interest. Although the parents' financial condition is not dispositive, when the termination of parental rights is contested, the court must consider the financial condition in determining the child's best interest. "It would be anathema for our law to allow parents to terminate voluntarily their parental rights "solely for the purpose of evading or relieving [themselves] of responsibility to pay child support. [S]imply put, no parent may blithely walk away from his or her parental responsibilities."

In re Candace H., 259 Conn. 523 (2002)
The trial court adjudicated the child neglected and denied the mother's visitation motion. The mother appealed. The Appellate Court affirmed, reversed and remanded. The mother then voluntarily consented to the termination of her parental rights. DCF moved to vacate the Appellate Court judgment. The Supreme Court dismissed the appeal and vacated the Appellate Court's judgment. The Supreme Court held that the mother's voluntary relinquishment of her parental rights rendered the appeal moot, and vacating the Appellate Court decision was appropriate as it was in the public's interest. The Supreme Court concluded that the appeal was moot and that it did not fit within the exception to the mootness doctrine of being capable of repetition yet evading review.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/259cr33.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap397.pdf

In re Christopher G., 118 Conn. App. 569 (2009)
The trial court terminated the mother's parental rights on the basis of her consent and denied her Motion to Open or Set Aside the TPR judgment that was filed over a year after the consent. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion by denying the motion because the consent was not the result of mutual mistake. Although the parties may have anticipated an adoption by the mother's aunt and uncle, with an Open Adoption Agreement, the record reflects that the mother's consent was knowingly and voluntary, and that her consent was not dependent upon the aunt and uncle ultimately deciding to adopt the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP90.pdf

In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011)
The trial court denied the father's Motion to Open the judgment terminating his parental rights on the basis of his consent finding that there was no mutual mistake. The Appellate Court affirmed. At the hearing, the father claimed mutual mistake on the basis that his consent was made prior to his knowledge that DCF would consider his petition for a declaratory ruling regarding whether DCF has a statutory obligation to pursue open adoption agreements. On appeal, the father claimed that the consent was invalid because he was not aware that the child's preadoptive family would adopt her within a short period of time. The Appellate Court held that the father's new claim was a fraud claim resurrected as a mutual mistake claim and that the record was inadequate for review because the trial court did not address his latter claim.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR57.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP273.pdf

In re Claudia F., 93 Conn. App. 343 (2006)
The trial court adjudicated the children neglected and committed them to DCF. The mother appealed. During the pendency of the appeal the mother consented to a petition to terminate her parental rights. DCF moved to dismiss the appeal, arguing that the appeal of the neglect petition was moot. The Appellate Court dismissed the appeal. The mother claimed that her appeal was not moot because it fit within the collateral consequences exception because her appeal from the neglect adjudication was her only remedy to remove her name from the DCF Child Abuse Registry. Specifically, she contended that having her name on the registry was stigmatizing and her DCF record could ultimately enter the public domain. The Court found this exception inapplicable because the mother failed to appeal the underlying order of temporary custody that would have served as the basis for her name being on the registry.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP152.pdf

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

In re Travis R., 80 Conn. App. 777 (2004), cert. denied, 268 Conn. 904 (2004)
The trial court terminated the mother's parental rights on the basis of her consent. The mother then moved to open the judgment claiming duress. The trial court denied the mother's motion to open. The Appellate Court affirmed. The mother claimed that the trial court erred in denying her motion to open the judgment based on consent because she was under duress. The Appellate Court held that the trial court did not abuse its discretion in denying the motion because the mother failed to prove that a wrongful act occurred to place

her under duress. A party claiming duress must prove: (1) a wrongful act, or threat (2) that left the victim no reasonable alternative, and (3) to which the victim in fact acceded, and that (4) the resulting transaction was unfair to the victim. The issue is not whether the "victim" felt coerced, but rather whether the actual act of threat underlying the coercion was wrongful. Here, the mother testified that the social worker threatened her that if she did not consent then the children would be removed from their aunt and uncle and separated. The social worker testified to the contrary. The Appellate Court further held that the trial court properly determined that denying the motion to open was in the children's best interest because they were thriving in the aunt and uncle's care for the last three years.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP80/80ap107.pdf

In re Jessica M., 71 Conn. App. 417 (2002)
The probate court terminated the mother's parental rights on the basis of her consent. The Commissioner of DSS appealed to the superior court. The superior court denied the termination of parental rights petition. The mother appealed. The Appellate Court affirmed. The mother claimed that DSS did not have standing to intervene in the termination proceeding and that the trial court improperly based its decision to deny the termination based solely on the mother's financial status. The Appellate Court held that DSS had standing in the termination case because the Commissioner of DSS constituted an aggrieved person since the probate court order affected DSS' right to reimbursement of assistance payments that were made to the mother. The Appellate Court concluded that the trial court properly considered the mother's financial condition as a factor in determining the children's best interest and the evidence supported the trial court's conclusion denying the termination. The evidence demonstrated that the children still wanted a relationship with their mother and the mother's petition to terminate her parental rights was motivated by her desire to avoid child support obligations. Thus, the termination was not in the children's best interests. "Rather than allowing the petitioner to pull off a sham on the court and to divest herself of her responsibilities to her children, which would directly undermine our law, the court determined, on the basis of the entire record, that the petitioner had failed to meet her burden of proving that termination of her parental rights was in the children's best interests." http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

In re Jason D., 13 Conn. App. 626 (1988)
The parents filed a petition in probate court to terminate their parental rights to their adoptive son. The son was committed to DCF. The case was transferred to Superior Court. DCF filed a motion to dismiss the termination petition because the child was committed to DCF and the 14 year old son did not consent to the termination. The parents appealed. The Appellate Court affirmed. The Appellate Court held that the motion to dismiss was properly granted because the statute requires that a child over 12 must consent to the termination of parental rights petition filed in probate court. Here, the child did not join the petition, and thus the court lacked jurisdiction. The Court further held that given this express legislative requirement, the child cannot be deemed to either have waived his consent or be estopped from denying his consent on the basis of his behavior.

In re Rayna M., 13 Conn. App. 23 (1987), reversed
The trial court denied the termination of the father's parental rights based on his consent because the consent was executed seven months prior to filing of the termination petition. The Appellate Court reversed. The Appellate Court held that the court erroneously found the father's consent ineffective because the consent was knowingly and voluntarily made and executed in compliance with the statute. According to the statute, a consent may be rendered either before or after the filing of a petition.

CONSTITUTIONAL LAW

A. GENERALLY

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The trial court found that DCF's administrative decision to place a former DCF employee on the child abuse registry was unsupported by the evidence in the record and remanded the case to DCF for further reconsideration. The trial court further rejected the former employee's constitutional claims. Both the former employee and DCF appealed. The Supreme Court, on transfer, affirmed in part and reversed in part. The former employee claimed: (1) the evidence was insufficient to support the hearing officer's finding, (2) the registry statute itself was unconstitutionally vague, (3) overbroad, (4) violated the separation of powers doctrine and (5) constituted a bill of attainder. The Supreme Court rejected all of the former employee's claims.
(1) The Supreme Court first held that the hearing officer did not act arbitrarily, illegally or abuse its discretion in placing him on the child abuse registry. Thus, the Supreme Court reversed the trial court's remand on the basis of insufficient evidence. The Court found that there was sufficient evidence that he was "responsible for child abuse or neglect and posed a risk to the health, safety or well-being of children pursuant to Conn. Gen. Stat. §§ 17a-101g and k. The hearing officer properly found that the former employee intentionally allowed another detainee at the detention center to beat up a smaller detainee as a means of discipline and maintaining control on his unit and this was not an isolated event. The hearing officer considered the following mandated factors: the person's intent, the severity of the incident, the "chronicity" of the person's behavior-meaning whether the substantiated abuse was not an isolated incident-and whether excessive force had been used.
(2) The Court held that the registry scheme is not unconstitutionally vague given that the statutory provisions, the DCF policy manual and caselaw regarding abuse and neglect standards, provide fair notice and "preclude arbitrary enforcement in violation of due process." To require DCF to delineate every act that would place someone on the registry would be impracticable.
(3) The Court declined to review his "overbroad" claim given that he provided no independent analysis in support of this claim.
(4) The Court held that the registry scheme does not violate the separation of powers doctrine and does not constitute an unlawful delegation of legislative power because the statutory scheme provides sufficient direction to DCF as to what type of conduct justifies placement on the child abuse registry. DCF must consider the nature, extent and cause of the abuse or neglect-terms defined by statute-to determine whether the person responsible for the abuse poses a risk to the health, safety or well-being of children.
(5) The Court further held that the registry scheme did not constitute a bill of attainder because it did not inflict punishment on the former employee. The burden imposed upon the former employee furthers the legislative purpose of child abuse registry statute--to ensure that children are protected from the risk of physical and emotional harm.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that, according to the holding in *Roth v. Weston*, Conn. Gen. Stat. §17a-112(j) is facially unconstitutional or unconstitutional as applied under the due process clause. The Court explained that *Roth* limited third party visitation orders when such orders where contrary to the desires of a fit parent. The underlying presumption in *Roth* is that a fit parent makes decisions in the best interest of the child. In termination of parental rights cases, there is no such underlying presumption. Where there are allegations that a parent is unfit, then the state may intrude upon the right to family integrity. The mother cited no authority for her claim that she should be allowed to raise her child without interference and that a parent who has been shown to be unfit, by clear and convincing evidence, is entitled to a presumption that she acted in the child's best interest. The Supreme Court found the mother's proposition to be implausible and rejected her constitutional claim. The mother further claimed that the trial court's order extending commitment was an unconstitutional summary proceeding because she did not have notice of the hearing and she did not have an attorney at the hearing because the attorney had withdrawn. The Court held that at the time the mother became aware of the hearing and its orders, the mother never moved to open judgment or appeal it. Rejecting the claim, the Court stated that an extension of commitment is an immediately appealable final judgment and raising the issue now after the TPR judgment is an impermissible collateral attack on a final judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

B. GOLDING REVIEW

"To prevail on the constitutional claim [not raised at trial], the respondent must establish [pursuant to *State v. Golding* that "(1) the record is adequate to review the alleged claim of error; (2) the claim is of constitutional magnitude alleging the violation of a fundamental right; (3) the alleged constitutional violation clearly exists and clearly deprived the [respondent] of a fair trial; and (4) if subject to harmless error analysis, the state has failed to demonstrate harmlessness of the alleged constitutional violation beyond a reasonable doubt." (Internal citations and quotation marks omitted.) *See, In re Alison M., 127 Conn. App. 197 (2011).*

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and struck the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court violated her constitutional right to due process by denying her motion for continuance. The mother requested a continuance to review the discovery materials that DCF provided during lunch on the first day of trial, although the mother sought the records months earlier. The trial court, in denying the motion, allowed the mother to recall or call additional witnesses. The mother never did. Pursuing *Golding* review of her unpreserved claim, the Appellate Court held that the mother failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived her of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the mother to be low because the record does not reflect the amount of discovery provided to the mother or the impact the discovered materials would have had on the trial had DCF timely provided the discovery and the court offered the mother the opportunity to recall witnesses. The Appellate Court further held for the same reasons that the denial of the motion for continuance was not an abuse of discretion.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the child's attorney's post-trial position statement containing extra record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless and thus the mother's claim also failed under the fourth prong of *Golding*.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court did not deprive the out-of-state incarcerated father of his constitutional right to due process by denying him a continuance, a transcript or the opportunity to participate via videoconferencing. Applying the *Golding* analysis, the father's claim fails under the third prong as he was unable to prove that the alleged constitutional violation deprived him of a fair trial. The father did not avail himself of any of the procedures that would have allowed him to prove evidence or to telephonically provide testimony. He also waited to the last day of trial to ask for a continuance and the court did not take any affirmative action to deny the father the opportunity to be present. The Appellate Court also affirmed the trial court's judgment granting the TPR petition against the father on the grounds of abandonment and no ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Jazmine B., 121 Conn. App. 376, cert. denied, 297 Conn. 924 (2010)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. Claiming *Golding* review, the father claimed, in part, that the trial court improperly found that he failed to rehabilitate because the statute was unconstitutionally vague as applied to him.

He specifically contended that he was not put on notice because DCF or the specific steps did not inform him that the failure to attend sex offender treatment would result in a termination of his parental rights. The Appellate Court held that the failure to rehabilitate statute was not unconstitutionally vague because the evidence demonstrated that DCF referred the father to sexual offender treatment and this put the father on sufficient notice that failure to attend could result in the termination of his parental rights. Therefore, the father's claim failed to satisfy the third prong of *Golding*, that an alleged constitutional violation clearly exists and clearly deprived the defendant of a fair trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP336.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional rights by terminating her parental rights solely on the basis of her mental illness. The mother sought review for her unpreserved claim under *Golding* and the plain error doctrine. The Appellate Court recognized that the right to family integrity is a constitutional right. However, the Appellate Court held that the mother's claim was not reviewable under *Golding* because it was not of constitutional magnitude, as the mother essentially asserted that the trial court's findings were not supported by clear and convincing evidence. "Putting a constitutional tag on a nonconstitutional claim will [not] change its essential nature...." Neither did the record support a claim under the plain error doctrine.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Tremaine C., 117 Conn. App. 521, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the father's parental rights on the basis of abandonment. The Appellate Court affirmed. The father visited his child while incarcerated and then for a short time after being released. The father then discontinued contact with DCF and his son and faced violation of probation charges. Neither DCF nor the criminal justice system could find him. At the onset of the termination trial, the father was defaulted. After two days of trial, the father was reincarcerated and was present at trial. DCF moved to reopen the proceedings and the trial court provided the father transcripts, granted him a continuance to prepare and allowed him to recall witnesses. The father claimed that the trial court violated his constitutional due process rights to be present and confront witnesses by not sua sponte ordering a new trial when the father resurfaced. Pursuing *Golding* review of his unpreserved claim, the Appellate Court held that the father failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived him of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the father to be low because the father chose not to be present for the termination trial. He refused to remain in contact with DCF and received proper notice of the trial and chose not to be present while he was not incarcerated. Moreover, delaying the termination proceeding for a trial de novo would place unnecessary burden on DCF's interest in furthering permanency for the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP462.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The

Appellate Court affirmed. The parents claimed that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem to represent their children's best interests. The Appellate Court held that the constitution did not require that the trial court sua sponte appoint a separate GAL and as a result the parents' unpreserved claim failed under the *Golding* analysis because they were unable to establish "a clear violation of their constitutional rights." Neither party requested a separate GAL. It is the responsibility of the child's attorney to request a separate GAL if s/he perceives a conflict of interest.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf;
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The Appellate Court declined to review the parents' claim that due process entitled them to a jury trial when the court terminated their parental rights because their claim was not preserved at trial and was inadequately briefed. They did not provide any analysis under *Golding*, nor did they provide adequate and relevant legal support for their constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that: (1) the trial court violated his right to equal protection because the court terminated his parental rights solely on the basis of mental condition, and (2) the termination of parental rights violated his substantive due process rights because the trial court failed to appoint him a GAL and erroneously terminated his parental rights because of his mental impairment. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole did not demonstrate that the father was mentally retarded. The Appellate Court, reviewing both claims under *Golding*, held that the father failed to satisfy the third prong of *Golding,* that an "alleged constitutional violation clearly exists and clearly deprived him of a fair trial" for either claim. First, the trial court properly terminated his rights on the basis of his aggressive behavior, domestic violence and his inability to meet the child's needs. Moreover, the parental relationship was a source of tension and fear for the child. Secondly, the father failed to prove a GAL was warranted because his trial attorney could have presented whatever alternative a GAL may have proposed. Moreover, the evidence showed that the parental relationship was detrimental to the child's well-being.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Kachainy C., 67 Conn App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate that was rendered at the extension of commitment hearing. The Appellate Court affirmed. The mother claimed, in part, that the extension of commitment statute, Conn. Gen. Stat. § 17a-110, was unconstitutional because it permits the court to find a statutory ground for termination (that DCF made reasonable efforts to reunify and continuing efforts are no longer appropriate) by less than clear and convincing evidence. The Appellate Court held that this unpreserved

claim was reviewable under *Golding*, but that the mother's claim failed because the mother failed to prove the third *Golding* prong: that a constitutional violation clearly exists and clearly deprived her of a fair trial. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court violated her due process rights by improperly admitting hearsay statements of the foster mother, psychologist and social worker regarding the child's disclosures of sexual abuse. Applying a *Golding* review because the hearsay statements were not objected to at trial, the Court held that the claim was not reviewable because the mother failed to prove the second prong of *Golding*, that her claim was of constitutional magnitude. Although the Court recognized the mother's constitutional right to raise her children, it ruled that "unpreserved hearsay claims do not automatically invoke constitutional rights." The mother was not allowed to put a constitutional tag on a nonconstitutional evidentiary claim.

In re Michael L., 56 Conn. App. 688 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother presented two unpreserved claims reviewable under *Golding*. The mother claimed that: (1) the statutory ground of failure to rehabilitate was unconstitutionally vague on its face and as applied to her, and (2) the trial court violated her constitutional substantive due process rights because there was no compelling interest in terminating her parental rights when the father's parental rights were left intact. The Appellate Court held that the mother failed to satisfy the third prong of *Golding,* that an "alleged constitutional violation clearly exists and clearly deprived her of a fair trial" for both claims. (1) The statute was not unconstitutionally vague on its face based on the ruling in *State v. Anonymous* that the statute as written and interpreted provides fair warning of the conduct necessary for personal rehabilitation. Furthermore, the statute is not vague as applied to her because the mother was provided with specific steps to guide her toward rehabilitation and every six months had treatment plan reviews to assist in rehabilitation and reunification. (2) The court's decision to terminate her parental rights does not "shock the conscience" based on the clear and convincing evidence to terminate the mother's rights. Moreover, the statute clearly contemplates the situation when the rights of only one parent have been terminated. The court did not commit a constitutional violation when it terminated only the mother's parental rights.

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father raised the following unpreserved constitutional claims that were all rejected by the Appellate Court because the father failed to prove the third prong under *Golding,* that a constitutional violation existed and deprived him of a fair trial: (1) the abandonment statute was unconstitutionally vague because it failed to put an incarcerated person on notice of what s/he must do to avoid a termination of parental rights, (2) the abandonment finding violated the double jeopardy clause under the Fifth Amendment of the U.S. Constitution because the termination of his parental rights punished him on the basis of his incarceration; and (3) the termination of parental rights decision violated his due process rights because DCF failed to demonstrate a compelling state interest in

terminating his parental rights when DCF could have granted guardianship of the child to the maternal grandparents so that the child could be with his extended biological family.

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed under *Golding,* that the failure to rehabilitate statute was unconstitutionally vague. The Appellate Court held that the statute was not void for vagueness. Hence, the father's unpreserved claim failed because the father failed to prove the third prong of *Golding,* that a constitutional violation clearly existed and deprived him of a fair trial. The Appellate Court reasoned that the statute as written and as interpreted by caselaw provides fair warning of the conduct necessary for personal rehabilitation and further provides minimum guidelines for enforcement of the statute through the implementation of specific steps. Despite the father's assertion that the statute is susceptible to "multifarious interpretations" that statute explicitly requires that a parent be given "specific steps" to fulfill so that reunification can occur and these give the parent fair warning of what is required of him/her to achieve personal rehabilitation.

CONTEMPT

"[O]ur analysis of a [civil] judgment of contempt consists of two levels of inquiry. First, we must resolve the threshold question of whether the underlying order constituted a court order that was sufficiently clear and unambiguous so as to support a judgment of contempt.... This is a legal inquiry subject to de novo review.... Second, if we conclude that the underlying court order was sufficiently clear and unambiguous, we must then determine whether the trial court abused its discretion in issuing, or refusing to issue, a judgment of con- tempt, which includes a review of the trial court's determination of whether the violation was wilful or excused by a good faith dispute or misunderstanding." (Internal citations and quotation marks omitted.) *See, In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010).*

In re Leah S., 284 Conn. 685 (2007), reversed
The Appellate Court affirmed the trial court's judgment holding the Commissioner of DCF in contempt for failing to comply with the specific steps and ordering DCF to pay $500 to the mother to assist her with attorney's fees. The Supreme Court reversed. The Commissioner claimed that the specific steps were ambiguous in that they provided the Commissioner with broad discretion regarding the services offered to the child and her family. The Supreme Court held that the specific steps were not sufficiently clear and unambiguous to support a finding of civil contempt. The Court first set forth the standard of review for contempt decisions. First, the Court must determine whether the underlying court order was sufficiently clear to support a contempt finding. Secondly, the reviewing court must determine whether the trial court abused its discretion in issuing, or refusing to issue, a contempt judgment. While the mother claimed that DCF failed to comply with the court order in the specific steps that required that DCF "take all necessary measures to ensure the child's safety and well-being" because it failed to seek a residential placement for Leah, and to provide Leah with psychiatric care for her serious mental illness and her persistent headaches, the Court ruled that the order was ambiguous and DCF had discretion regarding which services to provide. DCF provided the child with counseling, medical screening and a referral to a day treatment facility. Further, the trial court's supplemental order that DCF must coordinate visitation with the child's twin sister was also ambiguous because it provided no timeframes or benchmarks. The Court also held that DCF did not have an obligation to seek a clarification of the ambiguous orders as is required in cases where parties resort to self-help when disobeying a court order. The Court noted that although it was compelled to reverse the contempt finding, that it did not condone DCF's treatment of this psychiatrically disabled child. "Nothing herein should be construed as an endorsement of the department's treatment of Leah, a troubled child removed from the custody of the respondents *precisely because* they were not addressing her severe mental health problems adequately….[We] note nevertheless that the filing of the contempt motion served as an effective catalyst for the department, which shortly thereafter placed Leah in residential treatment, began to facilitate Leah's reunification with her twin sister, and provided enhanced support services to the respondents. Such a catalyst should not have been necessary."
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR284/284CR14.pdf

In re Jeffrey C., 261 Conn. 189 (2002), reversed
The Appellate Court reversed the trial court's judgment holding the father in contempt for failing to comply

with the specific steps and ordering the father to pay attorney's fees to the State. The Supreme Court reversed the Appellate Court and upheld the trial court's finding of contempt. DCF claimed that the Appellate Court improperly held that the specific steps were not court orders subject to contempt. The Supreme Court held that the supplemental orders to the specific steps that the trial court issued to the father during the period of protective supervision were like any other court order and were subject to contempt. In civil contempt proceedings, an alleged contemnor must be given the opportunity to purge himself of contempt when imprisonment or noncompensatory fines are imposed. Although the father was not afforded the opportunity to purge himself of contempt, the Court ruled that the father was not being held in criminal contempt because the trial court ordered he pay attorney's fees and did not order imprisonment or a noncompensatory fine.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court denied the father's motion for contempt against DCF and motion for revocation and granted DCF's motion to transfer guardianship as well as approved DCF's permanency plan. The Appellate Court affirmed. The father claimed that the trial court abused its discretion in denying the motion for contempt against DCF for failing to refer him to *any* services and to develop a permanency plan as required by the court ordered specific steps. Distinguishing *In re Leah S.*, the Appellate Court held that the orders were clear and unambiguous. The Court held, however, that the trial court properly denied the motion for contempt because the record demonstrated that DCF did refer the father to some services, but the father was too busy to participate in them. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court abused its discretion by denying their motion to hold DCF in contempt for failing to comply with court-order visitation. The Appellate Court held that the trial court properly denied the motion for contempt because DCF did not willfully violate a court order. The record demonstrated that of three contested visits, two were cancelled by the parents and the third one was missed due to miscommunications between the parties.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Brianna B., 66 Conn. App. 695 (2001)
The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held the foster mother in contempt. The Appellate Court affirmed. The former foster mother claimed that the trial court erred in finding her in contempt. The Appellate Court held that the trial court did not abuse its discretion in holding her in civil contempt and awarding attorney fees to DCF. The former foster mother posted and refused to remove information about the prior confidential proceedings from the Internet. The Court held that the trial court's order was neither unconstitutional nor unclear and that the information disclosed was more than the child's first name and the judge's name. The information disclosed included a picture of her as well as other detailed information about the child and the proceedings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion in denying their motion for contempt against DCF for failing to comply with a visitation order. The Court held that DCF's unilateral cancellation of a court-ordered visit violated the strict language of the court order, but that such conduct was not a willful violation because the parents were abusing alcohol and engaging in domestic violence. The intent of DCF's conduct was not to willfully violate the court order, but to protect the children. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

CONTINUANCE

"The right to a continuance is not absolute and no mechanical tests come into play for determining whether the denial of a continuance violates due process standards. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied." (Internal citations and quotation marks omitted.) *See, In re Cynthia A., 8 Conn. App. 656 (1986).*

"A trial court holds broad discretion in granting or denying a motion for a continuance. Appellate review of a trial court's denial of a motion for a continuance is governed by an abuse of discretion standard that, although not unreviewable, affords the trial court broad discretion in matters of continuances.... An abuse of discretion must be proven by the appellant by showing that the denial of the continuance was unreasonable or arbitrary.... One relevant factor that a court may consider in evaluating a motion for a continuance is the perceived legitimacy of the reasons proffered in support of the motion." (Internal citations and quotation marks omitted.) *See, In re Stacy G., 94 Conn. App. 348 (2006).*

In re Lukas K., 300 Conn. 463 (2011) aff'ing, 120 Conn. App. 465 (2010)
Affirming the Appellate Court, the Supreme Court held that the out-of-state incarcerated father was not deprived of due process by the trial court's denial of his request for a transcript and a continuance. Applying the *Mathews v. Eldridge* balancing test, the Court reasoned that these are important procedural safeguards, however, the father did not offer a credible claim that he could rebut the evidence if the trial court had granted his request. Moreover, the request for a continuance and transcript would be consistent with an orderly administration of justice. The mother filed a TPR petition against the father and the father who was incarcerated since the child's birth, had no foreseeable release date and no parent child relationship with the child.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Juvenile Appeal, 187 Conn. 431 (1982)
The Supreme Court held that the incarcerated father was not deprived of his due process right to be present by the trial court's denial of his motion for continuance. Applying the *Mathews v. Eldrige* balancing test, the Court found that the trial court took adequate measures to ensure the out-of-state incarcerated father participated in the TPR trial via telephone and offered extra time for cross examination. Delaying the TPR proceeding until an undetermined release date would have created a significant burden on the State. The Court also upheld the judgment terminating the incarcerated putative father's parental rights by finding that he abandoned his child.

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed. The pro se father claimed that the trial court violated his statutory right to counsel pursuant to Conn. Gen. Stat. § 45a-717(b) because the trial court did not advise the pro se father of his right to counsel at the start of the

termination of parental rights trial and the trial court denied his motion for continuance so that he could reinvoke his statutory right to counsel on the first day of the termination of parental rights trial and have an attorney represent him. The Appellate Court held that based on the record, the trial court properly advised the pro se father of his right to counsel when he first appeared without counsel after being served with the petitions (at the plea date). Moreover, the Appellate Court further held that the trial court did not abuse its discretion in denying a second motion for continuance so that the pro se father could have court-appointed counsel after previously continuously waiving his right to counsel and knowingly and voluntarily choosing to represent himself. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court affirmed the trial court's denial of an incarcerated father's motion for continuance. The Court held that the denial of a continuance when the immigration authorities did not allow the father access to a telephone to participate in the TPR trial did not violate his constitutional due process rights. The father testified and heard testimony on the first day of trial via telephone and then his telephone privileges were suspended. Applying the *Mathews v. Eldridge* balancing test, that the father failed to prove how his absence on the second day of trial when only his own witness testified deprived him of a fair trial. The trial court provided the father with a transcript, and it was unclear when he would access to telephone again. In light of the circumstances of this case, when balancing the father's request against the best interest of the child, the scales tipped in favor of the State's interest in protecting the child and in securing permanency for the child.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court violated her constitutional right to due process by denying her motion for continuance. The mother requested a continuance to review the discovery materials that DCF provided during lunch on the first day of trial, although the mother sought the records months earlier. The trial court, in denying the motion, allowed the mother to recall or call additional witnesses. The mother never did. Pursuing *Golding* review of her unpreserved claim, the Appellate Court held that the mother failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived her of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the mother to be low because the record does not reflect the amount of discovery provided to the mother or the impact the discovered materials would have had on the trial had DCF timely provided the discovery and the court offered the mother the opportunity to recall witnesses. The Appellate Court further held for the same reasons that the denial of the motion for continuance was not an abuse of discretion. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly denied his motion for continuance to obtain an independent psychological evaluation to rebut evaluations that the trial court improperly admitted into evidence. The Appellate Court held that the trial court abused its discretion in denying the father's motion for continuance because a few weeks earlier a different judge granted the father the right to release and disclose the DCF record to the independent

psychologist. The trial court improperly predetermined the evidence when it denied the motion stating that an independent evaluation would not change the outcome.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the court should have continued the termination action and that termination trial should not have proceeded while criminal charges were pending against her involving the same incident because her Fifth Amendment right against self-incrimination prevented her from explaining her actions in connection with the termination hearing. The Appellate Court disagreed and held that the exercise of the privilege against self–incrimination can be waived. The privilege against self-incrimination is not a muzzle, but a privilege that one can choose to exercise. Since the mother chose to remain silent, she could not now complain that she did not have the opportunity to tell her side of the story.
http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. The Court applied the *Mathews v. Eldrige* balancing test and stated that the "bottom line question is whether the denial rendered the trial fundamentally unfair in view of the *Mathews* factors." The Court ruled that the burden on the state in granting the continuance was slight and the risk of erroneous deprivation of the mother's parental rights outweighed the other factors. The other factor weighed was the state's primary interest in termination proceedings to free the children for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Wayne A. II, 25 Conn. App. 536 (1991)
At a contested permanency plan hearing, the incarcerated father, who was allowed to participate via telephone, moved for a continuance so that he could be physically present. The trial court denied the motion. The Appellate Court affirmed. The incarcerated father claimed that the trial court abused its discretion because it denied his continuance in violation of his due process rights. The Appellate Court held that the trial court did not abuse its discretion by denying the incarcerated father's motion for continuance so that he could be physically present because he was allowed to fully participate by telephone.

In re Angela C., 11 Conn. App. 497 (1987)
The trial court terminated the mother's parental rights finding a termination to be in the children's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly sua sponte continued the termination proceeding to allow the mother more time to rehabilitate. The mother claimed that had the court not continued the matter, there would have been insufficient evidence to terminate her parental rights at that time. The Appellate Court held that the trial court clearly found that prior to continuing the matter that there was sufficient evidence to terminate the mother's parental rights. The mother therefore failed to show that the continuance harmed her. Thus, the trial court did not abuse its

discretion in granting a continuance.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the trial court erred in denying her motion for continuance until her boyfriend's criminal case was resolved so that he could testify at the neglect trial. The Appellate Court affirmed. The Court held that the trial court did not abuse its discretion in denying the motion because "time is of essence" in child custody cases and the boyfriend's criminal disposition was speculative.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court's denial of the mother's motion for a continuance did not violate her due process rights. The trial was continued numerous times and the mother had never appeared. Just prior to the trial, the mother moved for a continuance alleging she would lose her job if she attended the proceedings. Implicitly declining to apply the *Mathew v. Edridge* analysis, the Court ruled that the mother's absence was within her control. Citing the Practice Book rule requiring a continuance for good cause, the Appellate Court held that determining whether the trial court abused its discretion and whether the denial of a continuance was so arbitrary that it violated the mother's due process rights depends on the circumstances of the case. Here, given the mother's previous absences and her economic basis for the continuance request, the trial court acted reasonably and within its discretion in denying the continuance.

CONVICTION

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the trial court erred in admitting her boyfriend's past child abuse criminal conviction to show a modus operandi of child abuse. The Appellate Court held that the trial court did not abuse its discretion in admitting the conviction because there were sufficiently unique shared features in both the past conviction and the present neglect case. In both cases, the boyfriend was accused of inflicting cigarette burns on the children.

CORPORAL PUNISHMENT

Lovan C. v. Department of Children and Families, 86 Conn. App. 290 (2004), reversed
In an administrative appeal, the trial court dismissed the mother's appeal of DCF's substantiation against her for physical abuse and decision to place her name on the child abuse registry. The Appellate Court reversed. The Appellate Court held that the hearing officer improperly found the mother physically abused her child when she utilized corporal punishment as a form of discipline because the hearing officer did not assess the reasonableness of the corporal punishment. Parents have a right under Conn. Gen. Stat. § 53a-18 to inflict reasonable physical force as discipline. Thus, the hearing officer must consider the surrounding circumstances, including the parent's motive and whether the parent believed the punishment was necessary to maintain discipline or to promote the child's welfare, the type of punishment administered, the amount of force used and the child's age, size and ability to understand the punishment. Here, there was no substantial evidence of abuse because the mother had no malice or ill motive when she struck her child with a belt leaving a one-inch bruise on her thigh after her child continued to jump on the bed.
http://jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap47.pdf

COTERMINOUS PETITION

"The petition for neglect and the petition to terminate parental rights are separate and distinct petitions. Only when a finding of neglect is made does the court move on to the dispositional phase of the neglect petition. Disposition in a neglect petition may take one of a number of forms, including . . . the initiation of proceedings to terminate parental rights. The termination of parental rights petition involves its own specific elements. . . . While termination of parental rights by petition may be the disposition following a finding of neglect on a neglect petition, there are two separate actions and each petition has its own specific requirements." (Internal citations and quotations marks omitted). *See, In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984).* "While a finding of neglect, resulting in non-permanent custody, may be proved by a fair preponderance of the evidence, all of the elements of the termination of parental rights petition must be proved by clear and convincing evidence. An adjudication of neglect is not a basis per se for termination of parental rights." (Internal citations and quotations marks omitted). *See, In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984).*

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)

In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. The parents made numerous claims. (1) The parents claimed that the trial court applied the wrong standard of proof. They claimed specifically that because the proceedings were not bifurcated, the trial court erred by applying a fair preponderance of the evidence standard to the neglect as well as the termination proceedings. After providing a detailed explanation of the elements of coterminous proceedings, the Court held that the trial court properly adjudicated the child neglected by more evidence than a fair preponderance of the evidence and found that based on the child's serious physical injuries that the parents committed an act of commission or omission by clear and convincing evidence. (2) They claimed that the court failed to require DCF to provide 'supportive services' to reunite the family. The Supreme Court held that DCF was not required to provide the services because the child could not be safely returned to his parents. (3) They also claimed that the social study was not timely filed. The Court held that there was no error because the social study was filed before the trial court rendered a decision on the neglect disposition and held further court proceedings after the social study was filed. The Court explained that the "purpose of the social study is to put parents on notice of allegations that need to be explained or denied. The respondents must have an opportunity 'to refute or rebut the contentions with which they disagree.' Practice Book § 1044(4). The parents had such an opportunity." (4) Lastly, they claimed that because *Santosky v. Kramer's* holding that clear and convincing evidence was required in termination proceedings was handed down during their termination action, there was reversible error because the new standard of proof was not set forth at the onset of the proceedings. The Supreme Court held that the trial court properly applied the clear and convincing standard in light of the *Santosky* holding and the parents failed to show any harm, i.e., that they would have presented their case any differently had the *Santosky* decision was rendered prior to the inception of their case.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother claimed that the simultaneous hearing of the neglect and termination petitions (coterminous), as well as the failure to separate the adjudicatory and dispositional phases, violated her due process because it impaired her ability to present a defense. The Court held the coterminous action was not violation of due process because the statute expressly permitted a consolidated hearing, it served to promote the best interest of the child, and the process did not eliminate procedural safeguards. Moreover, nothing in the statutory scheme or practice book rules mandated a bifurcated hearing.

In re Nelmarie O., 97 Conn. App. 624 (2006)
The trial court terminated the mother's parental rights by finding that she committed an act of commission or omission. The Appellate Court affirmed. The mother claimed that the trial court improperly found that she failed to provide for her children's emotional well-being because she never physically abused her own children. She further claimed that 'ground c' does not apply because her stepchild, who died from physical abuse she participated in, was not related to her. The Appellate Court held that 'ground c', acts of commission or omission, does not require that the children subject to the termination petitions be physically abused. The fact that the fatally abused stepchild was not related to her irrelevant. The trial court's decision finding that the mother committed an act of commission or omission was amply supported by the evidence because the mother failed to provide for the emotional well-being of her children by abusing her stepchild in their presence and ordering them to participate in the abuse. The mother further claimed that the trial court improperly considered evidence gathered after the filing of the petition. The Appellate Court held that Practice Book § 35a-7(a) provides that the trial court is limited to "evidence of events preceding the filing of the petition" and this clearly means that the limitation applies to *events* preceding the filing of the petition, not the *evidence* preceding the filing of the petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP470.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The trial court properly found that DCF proved by a fair preponderance of the evidence that the child was neglected, and by clear and convincing evidence that DCF made reasonable efforts to reunify, the mother had failed to rehabilitate and that terminating the mother's parental rights was in the best interest of the child. The evidence also supported terminating the father's parental rights on the ground of abandonment and finding a termination of the father's parental rights was in the best interest of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the evidence was insufficient to prove neglect. The Appellate Court held that there was sufficient evidence to support the finding that the mother deliberately and nonaccidentally slammed the child's head against the floor which supported an adjudication of neglect and a termination of parental rights based on non-accidental or inadequately explained physical injury. The mother had made a written statement to the police that she had placed her hand on the child's head and pushed it against the floor. The medical testimony presented was that the resulting fracture of the skull caused the child to have impaired functioning of the brain, seizures and the potential for permanent brain

injury or death. http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. First, the parents claimed that the adjudicatory finding of failure to rehabilitate cannot serve as a ground of a coterminous petition and that the court should have adjudicated the children neglected in a separate proceeding from the TPR proceedings. As a result, they claim they were deprived of a meaningful opportunity to rehabilitate. The Court held that after numerous removals of the children, including prior adjudications of neglect, the parents had adequate notice and opportunity to rehabilitate after their children were returned to them. The Court held that the trial court properly granted the coterminous petitions on the basis of failure to rehabilitate because of the parents' ongoing substance abuse. Secondly, the parents claimed that the trial court improperly granted the coterminous petition because the court did not provide them with specific steps at the filing of the petition. The Court held that the parents had adequate notice of what they needed to rehabilitate from because over the last decade, the court had ordered specific steps whenever the children were removed from their care. The parents were aware that they needed, in part, to rehabilitate from substance abuse. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Cheyenne A., 59 Conn. App. 151, cert. denied, 254 Conn. 940 (2000)
The trial court terminated the parents' parental rights on the acts of commission or omission ground. The Appellate Court affirmed. The parents claimed that the trial court erred in finding that a prima facie showing of unexplained injuries was sufficient to prove acts of commission or omission to terminate the parents' rights. The Appellate Court held that the trial court's decision was not clearly erroneous because there was clear and convincing evidence that the infant suffered serious, life threatening physical injuries, and seventeen rib fractures, occurring at different times. The injuries were unexplained at the time of the child's removal and then the parents later claimed that the injuries happened while in the grandmother's care. The Court further held that although the evidence presented was largely circumstantial, such evidence is sufficient to meet a "clear and convincing" burden of proof because circumstantial evidence is adequate to prove criminal charges requiring proof "beyond a reasonable doubt." The trial court, as a criminal jury, may draw reasonable and logical inference from proven facts as long as they do not resort to speculation and conjecture.

In re Emmanuel M., 35 Conn. App. 276, cert. denied, 231 Conn. 915 (1994)
In this coterminous action, the trial court adjudicated the child neglect and terminated the parents' parental rights. The Appellate Court affirmed. The parents claimed that there was insufficient evidence. The Appellate Court summarily held that the trial court's decision was amply supported by the evidence in light of the parents' conflicting and fluctuating explanations and the child's serious injuries, including a femur fracture, bruises, abrasions, a burn on his thigh, multiple scars over his entire body, a cigarette-sized burn on his wrist, blisters, strap marks, perforated right eardrum, scratches and candle wax in his left ear.

In re Felicia D., 35 Conn. App. 490 (1994)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court lacked subject matter jurisdiction and the

trial court improperly denied her motion to dismiss because: (1) the coterminous petition checked off the wrong box and alleged that one child was committed to DCF when she was not, (2) the neglect petition underlying the coterminous petition alleged different grounds than the termination petition, and (3) the failure to rehabilitate ground is not permitted as a proper ground for a coterminous petition. The Appellate Court affirmed. The Appellate Court held that the court was not deprived of subject matter jurisdiction: (1) based on a clerical error as long as the pleadings as a whole properly invoked the court's jurisdiction, (2) because the trial court properly construed the termination petition together with the underlying neglect petition to be a coterminous petition, and (3) the statute itself as well as the language of the petition both include failure to rehabilitate as a proper ground for a coterminous petition.

In re Kelly S., 29 Conn. App. 600 (1992), reversed

In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother, who was mentally ill, claimed that the trial court erred in granting the TPR because child was never in her custody. The child was removed from her mother at the hospital right after birth. Reversing the trial court's judgment, the Appellate Court agreed and held that the lack of an ongoing parent child relationship is the direct result of the child being in foster care from birth as the Supreme Court held in *In re Valerie D.* The Appellate Court also held that where no injury had befallen the child, the court cannot terminate the mother's parental rights on the "commission or omission" ground based on speculation as to what might happen if the child was placed in the mother's care. This ground requires proof of specific conduct that has caused serious injury to the child. The Appellate Court further held, however, that this evidence is sufficient to affirm the trial court's neglect/uncared for adjudication.

CREDIBILITY

"Expert witnesses cannot be permitted to invade the province of the [trier of fact] by testifying as to the credibility of a particular witness or the truthfulness of a particular witness' claims.... [E]ven indirect assertions by an expert witness regarding the ultimate issue in a case can serve inappropriately to validate the truthfulness of a victim's testimony." (Internal citations and quotation marks). *See, In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010).*

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court declined to address the father's claim that the trial court improperly relied on the petitioner-mother's testimony when terminating his parental rights. The Court ruled that it would not reverse a trial court's decision on the basis of credibility determinations.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Nathan B., 116 Conn. App. 521 (2009), reversed
In an appeal from probate court, the trial court terminated the father's parental rights. During the trial, the judge made a number of improper statements about the father. At the conclusion of DCF's case, the father moved for a new trial on the basis that the judge was no longer impartial. The trial court denied the motion. The Appellate Court reversed. The father claimed that the judge should have disqualified himself and granted a new trial because the judge violated the principles of impartiality and fairness. The Appellate Court held that the trial court abused its discretion in denying the request for a new trial because the judge's comments implicitly questioned the father's credibility before he testified. A reasonable person would question the judge's impartiality. Here, on the first day of trial, the court stated to the father, "Somebody who cared would not stick himself in jail and stay there so he couldn't see his child. Now, I don't want to get into it any further. Move on. [I'm] [s]ick of these people who come in and say, 'Oh, I really care. I haven't seen him in nine years, Judge, but I really care.' Check with your attorney see what he has done in the last nine years with his family and how he has worked. Check with anybody here. They tended to their families. Move on." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116ap420.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly permitted testimony regarding the children's credibility. The Appellate Court agreed that the trial court abused its discretion by allowing the social worker's testimony and the court-ordered psychologist's testimony about the children's credibility, but found the error harmless because the information was cumulative of properly admitted testimony. The social worker testified on direct examination without objection regarding their credibility and the court-ordered psychologist's report containing opinions about the children's credibility was admitted without objection.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Antonio M., 56 Conn. App. 534 (2000)

The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence that the mother's boyfriend physically and sexually abused the child. The Court held that the evidence demonstrated that the mother both allowed and denied the child's injuries that occurred in her care. The child had knowledge beyond his years of acts of sexual and physical abuse. The mother further claimed that the trial court failed to credit any of her witnesses. Rejecting the mother's claim, the Court ruled that the trial court is the sole arbitrator of the credibility of witnesses and the "quintessential function of the fact finder is to reject or accept certain evidence."

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Disputing the testimony, the mother claimed that the trial court should have weighed the evidence differently when considering the statutory best interest factors. The Appellate Court held that the claims relating to the weight afforded to the testimony are not appropriate appellate claims. "It is the trial court which has the benefit of having all the parties before it, and is thus in the best position to analyze the testimony and evidence and reach an ultimate conclusion whether the statutory criteria for termination have been met."

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred in allowing expert testimony regarding the child's credibility, an ultimate issue in the case, and whether she was truthful in recounting that her stepfather sexually abused her. The Appellate Court held that the trial court improperly admitted the expert testimony regarding the child's credibility, but the error was harmless. The record demonstrates that the trial court found, based on its in camera interview of the child, that the child was a "most credible witness". Thus, the trial court did not base its conclusions regarding the child's credibility or the neglect on the expert's testimony.

CROSS-EXAMINATION

"The trial court has broad discretion in determining whether cross-examination is beyond the scope of the direct examination. Additionally, it is well settled that the scope of the cross-examination of a witness is limited by the scope of the direct examination unless there is an attack on the credibility of that witness. The extent of cross-examination of a witness with regard to that person's credibility is within the discretion of the trial court. A party who initiates discussion of an issue, whether on direct or cross-examination, is said to have 'opened the door' to inquiry by the opposing party, and cannot later object when the opposing party so questions the witness". (Internal citations and quotation marks omitted). *See, In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007).*

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court held that the trial court's decision to sustain objections on the basis of relevance during the father's cross-examination of the petitioner-mother was not an abuse of discretion. The Court ruled that the law permits cross-examination, but it must comport with the rules of evidence and be relevant. During the TPR trial alleging that the father abandoned his child, the status of the petitioner-mother's health, employment, boyfriends or DCF interactions were not relevant.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits in violation of her right to

confrontation and cross-examination. The Appellate Court held that the trial court's admission of the children's hearsay statements under the residual hearsay exception neither violated the mother's constitutional or statutory right (Conn. Gen. Stat. § 46b-135) to confrontation and cross-examination. Parents in termination of parental rights or neglect proceedings do not have a Sixth Amendment right to confrontation. This Court previously held in *In re Lauren R.* that excluding the child victim's testimony did not violate a parent's statutory rights either. The Supreme Court affirmed. On appeal to the Supreme Court, the Court also rejected the mother's contention that she had an unqualified due process right to confrontation and cross-examination to bar properly admitted evidence and declined to weigh the factors in the *Mathews* balancing test. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed information on cross-examination that was beyond the scope of direct examination. The Appellate Court held that the trial court did not abuse its discretion in allowing cross examination regarding the mother's violent relationship with her fourth husband because she opened the door on direct examination when she testified regarding her compliance with domestic violence counseling. The cross examination regarding the fraudulent "cans for cancer" fund drive was also proper because the information was relevant to her credibility.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional and statutory rights to confrontation and cross-examination when the trial court prevented her attorney from cross examining the child in the judge's chambers. The Appellate Court held that parents in neglect proceedings have no constitutional right to confrontation and cross-examination pursuant to the Sixth Amendment. Parents do however, have a statutory right to confrontation and cross-examination pursuant to Conn. Gen. Stat. § 46b-135(b). The Court further held that the trial court's procedure in which the child testified in camera without the mother present did not violate her statutory rights to confrontation and cross-examination because the trial court properly followed the Practice Book provision and allowed all the counsel to be present and submit and resubmit questions during the child's interview.

CULTURAL AND LANGUAGE ISSUES

In re Luis C., 210 Conn. 157 (1989)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed that the trial court's judgment was clearly erroneous because the court's decision was based on financial, language and cultural barriers that were "not of her own making." The Supreme Court held that the trial court's finding that the mother failed to rehabilitate was amply supported by the record. The evidence demonstrated that the child was placed in a non-Hispanic foster home for five years and was bonded to that family and the mother continued to have difficulty maintaining suitable housing. The trial court properly found that the prospects of mother achieving a useful and constructive role as a parent were crucially impaired by language and cultural barriers that existed because the mother was Hispanic and the child was raised in a non-Hispanic home. The Court concluded that while true that the cultural and language barriers existed because of DCF placing the child in a non-Hispanic foster home, the trial court properly found that "[w]hile placement within the extended family or in an Hispanic foster home might have been better than use of this non-Hispanic home, those alternative options have not been available."

In re Shyina B., 58 Conn. App. 159 (2000)
The trial court granted the maternal aunt and uncle the right to intervene and adjudicated the child neglected. The trial court then transferred guardianship to the maternal aunt and uncle instead of allowing the child to remain with her foster family. The Appellate Court affirmed. DCF claimed that the trial court improperly applied the best interest standard when it considered the race of the relatives as a determining factor. The Appellate Court held that the trial court did not improperly consider the race of the maternal relatives in reaching its best interest determination to grant the relatives guardianship. The trial court properly considered the African American cultural phenomenon to utilize family supports as relevant to its determination that placement with the relatives was in the child's best interests.

CUSTODY DISPUTE

"It is well established that a conflict between parents as to custody "is best resolved by placing the burden on the noncustodial parent to prove by a fair preponderance of the evidence that a transfer of custody is in the best interests of the children. . . . Before a court may modify a custody order, it must find that there has been a material change in circumstance since the prior order of the court, but the ultimate test is the best interests of the child." (Internal citations and quotation marks omitted). *See, In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006).*

In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006), reversed
After the children had been adjudicated neglected and sole custody was transferred to the father, the trial court later granted the mother's motion to modify custody and granted the parents shared custody. The father appealed. The Appellate Court reversed. Pursuant to Conn. Gen. Stat. § 46b-56(b), the father claimed that there was insufficient evidence of a material change in the mother's circumstances to justify the modification and that the trial court erred as a matter of law in failing to find that a change in custody was in the best interest of the children. The Appellate Court held first that there was sufficient evidence of a material change in the mother's circumstances because she maintained adequate living conditions, complied with her mental health program, recovered from substance abuse, gained employment and had adequate income and child care arrangements. The Appellate Court reversed the trial court's judgment, however, holding that the trial court misapplied the law and abused its discretion by modifying the custody order without making a finding that the modification was in the children's best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96AP351.pdf

DECLARATORY JUDGMENT

Hunte v. Blumenthal, 238 Conn. 146 (1996)
The trial court denied the foster parents' declaratory relief that they were state employees entitled to state defense and indemnification in cases involving a wrongful death action against them. The Appellate Court reversed. The Appellate Court held that the foster parents were employees, and not independent contractors, because the State retains the right to control the means and methods of the work performed by the foster parents. The Court rejected the State's argument that foster parents are like biological parents, even though the rights of foster parents are limited. The Court ruled that foster families do not have the same rights as biological families or adoptive families.

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

DEFAULT

In re Candids E., 111 Conn. App. 210 (2008)
The trial court terminated the mother's parental rights in her absence by finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court violated her due process rights by proceeding with the termination trial in her absence. Applying the *Mathews* balancing test, the Appellate Court held that the trial court did not violate the mother's procedural due process rights. The mother was at court the day the trial dates were set and failed to appear. The record further indicated that the mother told her attorney she was detained in criminal court, but the criminal docket had no such hearing involving the mother. Moreover, at all times during the trial, the mother was represented by counsel. In balancing the factors, the Court ruled "[t]he bottom-line question is whether the denial rendered the trial fundamentally unfair in view of the Mathew factors." Here, the mother failed to show how rendering a default judgment, with less procedural protections than what was actually afforded to her, could have safeguarded her due process rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP27.pdf

In re Ilyssa G., 105 Conn. App. 41 (2007), cert. denied, 285 Conn. 918 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to open the default judgment to terminate his parental rights. Based on the father's own testimony, the trial court acted reasonably in concluding that the father did not present a good defense to the abandonment or no ongoing parent child relationship grounds. The father also failed to prove that he failed to appear at the TPR trial because of fraud, mistake, accident or other reasonable cause. The respondent's testimony during the hearing supported, rather than countered, the grounds for termination. He admitted he had not seen his child in 8 years and that he only called her and visited DCF once. He further testified that he did not tell anyone that he moved. The trial court properly ruled that the father's or his attorney's negligence is not grounds to set aside a default judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105ap63.pdf

In re Juvenile Appeal (84-1), 1 Conn. App. 298 (1984)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to open the judgment based on default. Although the mother did not appear for the termination trial, the mother was not defaulted. The mother received adequate notice of the proceedings, appeared at the first hearing and was represented by counsel at all times.

DEMEANOR

"It is the peculiar province of the trial court to observe demeanor of the parties and their witnesses and to draw inferences therefrom as to the motives underlying their testimony and conduct; findings based upon these observations in the courtroom are in the same category as findings based upon a view of premises or property, and such evidence is as properly to be considered by the court in rendering its decision or makings it finding as if presented by the lips of the witnesses. The fact finding function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties...." (Internal citations and quotation marks omitted). *See, In re Pascacio R., 52 Conn. App. 106 (1999).*

In re Pascacio R., 52 Conn. App. 106 (1999)

The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly considered her conduct during the trial as evidence of her lack of judgment and parenting skills. The Appellate Court held that the trial court properly considered the mother's conduct because courtroom conduct may be considered by the trial court in reaching its decision.

DISCOVERY

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court violated her constitutional right to due process by denying her motion for continuance. The mother requested a continuance to review the discovery materials that DCF provided during lunch on the first day of trial, although the mother sought the records months earlier. The trial court, in denying the motion, allowed the mother to recall or call additional witnesses. The mother never did. Pursuing *Golding* review of her unpreserved claim, the Appellate Court held that the mother failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived her of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the mother to be low because the record does not reflect the amount of discovery provided to the mother or the impact the discovered materials would have had on the trial had DCF timely provided the discovery and the court offered the mother the opportunity to recall witnesses. The Appellate Court further held for the same reasons that the denial of the motion for continuance was not an abuse of discretion. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred by failing to exclude expert testimony because DCF failed to disclose its expert witnesses prior to trial. The Appellate Court held that the trial court did not err in allowing the testimony because P.B. § 13-4(4) pertaining to the disclosure of expert witnesses in civil trials, does not apply to juvenile proceedings. The rule precludes the expert from testifying if prior notice is not given. The Court concluded that the judges, the promulgators of the rules, could have explicitly stated that the rule applies to juvenile matters, but they did not.

DOMESTIC VIOLENCE

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly found that DCF made reasonable efforts to reunify and that he failed to rehabilitate. The Appellate Court held that DCF made reasonable efforts based on DCF's extensive services offered to the father and its actual attempt to reunify by placing the child with the father until her subsequent removal following a domestic violence episode in her presence. DCF offered ongoing visitation despite reports that visitation was detrimental to the child. Rejecting his claim that DCF failed to offer him domestic violence services as a victim, the Court concluded from the record that he was a perpetrator not a victim. The child's attorney's assertion that the"[t]he department worked with [the respondent] for nineteen months, well beyond the suggested time frame spelled out in the Adoption and Safe Families Act" underscored the Court's holding. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Charles A., 55 Conn. App. 293 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify based on the trial court's numerous findings regarding DCF's failure to recognize the mother as victim of domestic violence and that DCF failed to protect her as the children's mother. The Appellate Court held that the trial court's findings regarding DCF's shortcomings pertaining to the mother as a battered woman did not undermine its findings that DCF provided reasonable efforts in compliance with the Adoption and Safe Families Act. The court's conclusion was amply supported by its findings that the mother was unable to protect her children, that she refused offered counseling and in home services.

DOUBLE JEOPARDY

"The double jeopardy clause of the fifth amendment to the United States constitution provides that no person shall be subject for the same offense to be twice put in jeopardy of life or limb. In order for double jeopardy to exist there must be a dual punishment of the same offense arising out of the same act. . . . Whether a civil sanction may violate the double jeopardy clause depends on whether it is remedial or punitive. When considering whether a civil sanction is characterized as remedial for the purposes of the double jeopardy clause, we take a two-pronged approach. Under that approach ... [the court must] assess: (1) the purpose the sanction is designed to serve; and (2) the nature of the particular sanction as applied to the defendant." (Internal citations and quotation marks omitted.) *See, In re Shane P., 58 Conn. App. 244 (2000).*

In re Shane P., 58 Conn. App. 244 (2000)

The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father claimed that the abandonment finding violated the double jeopardy clause under the Fifth Amendment of the U.S. Constitution because the termination of his parental rights punished him on the basis of his incarceration. The Appellate Court held that the double jeopardy clause was inapplicable to termination proceedings because the termination of parental rights statutes are remedial in nature as the statute's purpose is to protect the welfare of children. The father's unpreserved claim therefore fails under the third prong of *Golding,* that a constitutional violation clearly existed and deprived him of a fair trial, because the statute did not violate the double jeopardy clause.

DUE PROCESS

The United States Supreme Court in *Mathews v. Eldridge, 424 U.S. 319 (1976)* established a three part test to determine whether the actions of the court violated a party's right to procedural due process. The three factors to be considered are: (1) the private interest that will be affected by the state action, (2) the risk of an erroneous deprivation of such interest, given the existing procedures, and the value of any additional or alternate procedural safeguards, and (3) the government's interest, including the fiscal and administrative burdens attendant to increased or substitute procedural requirements.
Due process analysis requires balancing the government's interest in existing procedures against the risk of erroneous deprivation of a private interest inherent in those procedures.
[T]bottom line question is whether the [alleged error] rendered the trial fundamentally unfair in view of the *Mathews* factors. *See, In re Shaquanna M., 61 Conn. App. 592 (2001).*

"The central meaning of procedural due process is that parties whose rights are to be affected are entitled to be heard, and in order that they may en joy that right to be heard, they must first be notified. The procedural due process right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaning. Procedural due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place, and circumstances; instead, it is a flexible principle that calls for such procedural protections as the particular situation demands. Procedural due process requires that a party have an effective opportunity to defend by con- fronting any adverse witnesses and by presenting his own arguments and evidence orally." (Internal citations and quotation marks omitted). *See, In re DeLeon J., 290 Conn. 371 (2009).*

"To support a substantive due process claim, [the respondent] must establish that the [trial court's] actions were sufficient to shock the conscience . . . or were a violation of an identified liberty or property interest protected by the due process clause." (Internal citations and quotation marks omitted*). See, In re Michael L., 56 Conn. App. 688 (2000).*

In re Joseph W., 305 Conn. 633 (2012)
The trial court adjudicated the children neglected under the doctrine of predictive neglect and committed them to DCF. The Supreme Court, on transfer, reversed and remanded the case for a new trial. The father claimed that the trial court applied an improper standard of proof and it was inconsistent with the standard of proof for neglect as set forth in Conn. Gen. Stat. § 46b-120(8). The Supreme Court held that the trial court improperly applied a "potential risk of neglect" standard pursuant to the Appellate Court's holding in *In re Kamari C.L.*, 122 Conn. App. 825 (2011). Rejecting the father's claim that the standard of proof in predictive neglect actions should be "virtual certainty that harm to the child will occur," the Supreme Court, applying the principles of due process as set forth in *In re Juvenile Appeal (84-AB)*, concluded that the trial court must find that it is "more likely than not," that if a child remains in the current situation, the child would be denied proper care and attention or would be permitted to live under conditions injurious to the child's well-being according to Conn. Gen. Stat. § 46b-120(8). The Court further held that the finding must

be made with respect to each parent contesting the neglect petition and who has expressed a willingness to care for the child independently of the other parent. The parents also claimed that the trial court improperly denied their request for relief under the ADA. The Supreme Court addressed the ADA claim because it was likely to arise on remand, but held that the ADA was inapplicable to neglect proceedings. Following the holding of *In re Antony B.*, the Court held that the ADA neither provides a defense to nor creates special obligations in neglect proceedings because neglect proceedings are not services, programs or activities under the ADA. This is not an affirmative claim, and the mother cited no authority supporting the claim that an alleged violation under the ADA can be the basis for an appeal from a neglect adjudication. The father's due process claim was also without merit because there is no legal authority supporting his claim that the judicial department must provide them with an ADA coordinator, no proof that they are "disabled" under the ADA, and no finding of incompetency necessitating a GAL for either parent.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR305/305CR76.pdf

In re Lukas K., 300 Conn. 463 (2011), aff'ing, 120 Conn. App. 465 (2010)
Affirming the Appellate Court, the Supreme Court held that the out-of-state incarcerated father was not deprived of due process by the trial court's denial of his request for a transcript and a continuance. Applying the *Mathews v. Eldridge* balancing test, the Court reasoned that these are important procedural safeguards, however, the father did not offer a credible claim that he could rebut the evidence if the trial court had granted his request. Moreover, the request for a continuance and transcript would be consistent with an orderly administration of justice. The mother filed a TPR petition against the father and the father who was incarcerated since the child's birth, had no foreseeable release date and no parent child relationship with the child. In the underlying appeal, 120 Conn. App. 465, the Appellate Court held that the trial court did not violate the father's procedural due process rights when it denied him the opportunity to participate at trial using videoconference technology. The father could have testified telephonically and his attorney was present throughout the trial.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Tayler F., 296 Conn. 524 (2010), aff'ing, 111 Conn. App. 28 (2008)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court erred in admitting hearsay statements of the children in violation of due process rights to confrontation and cross-examination. The Supreme Court rejected the mother's contention that she had an unqualified due process right to confrontation and cross-examination to bar properly admitted evidence and declined to weigh the factors in the *Mathews* balancing test. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re DeLeon J., 290 Conn. 371 (2009), reversed
The trial court denied the mother's motion to reinstate her guardianship. On transfer, the Supreme Court reversed. The mother claimed that the trial court violated her due process rights by failing to provide her with adequate notice of the time and date of the hearing. The Supreme Court held that the trial court violated the mother's procedural due process rights by improperly expanding the scope of the hearing to deny the mother's motion on the merits without providing prior notice to the mother. The record clearly demonstrated that the sole purpose of the hearing was for the court to determine whether it had jurisdiction

over the matter because the child was living out of state with his father. The parties were to submit briefs and present arguments on that date. The court never indicated that it would rule on the motion to reinstate guardianship. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR34.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that, according to the holding in *Roth v. Weston*, Conn. Gen. Stat. §17a-112(j) is facially unconstitutional or unconstitutional as applied under the due process clause. The Court explained that *Roth* limited third party visitation orders when such orders where contrary to the desires of a fit parent. The underlying presumption in *Roth* is that a fit parent makes decisions in the best interest of the child. In termination of parental rights cases, there is no such underlying presumption. Where there are allegations that a parent is unfit, then the state may intrude upon the right to family integrity. The mother cited no authority for her claim that she should be allowed to raise her child without interference and that a parent who has been shown to be unfit, by clear and convincing evidence, should presumed to have acted in the child's best interest. The Supreme Court found the mother's proposition to be implausible and rejected her constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The trial court terminated the father's parental rights. The father filed a separate habeas corpus petition challenging the termination judgment claiming he was denied effective assistance of counsel. The trial court dismissed the father's habeas petition. On transfer, the Supreme Court affirmed. The father claimed that: (1) the trial court improperly concluded that he lacked standing to bring a writ of habeas corpus, and (2) due process required that he be permitted to file a habeas petition to attack collaterally the termination judgment. First, the Supreme Court held that the father had standing to file a habeas petition because the father has authority to prosecute his own ineffective assistance claim. Although after the termination of his parental rights, he was no longer the child's "legal" father, the father is the proper party to request an adjudication of the issues presented in the habeas petition because it is the termination of parental rights judgment itself that he is challenging in the habeas petition. Secondly, assuming, without deciding, that the father had a constitutional right to effective assistance of counsel at the termination proceeding, the Supreme Court concluded, nevertheless, that the writ of habeas corpus is not the appropriate vehicle by which the father may assert a claim of ineffective assistance of counsel to collaterally attack the termination judgment. Applying the *Mathews* balancing factors, the Supreme Court weighed the father's right to family integrity with the State's parens patriae interest and the risk that the procedures used would lead to erroneous decisions and concluded that due process does not warrant the right to file a habeas petition. Other alternatives exist to challenge the termination judgment, including a direct appeal, or a motion to open or a petition for a new trial, except when an adoption has been finalized. "We are unwilling to infect the delicate and serious process governing the placement of foster children in permanent adoptive homes with perpetual uncertainty where the General Assembly has not directed us to do so." **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating

her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights. The Supreme Court held that based on the legislature's intent in enacting the statutory amendment imposing the requirement of reasonable reunification efforts, the statutory amendment did not apply retroactively. In so holding, the Court also rejected the mother's claim that due process required that DCF prove it made reasonable efforts to reunify by clear and convincing evidence because according to *Santosky v. Kramer*, the prerequisites of a termination petition must be proven by clear and convincing evidence. Here, proof of the reasonableness of reunification efforts was not a prerequisite of a termination of parental rights under the statutory scheme. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Alexander V., 223 Conn. 557 (1992), aff'ing, 25 Conn. App. 741 (1991)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Supreme Court affirmed. The mother claimed that her right to due process required the trial court to sua sponte order a competency evaluation. Applying the *Mathews* due process balancing test, the Supreme Court held that due process requires that a hearing be held to determine whether a parent in a termination of parental rights cases is legally competent when: (1) the parent's attorney requests such a hearing, or (2) if the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte. Substantial evidence of the parent's mental impairment must exist. The Court also held that in this case the trial court was not obligated to order a competency hearing sua sponte because the evidence did not raise a reasonable doubt regarding whether the mother could understand the proceedings or assist in the presentation of her case. Although the evidence established that the respondent suffered from a personality disorder and at times exhibited bizarre and inappropriate behavior, there was no testimony demonstrating that such her disorder interfered with the mother's ability to present her case and the testimony also indicated that the mother understood the nature of proceedings. **Concurring:** Glass, Berdon, Santani-Ello, Borden, JJ.

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983), reversed
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard. The statute was constitutional because when read together with another temporary custody statute containing the requirement that "serious physical illness or serious physical injury" or "immediate physical danger", the State must prove that the child is "at risk of harm" to justify removal. The statute is justified by a compelling state interest to protect children and is narrowly drawn to express that legitimate state interest. The Supreme Court further held that due process requires the burden of proof to be on the State and the standard of proof to be a 'fair preponderance of the evidence,' and that the trial court erred by applying the 'probable cause' standard. Moreover, the trial court erroneously granted the order of temporary custody when no immediate risk of danger to the children was shown. The trial court's conclusion that the children were "presumptively neglected" impermissibly shifted

to the defendant the burden of proof to show that the children were not neglected, and was, therefore, error. **Concurring:** Peters, Parskey, Grillo, Shea, JJ.

In re Juvenile Appeal, 187 Conn. 431 (1982)
The Supreme Court held that the incarcerated father was not deprived of his due process right to be present by the trial court's denial of his motion for continuance. Applying the *Mathews v. Eldrige* balancing test, the Court found that the trial court took adequate measures to ensure the out-of-state incarcerated father participated in the TPR trial via telephone and offered extra time for cross examination. Delaying the TPR proceeding until an undetermined release date would have created a significant burden on the State. The Court also upheld the judgment terminating the incarcerated putative father's parental rights by finding that he abandoned his child.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother asserted numerous due process violations. (1) The mother claimed that the termination statute violated her due process rights because it was unconstitutionally vague. The Supreme Court held that the statute provided fair warning because the statutory requirements were sufficiently clear and explicit. "The evil that has to be avoided is any conduct on the part of the parent that would deny the child in question the care, guidance or control that would foster his well-being." (2) The mother claimed that the statute impermissibly delegates unfettered discretion to state officials and social workers because the social workers draft the termination petitions and accompanying social studies. While the social worker filed the termination petition and the social study, the Court rejected this claim because the statute and hearing provide sufficient safeguards to prevent arbitrary and capricious actions as the social worker is subject to cross-examination and the judge is the final arbitrator. Thus, the filing of termination petition and social study is not an impermissible grant of discretion that violates the mother's due process rights. (3) She further asserted that the statute is vague because it promotes termination of parental rights based on economic class. The Court held the statute was not unconstitutionally vague because this claim was based on mere supposition and the mother's rights were terminated based on her actions and omission toward her child, not her economic status. (4) The mother also claimed that the simultaneous hearing of the neglect and termination petitions (coterminous), as well as the failure to separate the adjudicatory and dispositional phases, violated her due process because it impaired her ability to present a defense. The Court held the coterminous action was not violation of due process because the statute expressly permitted a consolidated hearing, it served to promote the best interest of the child, and the process did not eliminate procedural safeguards. Moreover, nothing in the statutory scheme or practice book rules mandated a bifurcated hearing.

In re Iliana M., 134 Conn. App. 382 (2012)
The trial court denied the parents' motion to dismiss the order of temporary custody ("OTC") finding that it had subject matter jurisdiction pursuant to the UCCJEA, Conn. Gen. Stat. §§ 46b-115k(a)(3) and 46b-121(a). The Appellate Court affirmed. The child was born in Massachusetts and DCF invoked a 96 hour hold and brought the child to Connecticut where it filed a motion for order of temporary custody. The parents filed a motion to dismiss. The trial court granted the motion to dismiss finding that the home state under the UCCJEA was Connecticut, but that pursuant to 46b-121(a), the child was not "within the state." The same day of the trial court's ruling, DCF then invoked a second 96 hour hold and filed a second OTC. The parents filed a second motion to dismiss and the trial court denied the second motion to dismiss finding that the court now had jurisdiction because the child was "within the state." The parents claimed

that: 1) the trial court lacked subject matter jurisdiction under the UCCJEA, 2) DCF's conduct was inequitable, and 3) the mother was denied her due process right to have an evidentiary hearing in Massachusetts. First, the Appellate Court held that based on the trial court's factual findings that the parents were residents of Connecticut, the trial court properly found under the UCCJEA that the Connecticut court had subject matter jurisdiction to make the initial child custody determination. Both the child and the parents had a "significant connection with this state". Notably, at the time of the child's birth, the parents gave Connecticut addresses to the Massachusetts hospital. Although Massachusetts could have made the initial child custody order, the Court ruled it did not have priority over a Connecticut court. Secondly, the Appellate Court held that the doctrine of unclean hands does not apply. "To seek equity, one must do equity, and they [the parents] have not." Thirdly, the Appellate Court found the mother's due process rights were protected by holding an evidentiary hearing in Connecticut and there was no legal basis to support her claim that her due process rights required a hearing in a Massachusetts court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP267.pdf

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed.
The father claimed that while he was pro se at the termination trial, the trial court violated his federal and state due process rights by failing to order a competency evaluation to determine specifically whether he was competent to represent himself. The Appellate Court held, relying on *In re Alexander V.,* that the first competency evaluation, ordered upon the child's attorney's request, finding that the father was competent to understand the proceedings was sufficient to comply with the law. The father failed to provide any "substantial evidence" in the record that the court abused its discretion. The father further failed to demonstrate that a second competency evaluation was warranted or that the trial court had a sua sponte obligation to order the evaluator to assess the pro se father's competency for self-representation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Kaleb H., 131 Conn. App. 829 (2011)
DCF filed a motion to modify the disposition from protective supervision to commitment. The mother's attorney requested a competency evaluation because the mother never remembered agreeing to the child's previous adjudication of neglect. The trial court denied the motion for a competency evaluation and committed the child to DCF. The Appellate Court affirmed. The mother claimed that the trial court violated her due process rights by denying her motion for a competency evaluation. The Appellate Court held that the trial court did not abuse its discretion when it denied the competency evaluation because the mother failed to assert specific factual allegations that raised a reasonable doubt as to her competency and as such, the Court declined to decide whether in commitment proceedings a parent has a due process right to a competency evaluation in certain circumstances. The allegation that the mother did not recall agreeing to the child's adjudication of neglect was a bald assertion and while she had mild mental retardation, this limitation did not render her incompetent. Further, the trial court was in the best position to observe her demeanor and assess whether she behaved irrationally.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP131/131AP21.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the child's attorney's post-trial position statement

containing extra record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless and thus the mother's claim also failed under the fourth prong of *Golding*. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court violated her constitutional right to due process by denying her motion for continuance. The mother requested a continuance to review the discovery materials that DCF provided during lunch on the first day of trial, although the mother sought the records months earlier. The trial court, in denying the motion, allowed the mother to recall or call additional witnesses. The mother never did. Pursuing *Golding* review of her unpreserved claim, the Appellate Court held that the mother failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived her of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the mother to be low because the record does not reflect the amount of discovery provided to the mother or the impact the discovered materials would have had on the trial had DCF timely provided the discovery and the court offered the mother the opportunity to recall witnesses. The Appellate Court further held for the same reasons that the denial of the motion for continuance was not an abuse of discretion. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court affirmed the trial court's denial of an incarcerated father's motion for continuance. The Court held that the denial of a continuance when the immigration authorities did not allow the father access to a telephone to participate in the TPR trial did not violate his constitutional due process rights. The father testified and heard testimony on the first day of trial via telephone and then his telephone privileges were suspended. Applying the *Mathews v. Eldridge* balancing test, that the father failed to prove how his absence on the second day of trial when only his own witness testified deprived him of a fair trial. The trial court provided the father with a transcript, and it was unclear when he would access to telephone again. In light of the circumstances of this case, when balancing the father's request against the best interest of the child, the scales tipped in favor of the State's interest in protecting the child and in securing permanency for the child.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The Appellate Court declined to review the parents' claim that due process entitled them to a jury trial when the court terminated their parental rights because their claim was not preserved at trial and was inadequately briefed. They did not provide any analysis under *Golding*, nor did they provide adequate and relevant legal support for their constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Candids E., 111 Conn. App. 210 (2008)
The trial court terminated the mother's parental rights in her absence by finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court violated her due process rights by proceeding with the termination trial in her absence. Applying the *Mathews* balancing test, the Appellate Court held that the trial court did not violate the mother's procedural due process rights. The mother was at court the day the trial dates were set and failed to appear. The record further indicated that the mother told her attorney she was detained in criminal court, but the criminal docket had no such hearing involving the mother. Moreover, at all times during the trial, the mother was represented by counsel. In balancing the factors, the Court ruled "[t]he bottom-line question is whether the denial rendered the trial fundamentally unfair in view of the Mathew factors." Here, the mother failed to show how rendering a default judgment, with less procedural protections than what was actually afforded to her, could have safeguarded her due process rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP27.pdf

In re Halle T., 96 Conn. App. 815, cert. denied 280 Conn. 924 (2006)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court violated his due process rights by "cutting and pasting" the DCF social study into its memorandum of decision, such that more than 50% of its memorandum of decision was verbatim sections of the social study. While the Appellate Court made clear that it did not approve nor endorse the trial court's improper 'parroting' of significant portions of the social study as an exhibit into its written decision, the record demonstrated that DCF presented clear and convincing evidence that the father failed to rehabilitate and the trial court's actions did not dilute DCF's burden of proof. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96ap398.pdf

In re Christian P., 98 Conn. App. 264 (2006), reversed
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court reversed and affirmed in part. The mother claimed that with respect to one of the three children, the trial court violated her due process rights to notice by terminating her parental rights when DCF failed to allege in the termination petition itself the 'no ongoing parent children relationship' ground. The Appellate Court agreed and reversed the judgment with respect to that child. The Appellate Court held that "in accordance with the mandates of due process, it is axiomatic that parties whose rights are to be affected are entitled to notice" and the termination of parental rights on this ground was improper because the mother lacked notice of the allegations.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP9.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the court acted outside its statutory authority of Conn. Gen. Stat § 46b-129 (m) and (o) when it sua sponte revoked the child's commitment without notice to any of the parties or the foster parent. The Appellate Court agreed and reversed the judgment. The Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority. As written, the statutes, requiring the filing of a motion and notice to the foster parents, are intended to provide for the orderly administration of justice as

well to protect the due process rights of the parties and the foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the termination of parental rights violated his substantive due process rights because the trial court failed to appoint him a GAL and erroneously terminated his parental rights because of his mental impairment. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole did not demonstrate that the father was mentally retarded. The Appellate Court held that the father failed to satisfy the third prong of *Golding*, that an "alleged constitutional violation clearly exists and clearly deprived him of a fair trial." The father failed to prove a GAL was warranted because his trial attorney could have presented whatever alternative a GAL may have proposed. Moreover, the evidence showed that the parental relationship was detrimental to the child's well-being.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The father claimed that because he was impoverished, due process required that DCF must prove grounds for a termination must exist "beyond a reasonable doubt". Rejecting legal precedent from another state, the Appellate Court held that based on our Connecticut caselaw, termination proceedings are not criminal or quasi-criminal matters and the due process did not require that the statute be declared unconstitutional or that the termination grounds be proven "beyond a reasonable doubt."
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Tyqwane V., 85 Conn. App. 528 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that a 'clearly erroneous' standard of appellate review, rather than a 'de novo' standard of review violated the mother's procedural due process rights. Applying the *Mathews* balancing test, the Appellate Court held that the 'clearly erroneous' standard comports with due process, in part, because utilizing a 'de novo' review would be to in effect second-guess trial court factual conclusions, the 'clearly erroneous' standard does not cause a risk of erroneous deprivation of the parent's constitutional rights and the 'de novo' review would be contrary to judicial economy.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap511.pdf

In re Jennifer W., 75 Conn. App. 485 (2003)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court violated her due process right to fundamental fairness by not considering events that occurred after the filing of the termination petition (adjudicatory date) and by not bifurcating the termination proceeding and holding a separate adjudicatory hearing. First, the Appellate Court held that the mother's

due process rights were not violated because (1) pursuant to the Practice Book rule § 35a-7(a), the trial court has discretion whether to consider such events in the adjudicatory phase, and (2) here, the trial court did in fact consider post adjudicatory facts in finding that the mother failed to rehabilitate. Secondly, the Appellate Court held that the trial court did not violate the mother's due process rights because (1) the termination statute protects the mother's due process rights by requiring clear and convincing evidence, (2) the Practice Book rule § 35a-7(a) grants the trial court discretion to have a consolidated hearing, and (3) according to *In re Deana E.*, failure to bifurcate a termination proceeding does not violate due process. Thus, the mother's rights were adequately protected under the statute and a separate hearing was not required.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap215.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's procedural due process rights. The Court applied the *Mathews v. Eldrige* balancing test and stated that the "bottom line question is whether the denial rendered the trial fundamentally unfair in view of the *Mathews* factors." The Court ruled that the burden on the state in granting the continuance was slight and the risk of erroneous deprivation of the mother's parental rights outweighed the other factors. The other factor weighed was the state's primary interest in a termination proceeding to free the children for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents made two unsuccessful due process claims. First, the parents claimed that the TPR violated their right to family integrity. The Court declined to address this claim because it found that the trial court's conclusion that DCF made reasonable efforts to reunify was proper. Secondly, the parents claimed that the trial court violated their due process rights by denying their motions for an independent psychological evaluation. The Appellate Court held that the trial court did not abuse its discretion because the court ordered psychological evaluations and the parents did not claim that those psychological evaluations were improper or biased.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father also raised the following unpreserved due process constitutional claims that were all rejected by the Appellate Court because the father failed to prove the third prong under *Golding,* that a constitutional violation existed and deprived him of a fair trial: (1) the abandonment statute was unconstitutionally vague because it failed to put an incarcerated person on notice of what s/he must do to avoid a termination of parental rights, and (2) the termination of parental rights decision violated his due process rights because DCF failed to demonstrate a compelling state interest in terminating his parental rights when DCF could have granted guardianship of the child to the maternal grandparents so that the child could be with his extended biological family. First, the Court held the statute as written and

interpreted by caselaw provided fair warning of what constitutes abandonment of a child and further ruled that the constitution requires no more than a reasonable degree of certainty. Although a parent's incarceration alone does not constitute abandonment, "[t]he restrictions on movement that are inherent to incarceration, however, do not excuse a failure to make use of available, albeit limited, resources for communication with [his child]." Here, after the father's arrest, he had no contact with his son for five months. His subsequent requests for visits were sporadic and riddled with ambivalence and he never recognized the child's birthday or holidays. Secondly, the Appellate Court relied on the evidence that removing the child from his foster family to whom he is bonded would be detrimental to his well-being. The child would lose his sense of permanency and the grandparents would likely reunite the child with his mother upon her release from prison.

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected both of the mother's due process claims. First, the mother alleged that the trial court violated her due process rights because she did not receive adequate notice of what she needed to do to reunify with her child. Sidestepping the due process analysis, the Court ruled that the evidence showed that the mother did not fully comply with DCF offered services. The trial court's conclusion that DCF made reasonable efforts was not clearly erroneous. Secondly, the Court rejected the mother's claim that the trial court violated her due process rights by improperly admitting hearsay statements of the foster mother, psychologist and social worker regarding the child's disclosures of sexual abuse. Applying a *Golding* review because the hearsay statements were not objected to at trial, the Court held that the claim was not reviewable because the mother failed to prove the second prong of *Golding*, that her claim was of constitutional magnitude. Although the Court recognized the mother's constitutional right to raise her children, it ruled that "unpreserved hearsay claims do not automatically invoke constitutional rights." The mother was not allowed to put a constitutional tag on a nonconstitutional evidentiary claim.

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Appellate Court held that notice by publication in a previous neglect proceeding to an incarcerated father was inadequate, but did not impact the TPR judgment. Although the father's failure to receive adequate notice of the neglect petition may have violated his due process rights in that proceeding, this did not prevent the court from terminating his parental rights on abandonment. The Court rejected the father's claim that his due process rights were violated because he was not given proper notice of the TPR petitions. The father and his counsel were present at the trial and fully participated. The father thus waived any claim of lack of personal jurisdiction because he submitted to the court's jurisdiction. The trial court, however, properly denied the failure to rehabilitate ground because the father lacked an opportunity to participate in the neglect proceedings and did not know what he needed to do to rehabilitate. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Amanda A., 58 Conn. App. 451 (2000)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that her due process rights were violated by her trial attorney's ineffective assistance of counsel by failing to request a competency hearing and an appointment of a guardian ad litem. The Appellate Court held that the mother's due process claim fails because she failed to prove that the evidence would have raised a

reasonable doubt in the mind of the trial judge and consequently the trial attorney as to whether the mother understood the proceedings or could have assisted her counsel in her defense. The evidence of incompetency had to be substantial enough to support conclusion that requesting competency hearing was the only course of action a reasonably effective lawyer would have pursued. Moreover, the mother failed to present sufficient evidence regarding the standard of competency for attorneys in this field and whether the trial attorney's conduct fell below the standard. The Appellate Court suggested that a parent may pursue an ineffective assistance of counsel through an adversarial hearing similar to a habeas corpus proceeding. But see, In re Jonathan M., 225 Conn. 208 (2001).

In re Deana E., 61 Conn. App. 197 (2000), cert. denied, 255 Conn. 941 (2001)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court violated his due process rights by denying his motion to bifurcate the termination proceedings. The Appellate Court rejected all three of the father's supporting arguments and held that the trial court did not abuse its discretion: (1) in declining to apply the due process *Mathews* test in determining whether to deny his motion to bifurcate, (2) in disregarding the psychologist's testimony that the hearings should be bifurcated, and (3) in deciding not to bifurcate because a consolidated hearing does not create a structural defect whereby the court is unable to separate the best interest factors from the adjudicatory finding. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap126.pdf

In re Michael L., 56 Conn. App. 688 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional substantive due process rights because there was no compelling interest in terminating her parental rights when the father's parental rights were left intact. The Appellate Court held that the mother failed to satisfy the third prong of *Golding,* that an "alleged constitutional violation clearly exists and clearly deprived her of a fair trial." The court's decision to terminate her parental rights does not "shock the conscience" based on the clear and convincing evidence to terminate the mother's rights. Moreover, the statute clearly contemplates the situation when the rights of only one parent have been terminated. The court did not commit a constitutional violation when it terminated only the mother's parental rights.

Kevin S. v. Department of Children & Families, 49 Conn. App. 706 (1998)
The trial court dismissed the father's administrative appeal of DCF's denial of his treatment plan request as moot because DCF filed a TPR petition. The Appellate Court affirmed. The father claimed that the trial court should have dismissed DCF's TPR petition as unlawful because the father filed a request for a DCF treatment plan hearing before DCF filed the termination petitions. The Appellate Court held that the father's administrative appeal from DCF's administrative decision denying him a treatment plan hearing was rendered moot by DCF's actual filing of the termination of parental rights petition. The Court reasoned that even if the father prevailed in the administrative appeal, the hearing officer had no authority to compel DCF to withdraw termination petitions, nor is there any statutory requirement that DCF hold a treatment plan hearing prior to filing a TPR petition. Thus, the Court could not offer the father any practical relief. Further, the Appellate Court held that the trial court did not deprive the father of his due process rights by denying him a treatment plan hearing. The father's due process rights were protected because the issue raised during an administrative treatment plan hearing is the same issue raised at a TPR trial, but with greater due process protections because the burden of proof at a TPR trial is clear and convincing proof.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court's decision violated her right to family integrity and due process. She claimed that the state prevented reunification by ordering a full protective order and therefore was precluded from terminating her parental rights because the state created the conditions supporting the TPR. The Appellate Court held that the mother created the conditions requiring the protective order by failing to believe the child that her boyfriend sexually abused the child and by allowing the abusive boyfriend to have further contact with the child in violation of previous protective orders. She further threatened to punish the child if she told anyone. The mother also refused counseling services. The Court noted that "a state may not, consistent with due process of law, create the conditions that will strip an individual of an interest protected under the due process clause." In this case, however, the record does not support the respondent's contention.

In re Jessica B., 50 Conn. App. 554 (1998)
The trial court terminated the mentally retarded mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, because the trial court already heard from two witnesses, the trial court improperly denied her motion for a mistrial once her competency was at issue. The Appellate Court held that the trial court did not abuse its discretion by denying the motion for a mistrial because the mother's due process rights were adequately protected by the court, sua sponte ordering a competency evaluation and then also providing all the parties with transcripts of the proceedings, as well as permitting the mother's attorney and guardian ad litem to recall the witnesses and to take as many recesses as needed to assist the mother in her defense. Furthermore, there was no evidence that the mother was prejudiced in any manner by the witnesses testifying prior to the evaluation.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian. The Appellate Court affirmed. The father claimed that the trial court improperly allowed the aunt to amend the removal petition to add the ground of acts of commission or omission in violation of his due process rights. Applying an abuse of discretion standard, the Appellate Court held that the trial court did not abuse its discretion or violate the father's due process rights because the father had ample notice of his own behavior that served as the basis of the petition and adding the commission ground to the already alleged abandonment ground did not harm him. Moreover, the court continued the case to give the father more time to prepare for trial in light of the new ground. The Court further noted that a petition for removal of a parent as a guardian is far less drastic than termination of parental rights petition.

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian"

entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the midtrial amendment to the neglect petition alleging that the mother neglected the child by making false sexual abuse allegations deprived her of her due process rights.
The Appellate Court held that the trial court violated the mother's due process right to adequate notice by granting the motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because the amendment occurred after substantial evidence was presented and the amendment changed the basic nature of the original allegations.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that: (1) the court lacked subject matter jurisdiction to consider the claim because DCF did not check off the abandonment box on the TPR petition, and (2) she lacked proper notice of the abandonment claim depriving her of her right to due process. Because the accompanying TPR summary of facts adequately pled abandonment, the mother had sufficient notice of the abandonment claim against her and was not deprived of her due process rights. The court was not deprived of subject matter jurisdiction.

In re Jonathan P., 23 Conn. App. 207 (1990), reversed
The trial court terminated the father's parental rights. The Appellate Court reversed. The incarcerated father claimed that the trial court violated his due process rights by starting the proceedings in his and his counsel's absence. The Appellate Court held although the issue was not raised at trial, the claim was reviewable because the trial court committed plain error by allowing the expert witness to testify in his absence, knowing that the incarcerated father was on his way to court, in violation of statute, practice book rule, and due process. Applying the *Mathews* factors, the Appellate Court ruled that because a parent is a necessary party to a termination hearing and he had a right to be present, it was clearly improper for the trial court to proceed in the absence of the father and his counsel. "[I]t should be emphasized that, under the circumstances of this case, it would have been improper for the court to proceed before the [father] arrived at court, even if his counsel had been in the courtroom at the time."

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn, 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the statute permitting a court to order a mental examination after a hearing violated her constitutional right against self-incrimination and due process by compelling her to submit to the evaluation that was admitted as evidence and used against her. The Appellate Court held that the mother's claim was without merit because she cited no authority demonstrating that the right against self-incrimination recognized in criminal proceedings is applicable to child protection proceedings. Furthermore, the statute did not violate the mother's due process rights because the statute clearly provides for a hearing before an evaluation is ordered, thereby providing the mother with the necessary procedural protections.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the court erred in admitting the social study containing hearsay in violation of her due process rights. The Appellate Court affirmed. The Court held that the mother could not challenge the admission of the social study because she did not object to it at trial and further introduced most of the information contained therein during trial. Upholding the judgment, the Court ruled that "[i]n juvenile proceedings certain procedural informalities are constitutionally permissible, allowing, for example, the liberal interpretation of the formal rules of evidence as long as due process standards are observed."

In re David E., 4 Conn. App. 653 (1985)
The trial court terminated the mother's parental rights. The mother claimed that the termination statute unconstitutionally deprived her of her due process rights because it did not incorporate a health or safety requirement. Rejecting the mother's claim, the Appellate Court followed the Supreme Court precedent in *In re Juvenile Appeal (83-BC),* 189 Conn. 66 (1983) and held that there was no conflict in the statutory requirements.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court's denial of the mother's motion for a continuance did not violate her due process rights. The trial was continued numerous times and the mother had never appeared. Just prior to the trial, the mother moved for a continuance alleging she would lose her job if she attended the proceedings. Implicitly declining to apply the *Mathew v. Edridge* analysis, the Court ruled that the mother's absence was within her control. Citing the Practice Book rule requiring a continuance for good cause, the Appellate Court held that determining whether the trial court abused its discretion and whether the denial of a continuance was so arbitrary that it violated the mother's due process rights depends on the circumstances of the case. Here, given the mother's previous absences and her economic basis for the continuance request, the trial court acted reasonably and within its discretion in denying the continuance.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother and children appealed. They claimed that the trial court violated their right to due process by failing to render a timely decision within ten days on the order of temporary custody. They further asserted that by consolidating the order of temporary custody with the neglect proceeding and allowing the children to remain in DCF's care until the neglect proceeding, there was a presumption that the children were neglected and the burden of proof shifted to the mother to prove that the children were not neglected. The Appellate Court held that the trial court need not render a decision on the OTC within ten days and that there was no presumption of neglect or improper burden shifting. Although there was no reversible error in this case, the Court noted however, that the procedure of consolidating the OTC and neglect, "although designed to avoid a repetition of testimony and to economize court time, is improper because the issue of the continuation of ex parte temporary custody orders is not resolved in a timely fashion and can result in lengthy separations between parents and children.

In re Azareon Y. et al., 139 Conn. App. 457 (2012)
Mother appealed termination of parental rights, arguing that the court failed to find by clear and convincing evidence that there was a permanency plan less restrictive than termination, and that the court should have conducted a hearing to determine her competence, sua sponte, on the basis of evidence adduced by DCF that she suffered from significant ongoing mental health problems. Neither claim was raised at trial, so both were evaluated - and rejected - under the State v. Golding standard. Mother's first claim failed because the record was insufficient to indicate whether mother proposed an alternative permanency plan or whether any other plan was considered, and under Golding, the court declined to speculate whether the trial court had considered other options or not. Mother's second claim was rejected because the record contained no indication or assertion that she could not understand the proceedings.

In re Emoni W. et al., 305 Conn. 723 (2012)
After the DCF was granted an Order of Temporary Custody, the noncustodial father, who lived in Pennsylvania, appeared in court and sought to take custody of the children. DCF objected, contending that it had to proceed according to the Interstate Compact on the Placement of Children and have the father's home evaluated for fitness by a local child welfare agency, pursuant to Conn. Gen. Stat. § 17a-175. The trial court agreed, prompting an appeal by the father and the children. The children were placed with the father after an interstate placement study while the appeals were pending, and the Appellate Court ruled that the matter was moot and not capable of repetition but evading review. The Supreme Court reversed, finding that the only disputed prong of the mootness exception, whether the challenged action was sufficiently limited in duration so as to evade review, did apply. Father had challenged application of the ICPC to him as a matter of statutory construction and as a violation of his substantive due process right to parent his children. The Court ruled that while the statutory argument would not evade review, in cases where the noncustodial parent ultimately obtained custody through the ICPC, that parent would suffer an interruption in his right to parent his children that constituted a substantive due process violation. Since parents who were found unfit through the ICPC could not raise such a challenge, the Court reasoned, the constitutional issue would potentially never be resolved. The Court went on to rule that § 17a-175 is not applicable to noncustodial parents, based on a reading of the plain language of the statute, but that a noncustodial parent "must appear at the preliminary hearing concerning the placement of the child, answer questions and agree to reasonable conditions on the placement of the child with the parent. Moreover, when there is evidence before the court that an out-of-state noncustodial parent is unfit, the parties agree that the court should not place a child with the parent without ordering an investigation into the parent's fitness. They disagree only about whether the petitioner can conduct that investigation or, instead, the analogous agency in the receiving state must conduct it pursuant to § 17a-175." Justics McLachlan, with Zarella joining, dissented, reasoning (1) that the noncustodial parent could refuse the ICPC home study and bring a declaratory judgment action in which he raised the constitutional argument; and (2) that a noncustodial parent who was denied custody by the receiving state could, in fact, challenge the determination as a violation of his substantive due process right.

EQUAL PROTECTION

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the trial court violated his right to equal protection because the court terminated his parental rights solely on the basis of mental condition. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole did not demonstrate that the father was mentally retarded. The Appellate Court, reviewing the claim under *Golding*, held that the father failed to satisfy the third prong of *Golding,* that an "alleged constitutional violation clearly exists and clearly deprived him of a fair trial." The trial court properly terminated his rights on the basis of his aggressive behavior, domestic violence and his inability to meet the child's needs. Moreover, the parental relationship was a source of tension and fear for the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Amanda A., 58 Conn. App. 451 (2000)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the trial court violated her right to equal protection by failing to sua sponte order a competency evaluation and to appoint a guardian ad litem. Regarding her first claim, the Appellate Court held that the mother's equal protection claim was not reviewable because the record presented was inadequate for review. Although the record contained claims and disputes about the mother's mental illness, the record contained no findings of fact regarding the mother's mental condition and no evidence that the mother's condition was a "mental disability" protected under the Connecticut Constitution.

In re Nicolina T., 9 Conn. App. 598 (1987)
The trial court terminated the mother's parental rights finding that she committed an act of commission or omission and there was no ongoing parent child relationship and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court violated her rights to equal protection under the State constitution by terminating her parental rights on the basis of her mental illness. The Appellate Court held that the state termination statute makes no distinction between mentally ill and other persons. Accordingly, the statute applies with equal force to all persons regardless of their mental condition. Moreover, the trial court did not terminate the mother's rights solely based on her schizophrenia, but rather because the mother's schizophrenia impaired her ability to parent the children.

ESTOPPEL

"A fundamental element of promissory estoppel, therefore, is the existence of a clear and definite promise which a promisor could reasonably have expected to induce reliance. . . . The absence of a clear and definite promise would not preclude application of the doctrine of equitable estoppel, but its two essential elements must be proved: "the party against whom estoppel is claimed must do or say something calculated or intended to induce another to believe that certain facts exist and to act on that belief; and the other party must change its position in reliance on those facts, thereby incurring some injury. . . . Estoppel against a public agency is limited and may be invoked: (1) only with great caution; (2) only when action in question has been induced by agent having authority in such matters; and (3) only when special circumstances make it highly inequitable or oppressive not to estop the agency." (Internal citations and quotation marks omitted). *See, In re David W., 52 Conn. App. 576 (1999), rev'd on other grounds, 254 Conn. 676 (2000).*

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that the Commissioner of Public Health was not estopped from denying jurisdiction to amend child's birth certificate to remove name of biological father, even though the mother followed advice of employees of the department of vital statistics to obtain a decree from the probate court. The mother failed to present any proof that the department employees were empowered to bind the Commissioner and department, and the mother further failed to demonstrate that she or her child would be subject to substantial loss if the Commissioner denied that the Probate Court lacked jurisdiction to order it to remove the father's name from the birth certificate. **Dissent and Concurring:** MacDonald, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re David W., 52 Conn. App. 576 (1999), rev'd on other grounds, 254 Conn. 676 (2000)
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. Regarding the admissibility of the expert's testimony, the Appellate Court reversed the trial court's judgment and then the Supreme Court reversed the Appellate Court's judgment. At the Appellate Court, the Court rejected the parents' claim that DCF was estopped from claiming that the parents had failed to rehabilitate because DCF employees represented that the parents made good progress toward their reunification goals. The Appellate Court held that the parents' claim fails under both the doctrine of promissory and equitable estoppel. Though DCF consistently reported in their six month case reviews that the parents were making good progress, but filed a termination of parental rights petition anyway, DCF's conduct does not constitute a promise. Moreover, while DCF's encouraging statements perhaps induced the parents to believe they were rehabilitating, the parents failed to demonstrate the second prong of equitable estoppel because the statement did not detrimentally rely on the statements to cause the parents injury. To the contrary, the DCF statements helped the parents obtain therapy that benefitted their marriage. **Dissent:** Schaller, J.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the trial court improperly denied her request for a paternity test. The Appellate Court held that the trial court did not abuse its discretion in denying the mother's request for a paternity test because the mother was estopped from requesting a paternity test of the child's father. The mother made a prior claim in the divorce proceedings that her former husband was the child's father requiring the father to pay child support. Nonetheless, the Appellate Court reversed the judgment holding that the trial court violated the mother's due process right to adequate notice by granting DCF's motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

EVALUATION

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was unwilling or unable to reunify, she committed an act of commission or omission and that termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment. The mother claimed that the trial court abused its discretion in precluding her independent evaluator's report and testimony. The Supreme Court held that the trial court did not abuse its discretion in precluding the mother's report because the mother improperly disclosed the court-ordered confidential evaluation to her independent evaluator without anyone's permission in violation of law as well as the father's privacy rights. The mother's independent evaluator conceded that he relied on the information contained in the confidential court-ordered evaluation. The mother did not provide the father's counsel with a copy of the mother's independent evaluation prior to trial.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the child's psychiatrist's evaluation was inadmissible because it relied on evidence that was otherwise inadmissible. The Appellate Court held that the trial court did not err in admitting the report because the report was a summation of the expert's views and opinions and the expert based his opinion upon information not in evidence and the information was the type reasonably relied on by experts in the field.

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court erroneously relied on the court-ordered psychiatric evaluation that was never admitted into evidence. The Supreme Court held that the trial court improperly relied on the report because it was never made part of the record. Nonetheless, the Court held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony.

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that it read the evaluations just prior to rendering its decision. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly determined that DCF made reasonable efforts to reunify because it failed to provide the mother with a recommended psychiatric evaluation. The Appellate Court held that in light of the entire record, including DCF's efforts and the mother's conduct, DCF's lapse in providing a psychiatric evaluation to the mother did not render DCF's reunification efforts unreasonable. The mother repeatedly failed to comply with drug treatment, drug screenings, counseling and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court violated their due process rights by denying their motions for an independent psychological evaluation. The Appellate Court held that the trial court did not abuse its discretion because the court ordered psychological evaluations and the parents did not claim that those psychological evaluations were improper or biased.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court drew an adverse inference by his failure to participate in the court ordered psychological evaluation. Without specifically addressing the issue, the Appellate Court

held that the claim was not supported by the record.

In re Marvin M., 48 Conn. App. 563, cert. denied, 245 Conn. 916 (1998)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the court ordered psychological evaluation was confidential and improperly admitted into evidence. The Appellate Court held that pursuant to Conn. Gen. Stat. § 52-146c, the results of the court-ordered psychological evaluation were not confidential and thus admissible because the parents were informed before the evaluation that the evaluation would be disclosed.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly relied on outdated psychological evaluations. The Appellate Court held that although the trial court mentioned the six year old evaluations, it did not rely on the evaluations in reaching its findings. The trial court relied on the evaluations to provide a backdrop for the current petitions, including her past problems, the psychologist's testimony as well as DCF's reunification efforts. Rather, the trial court primarily relied on the testimony of the most recent psychologist and his evaluation.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the trial court improperly ordered her to undergo an evaluation and admitted the report. The Appellate Court held that the mother waived her right to appeal the trial court's order because she failed to object to the trial court's ordering of the psychological evaluations. The Appellate Court further concluded that the statutory requirements of Conn. Gen. Stat. § 46b-129(c), regarding a hearing and finding by the trial court to order a mental examination of parents is merely a directory provision to secure order in proceedings, rather than a mandatory provision relating to matter of substance. Thus, the trial court may order an evaluation without a hearing if there is no objection. For the same reasons, the trial court did not commit plain error in ordering the evaluation of the mother. Nonetheless, the Appellate Court reversed the judgment holding that the trial court violated the mother's due process right to adequate notice by granting DCF's motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and the it changed the basic nature of the original allegations.

In re Carl O., 10 Conn. App. 428 (1987), cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the statute permitting a court to order a mental examination after a hearing violated her constitutional right against self-incrimination and due process by compelling her to submit to the evaluation that was admitted as evidence and used against her. The Appellate Court held that the mother's claim was without merit because she cited no authority demonstrating that the right against self-incrimination recognized in criminal proceedings is applicable to child protection proceedings. Furthermore, the statute did not violate the mother's due process rights because the statute clearly provides for a hearing before an evaluation is ordered, thereby providing the mother with the necessary procedural protections.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the trial court erred in denying her motion requesting that her boyfriend who abused the child be evaluated by a court-ordered psychologists. The Appellate Court affirmed. The Appellate Court held that the decision to deny the motion was in the sound discretion of the court, and the court did not abuse its discretion. The applicable statute authorizing the court to order an evaluation, used the word "may" not "shall". Moreover, the mother's boyfriend was facing criminal charges on risk of injury.

EVIDENCE

"Our standard of review regarding challenges to a trial court's evidentiary rulings is that these rulings will be overturned on appeal only where there was an abuse of discretion and a showing ... of substantial prejudice or injustice.... Additionally, it is well settled that even if the evidence was improperly admitted, the [party challenging the ruling] must also establish that the ruling was harmful and likely to affect the result of the trial." (Internal citations and quotation marks omitted.) *See, In re Stacy G.,* 94 Conn. App. 348 (2006).

"It is idiomatic that argument is not evidence. As judges routinely admonish juries: 'Argument is argument, it is not evidence.' So, too, arguments of a pro se litigant are not proof." (Internal citations and quotation marks omitted.) *See, In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009).*

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K*, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction. The Court stated that "[i]t is well established that unsupported representations of counsel do not constitute evidence." **Concurring:** Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. At the Appellate Court and Supreme Court, the mother primarily claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits. On appeal, the Supreme Court held, as a matter of first impression, that a child's out of court statement may be admissible under the residual hearsay exception if the child is "unavailable," and a child is "unavailable" if there is "competent evidence that the children will suffer psychological harm" by testifying. A finding that it is not in the children's best interest to testify is insufficient. Here, although the trial court applied the best interest of the child standard instead of the psychological harm standard, and the trial court's procedures did not follow the ones set forth in this

decision, the Supreme Court found that the court-ordered expert's testimony met the burden of proof regarding the children's unavailability. The Court analyzed and applied *State v. Jarzbek,* which held that a child who is the victim of sexual abuse may testify via videotape outside the physical presence of the defendant, in certain circumstances, without violating the defendant's right to confrontation. Practice Book § 32a-4 was inapplicable because no party requested that the children testify. The Supreme Court further found that the admission of the children's hearsay statements did not violate the mother's right to confrontation or to due process. **Note:** this case was decided before the enactment of the "tender years" exception in the Code of Evidence, § 8-10.
On appeal to the Appellate Court, the mother also asserted multiple evidentiary claims unsuccessfully. The Appellate Court held that the trial court erred in admitting an anonymous child abuse report as a business record and improperly allowed testimony regarding the credibility of the children. These errors were not reversible because the Court found them to be harmless. The Court further held that the DCF social worker affidavit containing hearsay was not impermissible hearsay because it was not admitted for the truth of the matter. The Court further declined to review multiple evidentiary claims because the mother failed to make specific objections to specific statements she deemed as hearsay within the challenged exhibits.
Appellate Court Dissent: Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court improperly admitted and relied on expert testimony from the court-ordered evaluator. They specifically asserted that the trial court improperly afforded great weight to the evaluator's testimony and reports because he was not qualified as an expert in sexual abuse trauma and the evaluator did not spend a sufficient period of time with the family. The children further alleged that permitting the evaluator to testify as to the ultimate issue in the case was a clear abuse of discretion. The Supreme Court, rejecting the children's claims, held that the trial court did not abuse its discretion and that it had wide discretion regarding the admissibility and weight it affords testimony. The Court concluded that the evaluator met with the family on five separate occasions, and he never testified at trial about issues specifically related to sexual abuse trauma. Moreover, the Court concluded that the evaluator's expert opinion testimony on the ultimate issue was permitted by § 7-3(a) of the Connecticut Code of Evidence and that all parties had agreed to allow the evaluator to make a finding regarding the mother's personal rehabilitation. **Concurring:** Schaller, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was unwilling or unable to reunify, she committed an act of commission or omission and that termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment. The mother claimed that the trial court abused its discretion in precluding her independent evaluator's report and testimony. The Supreme Court held that the trial court did not abuse its discretion in precluding the mother's report

because the mother improperly disclosed the court-ordered confidential evaluation to her independent evaluator without anyone's permission in violation of law as well as the father's privacy rights. The mother's independent evaluator conceded that he relied on the information contained in the confidential court-ordered evaluation. The mother did not provide the father's counsel with a copy of the mother's independent evaluation prior to trial.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that it read the evaluations just prior to rendering its decision and as such the error was harmful. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases. The missing witness rule does not apply when the unavailable witness is actually the party to the case. The rule is based on a common sense notion that an adverse inference should not be applied only when a party is unable to call a witness through no fault of his own.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court

reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court: (1) erroneously admitted the parents' hospital records regarding their hospitalizations for their mental illnesses as business records; and (2) erroneously relied on the court-ordered psychiatric evaluation that was never admitted into evidence. The Supreme Court held that the trial court committed error in both instances. Nonetheless, the Court held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony.

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion in limine seeking to exclude evidence of his past criminal history. The trial court properly found the criminal history relevant evidence of the father's continuing course of conduct demonstrating that the father was not in a position to support an ongoing parent child relationship. The father incurred no substantial prejudice by admitting the evidence and there was no showing that the ruling was harmful and likely to affect the result of the trial. The Appellate Court also affirmed the trial court's judgment granting the TPR petition against the father on the grounds of abandonment and no ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the child's attorney's post-trial position statement containing extra record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless and thus the mother's claim also failed under the fourth prong of *Golding*. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The trial court adjudicated one child neglected as to the father, but not as to the mother and the trial court denied the termination of parental rights petitions as to the mother regarding all the children on the grounds that DCF did not prove that the mother failed to rehabilitate. The Appellate Court reversed. DCF claimed, in part, that the trial court erred in denying the termination petitions because it required that DCF prove a

subordinate fact by clear and convincing evidence. The Appellate Court agreed and held that the trial court erroneously required DCF to prove by clear and convincing evidence that the mother continued to live with the abusive father in order to prove the mother failed to rehabilitate. The Court concluded that only the elements of the termination of parental rights claim must be proven by clear and convincing evidence, not a subordinate fact underlying the failure to rehabilitate claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly precluded her from eliciting evidence from the foster mother regarding her plans, if any, to allow contact between the child and her biological family if she were to adopt the child. The mother asserted the information was relevant based on the psychologist's testimony that the child's bond with her family was "powerful" and that the child would "suffer a huge loss" if those ties were severed. The Appellate Court held that the trial court did not abuse its discretion in precluding the mother from questioning the foster mother about her plans because the psychologist already testified regarding the foster mother's plans to allow only pictures and static information. The trial court properly ruled the information was cumulative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in precluding the mother's therapist from testifying as an expert. At trial, the mother failed to disclose the therapist in a timely manner. The grandmother filed a motion in limine seeking to preclude the therapist from testifying as an expert based on the lack of required notice. The Appellate Court held that the claim was inadequate for review either under *Golding* review or an abuse of discretion standard because the mother never provided an offer of proof regarding the testimony the therapist would have given had she been permitted to testify. The Appellate Court concluded that it could only speculate as to what additional testimony the therapist would have provided if permitted to offer opinion testimony as an expert.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court's decision to deny their motion for revocation was clearly erroneous. The Appellate Court held that the decision was not clearly erroneous because the pro se parents did not offer any evidence in support of their claim. The Appellate Court concluded that argument is not evidence and arguments of a pro se litigant are not proof.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court held that the trial court's decision to sustain objections on the basis of relevance during the father's cross-examination of the petitioner-mother was not an abuse of discretion. The Court ruled that the law permits cross-examination, but it must comport with the rules of evidence and be relevant. During the TPR trial alleging the father abandoned his child, the status of the petitioner-mother's health,

employment, boyfriends or DCF interactions were not relevant.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Christopher B., 117 Conn. App. 773 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously relied on evidence of DCF's reunification efforts pertaining to a prior case involving the child's siblings three years earlier, rather than assessing DCF's efforts arising from the present action. She asserted that the prior information may be informative, but should not be dispositive of either the reasonable efforts finding or the failure to rehabilitate finding. The Appellate Court disagreed and held that the trial court did not abuse its discretion in considering evidence of DCF's involvement with the mother and child before the most recent petition. The trial court did consider present DCF efforts, including a referral to individual counseling. The Court concluded that the trial court should consider *all* potentially relevant evidence, no matter the time period to which it relates and because the parent-child relationship is at issue, all relevant facts and family history should be considered to obtain a historical perspective of the mother's child caring and parenting abilities. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP19.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and that a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that in light of her constitutional right to raise her child, the trial court erred in denying her motion to reopen the evidence to allow for the results of a yet-to-be-taken hair drug test. The Appellate Court held that he trial court did not abuse its discretion because the evidence demonstrated that the mother refused to take a prior hair test at least four times, and tested positive for marijuana in a urine screen. Moreover, allowing the mother further time to take a hair test after the close of evidence would only serve to delay the proceedings and delay the child's permanency because the results of a hair test would shed very little light on the mother's rehabilitation. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly considered the testimony and reports of expert witnesses because DCF failed to disclose the expert witnesses prior to trial and failed to canvass their qualifications as experts. The Appellate Court refused to address the merits of the mother's evidentiary claim because the mother never objected to the testimony or the reports of the expert witnesses at trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother made five evidentiary claims on appeal. The mother claimed that the trial court improperly admitted information regarding (1) her prior history of termination proceedings with older children contained in a social study, (2) her arrest for social security fraud, (3) her arrest for bigamy, (4) her violent relationship and fraudulent cancer fundraiser that was allegedly beyond the scope of direct examination, and (5) a hearsay statement regarding her alcoholic husband. The Appellate Court held that the trial court did not abuse its discretion in considering any of the information. First, the mother did

not object to the social study as an exhibit and the information contained therein was relevant to obtaining a historical perspective of the mother's parenting capabilities. Second, the arrest was relevant to the mother's credibility and ability to care for the children. Third, the mother did not object to the bigamy charges and said information was relevant to her credibility. Fourth, the information elicited on cross examination was proper because the mother opened the door to the information on direct examination and the information was directly related to her credibility. Fifth, while the reliance on information deemed inadmissible hearsay was improper, the mother failed to show that the information was harmful and likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Stacy G., 94 Conn. App. 348 (2006)
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that it read the evaluations just prior to rendering its decision and as such the error was harmful. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested that the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to preclude the state from calling her independent expert witness to testify. The mother's independent psychologist accidentally submitted her report to the DCF attorney and the court. The mother claimed that DCF and the court's use of her independent evaluation violated the attorney client privilege and work product rule. The Appellate Court held that any error that occurred by the trial court's denial of the motion and reliance upon the testimony or report was

not an abuse of discretion because it was cumulative and harmless. The alleged error was harmless because the trial court also relied on another psychologist's testimony and report to terminate the mother's rights and thus the court had sufficient evidence without the mother's independent evaluation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his request to strike a sentence in the DCF social study as inadmissible hearsay. The Appellate Court held that the trial court did not abuse its discretion in not striking the sentence because the alleged error was harmless. Without deciding if the information was inadmissible hearsay, the Court concluded that other properly admitted evidence contained similar information and as such the alleged error would not have affected the ultimate result of the trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Soncheray H., 42 Conn. App. 664 (1996)
The trial court terminated the mother's parental rights because she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to expunge and seal the children's trial brief because it contained facts not in evidence and it was untimely. The Appellate Court held that the trial court's decision was proper because the mother failed to demonstrate anywhere in the memorandum of decision or the record as a whole where the trial court relied on any of the facts not in evidence as contained in the children's trial brief.

In re Galen F., 54 Conn. App. 590 (1999)
The trial court terminated the father's parental rights finding that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly admitted the social studies containing inadmissible hearsay regarding his extensive criminal history in the adjudicatory phase of the termination proceedings. The Appellate Court held that the trial court did not abuse its discretion in admitting the social studies because the hearing was not bifurcated and that Practice Book § 33-5 permits the trial court to consider events contained in the social studies in the adjudicatory phase. Moreover, the social studies were cumulative to other properly admitted evidence and as such if the admission of the social studies was improper, the alleged error was harmless error. In this case, the trial court could have reasonably concluded from other evidence that the father failed to take advantage of his opportunities to visit with his child.

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed (1) that the trial court improperly denied her motion to remove documents attached to the coterminous petition, and (2) the trial court improperly denied her motion for a new trial on the basis of newly discovered evidence, namely that the witness in the termination trial recanted her testimony in the criminal trial. First, the Appellate Court held that the trial court properly denied the motion to remove documents. Pursuant to the relevant Practice Book rules, the documents, namely police reports, and voluntary statements, attached to the petition were statutorily required as verified affirmations of fact and most of the documents were notarized. Secondly, the Appellate Court held that the trial court did not abuse its discretion in denying the motion for a new trial because while the newly discovered evidence of the witness' recantation tended to discredit the witness' testimony at the termination trial, the evidence was not "new evidence" that they could

not have discovered as a result of due diligence. The mother's criminal attorney discovered the evidence as a result of vigorous cross-examination and as such, the evidence could have been discovered by the mother in her termination trial. Furthermore, the trial court properly concluded that the mother failed to demonstrate that the alleged new evidence of the witness' perjury would have led to a different result in the termination proceeding. In doing so, the Court noted legal distinction between a petition for a new trial and a motion for a new trial.

In re Anna B., 50 Conn. App. 298 (1998)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted the DCF social study over her hearsay objection. Without deciding whether statements in the report were hearsay, the Appellate Court held that the challenged evidence contained in the social study was cumulative of the psychologist's testimony and the mother failed to prove that the result would have been different had the studies not been admitted. Therefore, any alleged error was harmless.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian based on the acts of commission or omission ground. The Appellate Court affirmed. The father claimed that the trial court improperly admitted evidence of the father's arrest for drug and weapon possession because it did not result in a conviction. The Appellate Court held that the trial court did not abuse its discretion in admitting the arrest record because the evidence was not admitted to impugn his credibility, nor was the evidence admitted as his bad character or criminal tendencies. Rather, the trial court properly considered the evidence because a police officer with first-hand knowledge testified regarding the father's conduct as impeachment of the father's testimony. Moreover, the evidence was relevant to the statutory criteria requiring removal of a parent based on the parental habits or misconduct.

In re Pascacio R., 52 Conn. App. 106 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly considered her conduct during the trial as evidence of her lack of judgment and parenting skills. The Appellate Court held that the trial court properly considered the mother's conduct because courtroom conduct may be considered by the trial court in reaching its decision.

In re Todd G., 52 Conn. App. 676 (1999)
The trial court granted DCF's motion to extend the child's commitment. The Appellate Court affirmed. The mother claimed that the trial court improperly relied on petitions, statements and reports that were not admitted into evidence. The Appellate Court held that the court was permitted to review the social studies and status reports prior to granting an extension of commitment pursuant to a former practice book rule and statute. The Court further concluded that the trial court did not rely solely on the evidence from prior proceedings, but used that information to compare the unchanged circumstances surrounding the child's commitment and extension of commitment.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly (1) relied on outdated

psychological evaluations and (2) relied on the DCF social study in the adjudicatory phase, thereby relying on dispositional information during the adjudicatory phase. First, the Appellate Court held that although the trial court mentioned the six year old evaluations, it did not rely on the evaluations in reaching its findings. The trial court relied on the evaluations to provide a backdrop for the current petitions, including her past problems, the psychologist's testimony as well as DCF's reunification efforts. Rather, the trial court primarily relied on the testimony of the most recent psychologist and his evaluation. Second, the Appellate Court held that although the Practice Book "prohibits the trial court from considering *events* subsequent to the filing of the termination petition during the adjudicatory phase, the court is not prohibited from considering *material* prepared after the filing of the petitions, providing the facts and events discussed in that material predate the filing of the petition." Here, the trial court properly cited to the social study in its adjudicatory findings because the information contained therein was based on events prior to the filing of the termination petitions.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed, claiming, in part, that the court erred in admitting the social study containing hearsay in violation of her due process rights. The Appellate Court affirmed. The Court held that the mother could not challenge the admission of the social study because she did not object to it at trial and further introduced most of the information contained therein during trial. Upholding the judgment, the Court ruled that "[i]n juvenile proceedings certain procedural informalities are constitutionally permissible, allowing, for example, the liberal interpretation of the formal rules of evidence as long as due process standards are observed."

EX PARTE CONTACT

"It is firmly established that any ex parte communication concerning a pending proceeding between a lawyer and a judge is prohibited by both the rules of professional conduct and the code of judicial conduct. (Internal citations and quotation marks omitted). *See, In re Shana M., 26 Conn. App. 414 (1992).*

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Shana M., 26 Conn. App. 414 (1992)
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship existed. The Appellate Court affirmed. The mother claimed that the trial court engaged in improper ex parte contact with DCF's attorney. She specifically argued that the judge gave a copy of a case to DCF's attorney before the other parties and that constituted an improper ex parte contact. The Appellate Court held "[o]ur examination of the record discloses a hard working trial judge who commendably wanted to share the fruits of his research with the attorneys before him. Although it would have been a better procedure for the trial judge to have delivered copies of the . . . decision to all counsel simultaneously, this slight departure from preferred procedure does not, in this case, warrant the drastic remedy of reversal."

EXPERT

"The absence of expert testimony does not affect our conclusion. Although expert testimony may be accorded great weight when it is offered, there is no requirement for expert testimony in termination of parental rights cases." *See, In re Jeisean M., 270 Conn. 382 (2004).*
"Experts can ... sometimes give an opinion on an ultimate issue where the trier, in order to make intelligent findings, needs expert assistance on the precise question on which it must pass. This understanding has been codified in § 7-3(a) of the Connecticut Code of Evidence." *See, In re Melody L., 290 Conn. 131 (2009).*
"The fact that an expert opinion is drawn from sources not in themselves admissible does not render the opinion inadmissible, provided the sources are fairly reliable and the witness has sufficient experience to evaluate the information." *See, In re Barbara J., 215 Conn. 31 (1990).*

"The trial court has wide discretion in ruling on the qualification of expert witnesses and the admissibility of their opinions.... The court's decision is not to be disturbed unless [its] discretion has been abused, or the error is clear and involves a misconception of the law." *See, In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008).*
"The credibility of expert witnesses and the weight to be given to their testimony [is] determined by the trier of fact." (Internal citations and quotation marks omitted). *See, In re Cesar G., 56 Conn. App. 289 (2000).*

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court erred (1) by admitting the children's hearsay statements because she did not have adequate notice that the court-ordered expert psychologist's testimony would testify to the children's statements and the harm the children would incur by testifying, and (2) that the expert improperly testified regarding the children's credibility. The Appellate Court first held that the trial court did not err because the mother's attorney had advanced knowledge of the expert's opinion and failed to ask for additional time or an independent evaluation. The Appellate Court also agreed that the trial court abused its discretion by allowing the social worker's testimony and the court-ordered psychologist's testimony about the children's credibility, but found the error was harmless because the information was cumulative of properly admitted testimony. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the

mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court improperly admitted and relied on expert testimony from the court-ordered evaluator. They specifically asserted that the trial court improperly afforded great weight to the evaluator's testimony and reports because he was not qualified as an expert in sexual abuse trauma and the evaluator did not spend a sufficient period of time with the family. The children further alleged that permitting the evaluator to testify as to the ultimate issue in the case was a clear abuse of discretion. The Supreme Court, rejecting the children's claims, held that the trial court did not abuse its discretion and that it had wide discretion regarding the admissibility and weight it affords testimony. The Court concluded that the evaluator met with the family on five separate occasions, and he never testified at trial about issues specifically related to sexual abuse trauma. Moreover, the Court concluded that the evaluator's expert opinion testimony on the ultimate issue was permitted by § 7-3(a) of the Connecticut Code of Evidence and that all parties had agreed to allow the evaluator to make a finding regarding the mother's personal rehabilitation. **Concurring:** Schaller, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Davonta V., 285 Conn. 483 (2008)
The trial court granted DCF's TPR petition finding that the mother failed to rehabilitate and that a termination of her rights was in the best interest of the 14 year old child even though he did not have an adoptive home. The Appellate Court affirmed and the Supreme Court affirmed. The mother claimed that there was not clear and convincing evidence that a TPR was in the child's best interest based on his strong ties to his biological family and that long term foster care rather than adoption was the likely outcome. The Supreme Court held that given the child's need for permanency, as opined by the expert psychologist, the evidence supported the judgment terminating the mother's parental rights even though an adoption was not imminent. The Court ruled that expert testimony is afforded great weight. **Note**: In re Davonta V., 98 Conn. App. 42 (2006), **Dissent,** Schaller, J.
http://www.jud.ct.gov/external/supapp/Cases**/AROcr/CR285/285CR35.pdf**

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate because she complied with some of the specific steps and DCF presented no expert testimony in support of the TPR. The Supreme Court held that the court's judgment was supported by the evidence and that there was no requirement in termination of parental rights cases that an expert testify.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule,

but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the child's psychiatrist's evaluation was inadmissible because it relied on evidence that was otherwise inadmissible. The Appellate Court held that the trial court did not err in admitting the report because the report was a summation of the expert's views and opinions and although the expert based his opinion upon information not in evidence, the information was the type reasonably relied on by experts in the field.

In re Theresa S., 196 Conn. 18 (1985)
The trial court terminated the mother's parental rights on the ground of acts of commission or omission and found a termination of her parental rights was in the best interest of the children. The Supreme Court affirmed. The mother claimed that the trial court erred in giving the psychiatrist's testimony great weight as an expert when he failed to answer the questions in terms of reasonable medical probabilities. The Supreme Court held that the doctor rarely used the words "probably" or "possibly" and the mother never asked the doctor whether his answers were based on medical possibilities. Thus, the trial court properly accorded the weight of the expert testimony.

In re Juvenile Appeal (83-BC), 189 Conn. 66 (1983)
Affirming the trial court's conclusion that there was clear and convincing evidence of the adjudicatory ground of mental deficiency for a termination of parental rights, the Supreme Court held that the court-ordered psychiatric examination was adequate to justify the conclusion regarding the mother's mental condition. The trial court could reasonable rely on the expert opinion. The mother did not object to the court-ordered psychiatrist or the admission of the doctor's report. "Where such evidence is admitted without objection, it may properly be considered for whatever it is worth on its face in determining the facts in issue." However, the Court remanded the case to the trial court on the best interest ground to determine whether there existed a realistic prospect for finding an adoptive home for the child. The Court ruled that establishing an adjudicatory ground for a TPR does not automatically require terminating a parent's parental rights. **Dissent:** Parskey, J.

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in precluding the mother's therapist from testifying as an expert. At trial, the mother failed to disclose the therapist in a timely manner. The grandmother filed a motion in limine seeking to preclude the therapist from testifying as an expert based on the lack of required notice. The Appellate Court held that the claim was inadequate for review either under *Golding* review or an abuse of discretion standard because the mother never provided an offer of proof regarding the testimony the therapist would have given had she been permitted to testify. The Appellate

Court concluded that it could only speculate as to what additional testimony the therapist would have provided if permitted to offer opinion testimony as an expert. The mother also claimed that the trial court erred in finding a termination was in the children's best interest because the trial court failed to consider the court-ordered psychologist's opinion that a termination was not in the children's best interest. While the expert opined that it would not be in the best interests of the children for their relationship with their mother to be severed, the court properly balanced the expert's opinion against the children's need for permanency. "Although [courts] often consider the testimony of mental health experts . . . such expert testimony is not a precondition of the court's own factual judgment as to the child's best interest." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Rafael S., 125 Conn. App. 605 (2010)
The trial court terminated the mother's parental rights finding that it was in the children's best interest. The Supreme Court affirmed. The Court held that despite the court-ordered expert psychologist's response equivocating between adoption or long term foster care being in the child's best interest, the record as a whole supported the trial court's best interest finding. Trial courts are entitled to make their own factual determinations. The Supreme Court further held even though the child and the mother shared a loving bond and there was no identified preadoptive family, based on the facts presented, a termination of the mother's parental rights was warranted. The trial court found that the mother failed to rehabilitate and the Court ruled that even without an impending adoption, a termination of parental rights promotes stability and permanency for the child because it reduces litigation by the parent. Although adoption is the preferred outcome, the expert testified that the foster mother was highly committed to the child while in residential treatment. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap118.pdf

In re Gabrielle M., 118 Conn. App. 374 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the children's the best interests. The Appellate Court affirmed. The mother claimed that the trial court erroneously gave too much credit to a psychologist's evaluation and not enough credit to the fact that she was making progress by recently obtaining an apartment and receiving counseling. The Appellate Court held that the trial court's findings were supported by the record and her argument was without merit. "The psychological testimony from professionals is rightly accorded great weight in termination proceedings" and despite multiple psychiatric hospitalizations, the mother continued to deny that she was delusional or psychotic and needed treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP64.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly considered the testimony and reports of expert witnesses because DCF failed to disclose the expert witnesses prior to trial and failed to canvass their qualifications as experts. The Appellate Court refused to address the merits of the mother's evidentiary claim because the mother never objected to the testimony or the reports of the expert witnesses at trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding that the

father failed to rehabilitate. The trial court properly afforded great weight to the expert psychologist's testimony not supporting reunification after DCF's failed attempt to reunify by placing the child with the father until her subsequent removal following a domestic violence episode in her presence. The evidence further demonstrated that the father was not in a better position to parent the child than before based on his continued contact with the mother, their domestic violence in front of the child, his arrest and the child's negative reactions towards him. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The father claimed that the trial court erred in refusing to qualify the children's therapist as an expert. Citing that the trial court has wide discretion in determining whether to qualify a witness as an expert, the Appellate Court held that the trial court did not abuse its discretion in not qualifying her as an expert because she was "extremely new to the field." The therapist was certified only six weeks prior to trial, although she supervised the children in a safe home. Nonetheless, the trial court considered her entire testimony. Moreover, the Court held that even if the trial court had erred in not qualifying her, the father failed to demonstrate how the trial court's alleged improper ruling would have likely affected the outcome of the judgment. The trial court, considering the therapist's testimony, found that despite the children's loving bond with their parents, that a termination was in the best interest of the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)--done
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that the mother was unable or unwilling to benefit from reunification services without the benefit of expert testimony. The Appellate Court held that the expert testimony was not required to evaluate the mother's history of noncompliance with DCF and her failure to rehabilitate over a five year period. The mother repeatedly failed to comply with drug treatment, drug screenings, counseling and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
Affirming the granting of the TPR, the Appellate Court held that the trial court did not abuse its discretion when it opened the disposition to order a psychological evaluation. The father was unable to show prejudice or bias as result of the court's decision.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re William R., 65 Conn. App. 538 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate because it relied on the expert psychologist's testimony and the expert lacked key information. She argued that commentators have recognized that evaluations predicting future behavior are often unreliable. The Appellate Court held that in light of the entire record, the trial court properly determined the mother failed to rehabilitate because the mother had a

twenty year substance abuse history that resulted in her incarceration and the children being in foster care for years, despite the mother's successful placement in an inpatient substance abuse facility for a year. The trial court properly considered the expert's lack of certain information, but relied on the expert's opinion that as a result of the past decades of drug and alcohol abuse, the mother would require another two years of participation in the inpatient program to prepare her to parent the children safely.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap556.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to preclude the state from calling her independent expert witness to testify. The mother's independent psychologist accidentally submitted her report to the DCF attorney and the court. The mother claimed that DCF and the court's use of her independent evaluation violated the attorney client privilege and work product rule. The Appellate Court held that any error that occurred by the trial court's denial of the motion and reliance upon the testimony or report was not an abuse of discretion because it was cumulative and harmless. The alleged error was harmless because the trial court also relied on another psychologist's testimony and report to terminate the mother's rights and thus the court had sufficient evidence without the mother's independent evaluation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Cesar G., 56 Conn. App. 289 (2000)
The trial court denied the mother's motion for revocation of commitment. The Appellate Court affirmed. The mother claimed that the trial court erred by improperly relying on the expert witness' testimony and disregarding others. The Appellate Court held that the court did not rely too heavily upon the expert witness who evaluated the mother more than one year before the revocation of commitment hearing. The Appellate Court ruled that it is within the discretion of the trial court to judge the credibility of witness' testimony and the weight to be afforded. The trial court properly credited the testimony and held that the length of time between the evaluation and the testimony, one year, did not render the report outdated to the extent that the court could not rely on it.

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred by failing to exclude expert testimony because DCF failed to disclose its expert witnesses prior to trial. The Appellate Court held that the trial court did not err in allowing the testimony because P.B. § 13-4(4) pertaining to the disclosure of expert witnesses in civil trials, does not apply to juvenile proceedings. The rule precludes the expert from testifying if prior notice is not given. The Court concluded that the judges, the promulgators of the rules, could have explicitly stated that the rule applies to juvenile matters, but they did not.

In re Tricia A., 55 Conn. App. 111 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly substituted its judgment for that of a court-appointed expert psychologist. Specifically, the mother argued that the court improperly accepted certain portions of expert's report and testimony and disregarded other portions. Here, the expert testified that the children were bonded to the

foster parents, but recommended against termination of parental rights. The Appellate Court held that the trial court need not blindly adopt the expert witness' opinions, but has the right to accept and disregard certain portions of a witness' testimony. Accordingly, the trial court did not err in terminating the mother's parental rights despite the expert's opinion to the contrary.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence because some experts testified positively regarding the mother and child's relationship. The Appellate Court held that the evidence demonstrated that during the four years that the child had been in foster care, the mother failed to believe the child's disclosure of sexual abuse, failed to protect her, failed to cooperate with police and DCF regarding the charges, and failed to seek counseling. Moreover, the mother continued a relationship with the abusive boyfriend. The statute "requires the trial court to analyze the respondent's rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time." The court weighed the various expert testimony and relied on the expert opinion concluding that the mother failed to rehabilitate. Trial courts are entitled to give great weight to professionals in termination of parental rights cases.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred in allowing expert testimony regarding the child's credibility, an ultimate issue in the case, and whether she was truthful in recounting that her stepfather sexually abused her. The Appellate Court held that the trial court improperly admitted the expert testimony regarding the child's credibility, but the error was harmless. The record demonstrated that the trial court found, based on its in camera interview of the child, that the child was a "most credible witness". Thus, the trial court did not base its conclusions regarding the child's credibility or the neglect on the expert's testimony.

In re James T., 9 Conn. App. 608 (1987), reversed
The trial court denied the petition to terminate the father's parental rights finding that DCF did not prove the no ongoing parent child relationship ground. The Appellate Court reversed. DCF and father appealed. The father claimed that the trial court erred in denying his request to strike the testimony of the independent psychiatrist because the DCF social worker had conversations with the psychiatrist without the court's permission. The Appellate Court held the claim lacked merit because the record showed that the court authorized the interview between the DCF social worker and the psychiatrist. Furthermore, the Appellate court reversed the trial court's conclusion denying the "no ongoing parent child relationship" ground because the trial court's decision was not legally correct or factually supported because the trial court's conclusions were inconsistent with the facts found and the trial court misapplied the statutory criteria.

In re Teshea D., 9 Conn. App. 490 (1987)
The trial court terminated the mother's parental rights finding that she abandoned the child and that termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to find that a termination was in the best interest of the child because there was no expert testimony presented. The Court held that expert testimony is not a prerequisite to terminating a

parent's parental rights. According to statute, a court may order an expert evaluation and may consider the results, but the court is not required to rely on expert testimony. The Appellate Court further held that the evidence supported a termination of parental rights because the mother had not visited the child for over half of the child's life, the child had no emotional ties to the mother, and the child was closer to her foster parents than her mother.

In re Angela C., 11 Conn. App. 497 (1987)
The trial court terminated the mother's parental rights finding a termination to be in the children's best interest. The Appellate Court affirmed. The mother claimed that the trial court erred because based on the testimony of the psychologist the evidence was insufficient to show a termination was in the best interest of the children. The Appellate Court held that the trial court was not required to accept the expert's opinion, nor was the testimony of another expert required to support the trial court's judgment. The record demonstrated that the clear and convincing evidence supported the trial court's judgment.

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act of acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents made multiple claims pertaining to the sufficiency of the evidence. They first claimed that because the experts' testimony did not exclude, to a reasonable degree of medical probability, the hypothesis that the child's injuries were accidental, the evidence was legally insufficient to establish the cause of the sexual abuse. They further argued because the cause was unclear, namely whether the father or the boyfriend sexually abused her, that the judgment was speculative. The Appellate Court held that despite the failure of the physician and the psychologist to formulate opinions as to the cause of the child's sexual abuse, the expert testimony clearly established that sexual abuse had occurred. Based on the totality of the evidence, including the child's statements to her neighbor and foster mother that the father had inappropriately touched her, sufficient evidence supported the trial court's findings. Moreover, the child had pornographic pictures and stated to the neighbor and social worker that her father gave them to her.

In re David E., 4 Conn. App. 653 (1985)
The trial court terminated the mother's parental rights. The mother claimed that the trial court should not have allowed the expert child psychologist's testimony during the adjudicatory phase of the termination proceedings because the testimony tainted the adjudication given the information related to the child's best interest. The Appellate Court held that the psychologist's testimony is relevant to whether the mother's mental deficiency interfered with her parenting abilities. Even assuming that the child psychologist's testimony tainted the proceedings, the evidence was so overwhelming as to lead to no other conclusion than that termination was warranted

EXTENSION OF COMMITMENT

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court, on transfer, affirmed. The mother claimed, in part, that the trial court's order extending commitment was an unconstitutional summary proceeding because she did not have notice of the hearing and she did not have an attorney at the hearing because the attorney had withdrawn. The Court held that at the time the mother became aware of the hearing and its orders, the mother never moved to open the judgment or appeal it. Rejecting the claim, the Court stated that an extension of commitment is an immediately appealable final judgment and raising the issue on appeal from a TPR was an impermissible collateral attack on a final judgment. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Juvenile Appeal (85-BC), 195 Conn. 344 (1985), reversed
The children were adjudicated neglected and committed to DCF. Guardianship was then transferred to the grandmother. The mother moved to "revoke the children's commitment" to the grandmother. DCF moved to re-commit the children back to DCF. The trial court dismissed the mother's petition because the "extension of commitment" expired and custody reverted to the mother. Both DCF and the grandmother appealed. The Appellate Court held that the trial court erred in dismissing the petition because "extensions of commitment" do not apply to cases where guardianship was transferred to a third party. The Court further ruled that Conn. Gen. Stat. § 46b-129 confers exclusive jurisdiction to the Superior Court to enter custody and guardianship orders where the custody order arose from a prior finding of neglect. Moreover, an order vesting custody or guardianship of the children to their grandmother is an order subject to modification by the court based on the best interests of the children. Reversing the court order entitles the mother to a judicial hearing for the mother to prove that no cause for "commitment" exists so that guardianship can be transferred back to her.

In re Kachainy C., 67 Conn App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in concluding in a termination proceeding, that a trial court may rely on a previous finding that reasonable efforts to reunify were no longer appropriate that was made at a prior extension of commitment hearing. DCF claimed this issue was moot. The Appellate Court concluded the issue was not moot because if the mother prevailed on her claim, the Court could offer her practical relief by reversing the trial court judgment. The Appellate Court nonetheless held that the mother's claim lacked merit because the statute clearly permitted a court to find that DCF made reasonable efforts to reunify by relying on a previous finding that continuing efforts were no longer appropriate. The mother further claimed that the previous determination made at the extension hearing were improper because they were not supported by clear and convincing evidence. The Appellate Court declined to address this claim because it was an improperly collateral attack on a final judgment. The mother never appealed the previous determination and an extension of commitment decision was a final judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Alex M., 59 Conn. App. 389 (2000)
The trial court declined to entertain DCF's motion to extend the child's commitment because it was untimely filed. DCF appealed. The trial court then granted DCF's petition to terminate the parents' parental rights. DCF filed a motion to vacate the trial court's decision to not hear the extension petition. The Appellate Court held the order declining to hear the extension motion was moot and denied DCF's motion to vacate the trial court's decision. The Appellate Court reasoned that the trial court's order was not a decision on the merits and there would be no practical impact on the parties because the parents' rights were already terminated in a separate action.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap446.pdf

In re Todd G., 52 Conn. App. 676 (1999)
The trial court granted DCF's motion to extend the child's commitment. The Appellate Court affirmed. The mother claimed that the trial court improperly relied on petitions, statements and reports that were not admitted into evidence. The Appellate Court held that the court was permitted to review the social studies and status reports prior to granting an extension of commitment pursuant to a former practice book rule and statute. The Court further concluded that the trial court did not rely solely on the evidence from prior proceedings, but used that information to compare the unchanged circumstances surrounding the child's commitment and extension of commitment.

In re Todd G., 49 Conn. App. 361 (1998)
The trial court granted DCF's motion to extend the child's commitment. The mother appealed. DCF filed a motion to dismiss the appeal claiming the Court lacked jurisdiction because the order extending the commitment was not a final judgment, but rather an interlocutory order. The Appellate Court denied DCF's motion to dismiss holding the court order was a final judgment. In doing so, the Court reasoned that the extension of commitment order satisfies the second prong of the *Curcio* test because if an appeal was not permitted the parent-child relationship would be disrupted for a significant period of time until DCF either moved to extend commitment again or to terminate parental rights.

In re Corey E., 40 Conn. App. 366 (1996)
The trial court granted DCF's motion to extend commitment of the children. The parents appealed. DCF filed petitions to terminate their parental rights. DCF filed a motion to dismiss the parents' appeal of extension of commitment order claiming the orders were moot given the pending TPR petitions. The Appellate Court held that the appeal was not moot because there was practical relief that could be granted to the parents if this Court found the extension of commitment was improper—the children could be returned to the parents' custody even if for a short while pending the termination petitions. The parents claimed that DCF was precluded from seeking an extension of commitment when it filed a petition for termination of parental rights and vice versa. Based on statutory interpretation, the Appellate Court held that the legislature clearly intended to allow DCF to petition for an extension of commitment pursuant to Conn. Gen. Stat. § 46b-129(e) even where a termination petition has been filed and is pending. This interpretation avoids bizarre and unworkable results and advances the policies that undermine the statute.

FAILURE TO REHABILITATE

‘‘Personal rehabilitation as used in the statute refers to the restoration of a parent to his or her former constructive and useful role as a parent. . . . [Section 17a- 112] requires the trial court to analyze the [parents’] rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time. . . . [The statute] requires the court to find, by clear and convincing evidence, that the level of rehabilitation [that the parents have] achieved, if any, falls short of that which would reasonably encourage a belief that at some future date [they] can assume a responsible position in [their] child’s life. . . . [I]n assessing rehabilitation, the critical issue is not whether the parent has improved her ability to manage her own life, but rather whether she has gained the ability to care for the particular needs of the child at issue. . . . As part of the analysis, the trial court must obtain a historical perspective of the respondent’s child caring and parenting abilities, which includes prior adjudications of neglect, substance abuse and criminal activity.’’ (Internal citations and quotation marks omitted.) *See, In re Christopher L., 135 Conn. App. 232 (2012).*

“Whether the [father] has rehabilitated is demonstrated, not by mechanically tallying up his attendance at programs and services, but by whether he has gained insight into the problems that gave rise to the department's involvement in the life of the child and whether he has made appropriate changes in his behavior. Attendance at programs and services is not a means unto itself, but facilitates behavioral changes that contribute to rehabilitation.” (Internal citations and quotation marks omitted.*) See, In re Destiny R., 14 Conn. App. 625 (2012).*
“Our courts are permitted to rely on evidence of a parent's continuing association with a party who poses a risk to a child in determining whether a parent has failed to rehabilitate.” (Internal citations and quotation marks omitted.) *See, In re Destiny R., 14 Conn. App. 625 (2012).*

‘‘In determining whether the level of rehabilitation a parent has achieved falls short of that which would reasonably encourage a belief that at some future date the parent can assume a responsible position in the child's life, as statutory predicate for termination of parental rights, the court may rely on events occurring after the date of the filing of the petition to terminate parental rights. C.G.S.A. § 17a-112(j)(3).” (Internal citations and quotation marks omitted*). See, In re Sole S., 119 Conn. App. 187 (2010).*

“The ultimate measure in a termination of parental rights proceeding is not whether the parent complies with the various services provided, but whether she benefits therefrom . . . . [M]otivation to parent is not enough, and instead, ability is required. C.G.S.A. § 17a-112(j)(3)(B)(ii).” See, *In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009)*

“In determining whether a parent has achieved sufficient personal rehabilitation so as to defeat a petition for termination of parental rights, a court may consider whether the parent has corrected the factors that led to the initial commitment, regardless of whether those factors were included in specific expectations ordered by the court or imposed by the department.” (Internal citations and quotation marks omitted.) *See, In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)*

"A hearing on a petition to terminate parental rights consists of two phases, adjudication and disposition.... In the adjudicatory phase, the trial court determines whether one of the statutory grounds for termination of parental rights [under § 17a-112 (j)] exists by clear and convincing evidence. If the trial court determines that a statutory ground for termination exists, it proceeds to the dispositional phase. In the dispositional phase, the trial court determines whether termination is in the best interests of the child." (Internal citations and quotation marks omitted.) *See*, *In re Brea B.,* 75 Conn. App. 466 (2003).

"What constitutes a reasonable time is a factual determination that must be made on a case-by-case basis. Rehabilitation does not require that a parent be able to assume the full responsibility for a child without the use of available support programs such as those recommended by the petitioner. Although the standard is not full rehabilitation, the parent must show more than 'any' rehabilitation....Successful completion of the petitioner's expressly articulated expectations is not sufficient to defeat the petitioner's claim that the parent has not achieved sufficient rehabilitation. [I]n assessing rehabilitation, the critical issue is not whether the parent has improved [her] ability to manage [her] own life, but rather whether [she] has gained the ability to care for the particular needs of the child at issue. Thus, even if a parent has made successful strides in her ability to manage her life and may have achieved a level of stability within her limitations, such improvements, although commendable, are not dispositive on the issue of whether, within a reasonable period of time, she could assume a responsible position in the life of her child." (Internal citations and quotation marks omitted.) *See, In re Victoria B., 79 Conn. App. 245 (2003).*

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The mother claimed that she complied with the specific steps. The Supreme Court held that the evidence supported the trial court's judgment finding that the mother failed to rehabilitate because although the mother complied with many of the specific steps, consistently visited her children and shared a loving bond with them, the Court held that it is appropriate for the trial court to go beyond the letter of the specific steps and consider whether the parent has "corrected the factors that led to the initial commitment." The evidence demonstrated that the mother participated in numerous therapeutic services, but that she failed to make adequate progress toward treatment goals and did not accept responsibility for the abuse and mistreatment of the children while in her care. The evidence further showed she failed to consistently submit to drug testing, and only secured part-time rather than full-time employment. **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate because she complied with some of the specific steps and DCF presented no expert testimony in support of the TPR. The Supreme Court held that the court's judgment was supported by the evidence and that there was no requirement in termination of parental rights cases that an expert testify. Here, the evidence demonstrated that while the mother made some progress by finding a job and completing a parenting

program, she failed to rehabilitate because she continued to abuse substances, missed many visits with the child and was not able to live independently.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases. Nevertheless, the Supreme Court upheld the trial court's judgment that the parents failed to rehabilitate. The evidence demonstrated that while the parents' marital problems may arguably be "ordinary", and the parents were adequately caring for a different child, the record supported the finding that the parents were unable to meet the child's special needs. Moreover, the Court rejected the parents' argument that their rights should not be terminated because the child's special needs were caused by DCF and the fact that she was sexually abused in the foster home. The evidence showed that parents' conduct caused the child to be initially placed with DCF and their issues exacerbated the child's issues. Lastly, the record demonstrated that the parents were given actual notice of what conduct was required to prevent their parental rights being terminated.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed the trial court's judgment finding that DCF made reasonable efforts. The Supreme Court, reversing the Appellate Court, held that the evidence as a whole supported the trial court's finding that the mother failed to rehabilitate because while the evidence clearly demonstrated that the mother loves her children and wants to be reunified with them, the mother's mental health issues severely impacted her ability to care for her children. The record demonstrated that three experts opined that the mother's ability to resume her role as a parent in the foreseeable future was bleak given the serious and chronic nature of the mother's mental illness. Additionally, one child had special needs and DCF attempted reunification, but the reunification failed because the mother demonstrated inappropriate judgment by leaving child home with two men she hardly knew. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Romance M., 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate and that a termination was in the best interest of her child. The Supreme Court affirmed. The Supreme Court held that the trial court's findings were supported by the record because the mother suffered from a chronic alcohol problem and personality disorder. Despite the mother's periodic participation in treatment programs, she did not fully engage in recommended treatment and continued to abuse alcohol. Moreover, she was inappropriate during her interactions with the child.

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the trial court failed to consider the six dispositional factors in making its failure to rehabilitate findings. Effectively overruling *In re Shavoughn K.,* the Appellate Court held that the trial court was not required to consider the six statutory dispositional factors in the adjudicatory phase and a bifurcated hearing, while not required under the statute, was permissible. The trial court properly found the mother failed to rehabilitate.

In re Luis C., 210 Conn. 157 (1989)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed that the trial court's judgment was clearly erroneous because the court's decision was based on financial, language and cultural barriers that were "not of her own making." The Supreme Court held that the trial court's finding that the mother failed to rehabilitate was amply supported by the record. The evidence demonstrated that the child was placed in a non-Hispanic foster home for five years and was bonded to that family and the mother continued to have difficulty maintaining suitable housing. The trial court properly found that the prospects of mother achieving a useful and constructive role as a parent were crucially impaired by language and cultural barriers that existed because the mother was Hispanic and the child was raised in a non-Hispanic home. The Court concluded that while true that the cultural and language barriers existed because of DCF placing the child in a non-Hispanic foster home, the trial court properly found that "[w]hile placement within the extended family or in an Hispanic foster home might have been better than use of this non-Hispanic home, those alternative options have not been available." The mother further claimed that her failure to complete all the specific steps did not mandate a finding that she failed to rehabilitate because the statute does not require that she assume her role as a parent without the use of supportive programs. The Supreme Court ruled that the trial court determined that considering Luis's age and needs, the mother had not rehabilitated. Moreover, the trial court did not base its decision solely on the mother's non-compliance with court orders.

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights finding that DCF provided reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the finding that he failed to rehabilitate was clearly erroneous because DCF did not offer the father any specific services to help the father understand the detrimental nature of his relationship with the mother, and because the specific steps were ambiguous in that they did not provided sufficient notice that ending his relationship with the mother was a condition precedent to reunification with his child. The Appellate Court held that the trial court's decision was adequately supported by the record. DCF provided adequate services and notice of his treatment goals in the specific steps, but that the father did not benefit from the services. The record specifically demonstrated that DCF informed the father his continued volatile relationship with the mother, who was actively abusing illegal substances, was a barrier to the reunification and at the time of commitment the court found that reunification with the father was not in the best interests of the child so long as the father continues to be involved with the mother. Yet, the father responded that he loved the mother and would not give up on her. Moreover, the trial court properly found that the father failed to take any responsibility for the circumstances that caused the child to be placed in foster care.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Brian T., 134 Conn. App. 1 (2012)
The trial court, on an appeal from probate court, terminated the father's parental rights finding abandonment, failure to rehabilitate, and the termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that the trial court's failure to rehabilitate finding was based solely on the father's incarceration. The Appellate Court held that the trial court properly found that during the first eight years of the child's life the father failed to assume a responsible position in the life of his child by not contributing to his child's care or making himself available as a resource. His extensive criminal history and poor judgment during most of the child's life does not encourage a belief that he is ready to assume a responsible position in the child's life. **Concurring:** Lavine, J.; Robinson, J.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP232.pdf

In re Destiny R., 14 Conn. App. 625 (2012)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father asserted three claims: 1) the trial court improperly found that the father failed to complete the specific steps; 2) the trial court improperly found that he remained involved with the criminal justice system; 3) the trial court improperly found that the father was reluctant to comply with programs. First, the Appellate Court held that while there are acknowledged discrepancies between the TPR social study and the social worker's testimony regarding his compliance with certain programs, "those discrepancies do not overcome the uncontested evidence of the steps the [father] failed to take or complete. The record demonstrated that the father was arrested and convicted of drug charges six months after the specific steps were ordered. The father also failed to find adequate housing or legal income. He was living with the grandfather, had no day care arrangements, had a job "under the table", was not financially supporting this child or the three other children he had with three other women. Secondly, the Appellate Court held that although the father was later found not guilty of his second arrest involving an assault, he still violated the original specific steps, namely to not remain involved in the criminal justice system, because the father was still on probation related to his drug charges. If he were to violate the terms of his probation, he could be incarcerated. Thirdly, the Appellate Court held that the record demonstrated that the father had not gained the insight necessary to be a responsible person in the life of his child. The evidence showed that the father remained enmeshed in a relationship with the mother despite his acknowledgement that the relationship posed a barrier to reunification with his child. Additionally, he lacked insight into the mother's substance abuse and parenting issues and how they impacted the child. Moreover, he failed to secure adequate housing and legal income.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP297.pdf

In re Christopher L., 135 Conn. App. 232 (2012)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that she made considerable efforts to comply with the specific steps. The Appellate Court held that although the mother benefited from services and made significant progress pertaining to her alcohol abuse, the record supports the trial court's finding that the mother failed to rehabilitate sufficiently in order to parent her child within a reasonable period of time. Here, the court-order psychologist testified that the mother's risk of relapse was too high and required 2 years of sobriety before the child should be reunified given the mother's long and serious history of DUI's and alcohol abuse.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP329.pdf

In re Christopher C., 134 Conn. App. 464 (2012)
The trial court terminated the pro se father's parental rights finding that DCF made reasonable efforts and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court erred based on insufficient evidence. The Appellate Court held that the trial court's findings were adequately supported by the record. The father had a substance abuse history and unresolved mental health issues. Moreover, he had an extensive criminal record and is a registered sex offender and is not allowed to have unsupervised contact with children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP287.pdf

In re Christopher C., 134 Conn. App. 473 (2012)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously found she failed to rehabilitate because the specific steps did not specifically order that she end her relationship with the child's father and because the court gave undue weight to the mother's refusal to engage in mental health and substance abuse treatment. The Appellate Court held that the trial court's findings were supported by the record because the mother had a long history of being involved with abusive men that is inextricably linked to her mental health and substance abuse issues. The evidence showed the mother failed to engage in mental health treatment and had done nothing to enable her to protect her children. In fact, she forsook her child to remain with a very disturbed man, a registered sex offender with substance abuse issues, who abused her and her children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP288.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and denied the intervening grandmother's motion to transfer guardianship. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly found that the mother could not resume her role as a parent in the foreseeable future. The Appellate Court held that the evidence clearly demonstrated that the mother failed to rehabilitate because she was not able to presently care for her child, and the expert testified regarding the mother's inability to understand her own mental health issues or care for a special needs child. Moreover, the trial court properly considered the mother's outbursts during the trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Kamora W., 132 Conn. App. 179 (2011)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the evidence regarding the father's alleged ongoing relationship with the child's mother, his alleged substance abuse issues, and the alleged lack of family support was insufficient to conclude he failed to rehabilitate. The father also claimed that the trial court's comments post trial about the lack of evidence further indicated the insufficiency of the evidence. The Appellate Court held that there was sufficient evidence to support the trial court's findings. Here, the child had special needs and was born positive for cocaine. First, the evidence sufficiently demonstrated that though the father had fair warning from DCF and the specific steps that a continuing relationship with the mother would jeopardize his reunification chances, the father continued in a relationship with her. Their relationship was marked with domestic violence and the mother had untreated substance abuse and mental health issues.

Second, the evidence sufficiently demonstrated that the father failed to comply with substance abuse treatment and while he tested negative for cocaine in his last hair test, the trial court reasonably could have inferred that the father's use of illegal drugs had a negative impact on his ability to raise a child with special medical needs. The evidence further demonstrated that the father refused to acknowledge he had an alcohol or drug problem despite testing positive for drugs in the past and appearing intoxicated. Thirdly, the evidence sufficiently demonstrated that the father lacked family supports to help care for the child while he worked. Although the father testified that he would be eligible for day care through "Care 4 Kids", the trial court concluded that this service could not be put in place within a reasonable period of time. Finally, the Appellate Court noted that the trial court's comments and request for post-trial briefs, did not undermine the trial court's findings because "[t]he court made these comments before carefully evaluating all of the evidence in context" and the court's request for post-trial briefs "shows only that, before making its ruling, [it] pressed the parties to provide the court with enough information on which to base its decision." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP55.pdf

In re Mia M., 127 Conn. App. 363 (2011)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that the evidence as a whole supported the trial court's finding that the mother failed to rehabilitate because the mother suffered from a grave schizoaffective disorder, and continued to suffer the manifestations of her serious and long-standing mental illness. The mother was hospitalized numerous times for her mental health issues and had ongoing physical confrontations with neighbors and her mother due to her paranoid delusions that resulted in criminal charges.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP286.pdf

In re Dylan C., 126 Conn. App. 71 (2011)
The trial court terminated the mother's parental rights on the ground that she failed to rehabilitate. The Appellate Court affirmed. On appeal, the pro se mother claimed that the trial court lacked sufficient evidence. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence that the mother failed to rehabilitate. The Court defined "clear and convincing" proof and held the evidence demonstrated that while the mother made some progress regarding understanding the effects of domestic violence, the mother still exposed her children to domestic violence by living with a roommate who was in a domestic violence relationship. Moreover, the psychologist opined that the mother could not parent safely and would not be able to do so in a reasonably foreseeable time. Moreover, the child had been in foster care his entire life and he was then two and half years old.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP165.pdf

In re Emile L., 126 Conn. App. 283 (2011)
The trial court terminated the pro se parent's parental rights finding that they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. In this consolidated appeal, the father claimed that he completed most of the programs DCF required and that DCF "wanted him to do the impossible" at the risk of losing his employment. The Appellate Court held that the record amply supported the trial court's finding that he failed to rehabilitate because the father failed to complete the programs, continued to abuse drugs and alcohol and engage in an "unrelenting pattern" of domestic violence. The mother also claimed that she "completed all the programs" and that DCF failed to take into account her back injury as a mitigating factor. The Appellate Court held that the record amply supported the trial court's finding that she failed to rehabilitate because the mother failed to complete substance abuse

treatment, failed to attend drug screens, but tested positive when she did attend and had a significant history of being the victim of, and engaging in, domestic violence with the father. Furthermore, she had refused treatment regarding her maladaptive behavior.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP199.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court's finding that she failed to rehabilitate was clearly erroneous. The Appellate Court held that the evidence was sufficient to support the finding that she failed to rehabilitate because while the trial court found that the mother made personal progress by stabilizing psychiatrically, obtaining employment and keeping a clean house, she lacked confidence and had difficulty with parenting tasks with the children. The court found that she was unable to balance the needs of the children with her own needs and she demonstrated need for assistance with the children during three hour visits. The mother also failed to make complete disclosures to treatment providers regarding her mental health and substance abuse history and she continued a live-in relationship with an individual who refused to cooperate with DCF. "One cannot, however, confuse ability to care for oneself and the ability to care for one's children. [The respondent] has the desire and motivation to parent. Lamentably, motivation to parent is not enough; ability is required."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Anvahnay S., 128 Conn. App. 186 (2011)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and he failed to rehabilitate. The Appellate Court affirmed. The incarcerated father claimed that DCF did not provide him services while he was incarcerated so that he could rehabilitate and that given his "innocuous" problems, there was insufficient evidence to show that he could not assume the role of parenting her within a reasonable period of time. The Appellate Court held that the trial court's conclusions were amply supported by the record because the father lacked the ability or willingness to parent his child. He was incarcerated or his whereabouts were unknown for all but three months of the child's life. Although the incarcerated father's access to services was limited while he was in prison, the father failed to contact DCF and failed to request visits while incarcerated. Upon release to a half-way house, he failed to notify or contact DCF and did not seek reunification with his child or participate in any services.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP349.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the trial court's finding was supported by the record because although there was evidence the mother maintained sobriety from drugs and alcohol for an extended period of time prior to trial, and benefited from the specific steps, the mother continued to reside with her father whose house everyone agreed was inappropriate. The court found that the mother failed to recognize the impact that her choices and living situation had on her child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Gianni C., 129 Conn. App. 227 (2011)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate. The

Appellate Court affirmed. The mother was convicted of robbery and was serving four years in prison. The incarcerated mother claimed that she was a model prisoner and the court improperly found she failed to rehabilitate based on her past conduct. The Appellate Court held that the trial court's decision was amply supported by the record because although by all accounts the mother was a model of rehabilitation while incarcerated and did everything asked of her and more, the court-appointed expert psychologist opined that the mother would need to demonstrate that she could maintain herself in the community, with or without supports, for a reasonable period of time before reunification was possible. The evidence demonstrated that when and if the mother would be granted parole was uncertain. To allow the mother additional time to rehabilitate would further delay the children's need for permanence and stability. The trial court also properly considered the mother's past problems when she was not in a structured environment and the negative influence her family had on her.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP431.pdf

In re Luciano B., 129 Conn. App. 449 (2011)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify, they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. In this consolidated appeal, the expert psychologist opined that upon release from prison the father should be given a three month period to comply with services. If the parents were not compliant within the three month time frame, then it would not be appropriate to extend further time for reunification. DCF then postponed the termination trial date to afford the parents the opportunity to comply with domestic violence and substance abuse services. The father claimed that the trial court erred in finding that he failed to rehabilitate because the additional three month time frame that the expert psychologist recommended for reunification was unreasonable and that at the time of trial he had completed the services. The Appellate Court held that the record supports the trial court's findings because although the father's dad died, the father failed to comply with domestic violence counseling and the record as a whole demonstrates the father's inability to refrain from domestic violence, obey court protective orders or cooperate with services. The mother claimed that the trial court failed to give proper weight to the progress she made regarding being cocaine free. The Appellate Court held that the record supported the finding that the mother failed to rehabilitate because despite her progress in being sober, during the recommended three additional month reunification period the mother failed to attend weekly individual therapy and substance abuse treatment. The mother's failure to comply with the expert's minimal requirements caused the court to conclude that she could not meet the full-time demands of a young child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP448.pdf

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court lacked sufficient evidence to find she failed to rehabilitate. The Appellate Court held that while the trial court correctly stated that the mother made some progress towards rehabilitation, the record also sufficiently demonstrated that the mother had difficulty parenting the children, managing her medication, addressing her psychotherapy needs and refraining from marijuana use. The court properly afforded great weight to the psychologist who testified, in part, that the mother had not properly addressed her own barriers to reunification with the children. The Court further held that the trial court did not improperly shift the burden of proof from DCF to the mother in its decision and did not improperly change the basis of its memorandum of decision nor substitute its original decision in its articulation. **Dissent:** Robinson, J.

Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Keyashia C., 120 Conn. App. 452, cert. denied, 297 Conn. 909 (2010)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to demonstrate that she failed to rehabilitate. The Appellate Court held that even though the trial court found that the mother "made progress in all of the areas of her life regarding rehabilitation," the trial court also found that the mother had not consistently demonstrated that she could provide for herself or for the child. The evidence supported the trial court's finding because the mother's supervised visitation had been temporarily suspended because the mother had missed several visits with her child, she was not compliant with her probation, and she was in danger of losing her housing assistance.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP242.pdf

In re Jaiden S., 120 Conn. App. 795, cert. denied, 297 Conn. 923 (2010)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and he failed to rehabilitate. The Appellate Court affirmed. The father claimed that he completed many of the specific steps for rehabilitation and that his expert witness opined against termination. The Appellate Court held the evidence supported the trial court's finding because the trial court properly rejected the view of the father's evaluator and relied on the court-appointed expert psychologist's opinion that the father had not fully acknowledged his history of interpersonal aggression and inappropriate sexual conduct toward children. The father's arrest for failing to register as sex offender, although later nolled, further indicated his failure to address his issues. Moreover, the trial court found that, based on the psychologist's testimony, at least a year of rehabilitation was necessary before reunification could occur.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP264.pdf

In re Jazmine B., 121 Conn. App. 376, cert. denied, 297 Conn. 924 (2010)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed, in part, that the evidence was insufficient to show he failed to rehabilitate and that the trial court erroneously found that the father, at DCF's request, was supposed to participate in sex offender treatment and individual therapy, even though he was never convicted of sexual abuse and denied all allegations of committing sexual abuse. The Appellate Court held that the evidence amply supported the trial court's findings because although the father completed many of the specific steps, this did not bar a finding of failure to rehabilitate. Moreover, DCF's requirement that the father attend sex offender treatment and individual therapy as well as his failure to do so further supported the court's finding. An expert evaluator opined that the father should attend therapy both with and without the child to address the behavior he exhibited that made her feel uncomfortable, regardless of whether he had actually sexually abused her. Another expert opined that the father demonstrated a pattern of making poor decisions while deflecting responsibility for his actions that rendered him an inadequate parent.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP336.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The trial court adjudicated one child neglected as to the father, but not as to the mother and the trial court denied the termination of parental rights petitions as to the mother regarding all the children on the grounds that DCF did not prove that the mother failed to rehabilitate. The Appellate Court reversed. DCF claimed, in part, that the trial court erred in denying the termination petitions because it required that DCF prove a

subordinate fact by clear and convincing evidence. The Appellate Court agreed and held that the trial court erroneously required DCF to prove by clear and convincing evidence that the mother continued to live with the abusive father in order to prove the mother failed to rehabilitate. The Court concluded that only the elements of the termination of parental rights claim must be proven by clear and convincing evidence, not a subordinate fact underlying the failure to rehabilitate claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Albert M., 124 Conn. App. 561, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly found DCF made reasonable efforts and he failed to rehabilitate because DCF never informed the father that he would lose his parental rights if he did not separate from the mother. The mother had a myriad of mental health issues that clearly interfered with her ability to parent. The Appellate Court held that the evidence supported both findings because the father had actual knowledge of the requirement that he separate from the mother despite DCF's failure to put that requirement in concrete terms. The Appellate Court found it significant that the father did not testify that he did not know that separation from the mother would help him reunify with his son. Rather, the father testified that the social worker told him he would have a better chance of regaining custody if he left the mother. The parents had a "highly conflicted codependent relationship" and the father was "unable to separate from her." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP22.pdf

In re Summer S., 124 Conn. App. 540 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly determined that he failed to rehabilitate because he had no "parenting issues to rehabilitate" and the court failed to take into account his willingness to separate from the mother. The Appellate Court held that the there was ample evidence in the record to support the trial court's finding because although the father may have been capable of independently parenting his child, the court found that the father's inability to separate from the mother as well as his inability to understand how the mother's mental health and substance abuse issues posed a risk to the child, prevented him from reunifying with his child. The evidence further demonstrated that the father and mother were unable to secure suitable housing and unwilling or unable to address their chronic financial problems. The court properly found "[f]or better or for worse, [the parents] presented [themselves] as a unified and isolated entity with virtually no community or family support."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP19.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The mother claimed that there was insufficient evidence of her failure to rehabilitate. The Appellate Court held that the trial court's decision was amply supported by the evidence that demonstrated that the mother was hospitalized numerous times for her psychotic state, she had a poor track record of attending treatment and taking her medication and had never demonstrated her ability to care for all four of her children at the same time. Although she had complied with some of the specific steps, namely her mental health had improved over time and she was receiving treatment at the time of trial—the issue was whether she has gained the

ability to care for her children and the trial court properly found she did not.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Katia M., 124 Conn. App. 650, cert. denied, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that the father was unable or unwilling to benefit from reunification efforts, DCF provided reasonable efforts, and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly terminated his rights based on his incarceration alone. Specifically, the father argued that DCF failed to offer him services or communicate with him because he was incarcerated. The Appellate Court ruled that incarceration imposes limitations on what DCF and its social workers can do and what services it can provide for an incarcerated parent facing termination of his or her parental rights. The Court held that the trial court's decision was not clearly erroneous because the record demonstrated that given these limitations, DCF provided visitation to the father while he was incarcerated in Connecticut, but thereafter the father failed to comply with the specific steps and keep DCF aware of his whereabouts as he was transferred to different out-of-state prisons. DCF made efforts to contact him by phone and in writing. Although the father participated in substance abuse treatment and parenting classes, he did so three years into his incarceration and right before trial. Moreover, the evidence demonstrated that the father was incarcerated for the child's entire life (four years), and allowing more time to reunify was unreasonable given he was not yet released and upon release he would require housing, employment and significant time in the community to demonstrate his sobriety and to refrain from criminal activity.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP33.pdf

In re Jocquyce C., 124 Conn. App. 619 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interests. The Appellate Court affirmed. The mother claimed that there was insufficient evidence of her failure to rehabilitate given her sobriety and her ability to care for her other child in her custody. The Appellate Court held there was ample evidence to support the trial court's finding because the mother's strides she made in being drug free are not dispositive of her rehabilitation. Here, the court relied on the expert psychologist opinion that despite the mother's progress, the mother was still unable to care for both children given her history with domestic violence, her continued relationship with the abusive father of her children, her criminal involvement and unstable housing.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP29.pdf

In re Chevol G., 125 Conn. App. 618 (2010)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts, the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the trial court failed to take into account her progress and that she could assume responsibility for the care of her children with appropriate services. The Appellate Court held that the record supported the trial court's determination because while the mother complied with some of the specific steps, namely, parenting classes, the mother also lacked the skills and stability to care for the children. The evidence demonstrated the mother's "abysmal" behavior during her supervised visits, her inconsistent attendance at visits, lying to one of the children's mental health physicians, and her continued refusal to seek psychiatric care.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap120.pdf

In re Sole S., 119 Conn. App. 187 (2010)

The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the court erred in finding that he failed to rehabilitate. The Appellate Court held the evidence amply supported the trial court's determination. Although the father completed some of the specific steps, he failed to comply with them all. The evidence demonstrated that the father was living in a sober rooming house that was unsuitable for his child, he was unable to secure adequate income and he tested positive for cocaine, in violation of his parole.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP133.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court found that she substantially complied with the specific steps and that incarceration alone cannot serve as proof of failure to rehabilitate. Here, the mother committed a robbery while intoxicated and the child was placed in foster care. While released on bond, the mother completed the specific steps and DCF's plan was reunification. The mother was then sentenced to two years in prison and DCF filed a termination petition. The mother and child shared a "powerful" bond. The Appellate Court held that the mother's incarceration was not the sole basis for the termination. Based on the record, the trial court properly terminated the mother's rights because the mother failed to acknowledge her alcohol abuse and this raised issues about her fitness as a parent upon release from incarceration. The court also considered the amount of time that the child would be in foster care before the mother could resume a constructive role in her life.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Ellis V., 120 Conn. App. 523 (2010)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed, in part, that they were not given enough time to rehabilitate and the court disregarded the father's positive effect on the family. The Appellate Court held that clear and convincing evidence supported the trial court's judgment because the mother, as the full-time caretaker of the children, continued to use cocaine, was inconsistent with substance abuse treatment and has psychological issues. The father to only one of the children need to either leave his wife, the mother of the children, or to change his job that required him to be out at sea for months to a stateside job. The father did neither to protect the child and it prevented his reunification with his daughter. The trial court properly found that "[h]e also knows that if he separated from [his wife] and her drugs, he would likely regain custody of at least Abigail, and conceivably all of the children. They all view him with trust and affection. It is, therefore, difficult to explain what appears to be a completely unearned loyalty to this woman, or, as the psychologist tentatively suggested, an unhealthy co-dependence." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Tremaine C., 117 Conn. App. 590, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that because she was clean and sober and had been caring for her six month old infant, these ongoing efforts to stabilize her life demonstrated her rehabilitation. The Appellate Court held that the evidence supported the trial court's findings because while she had not tested positive for drugs, her ability to maintain her sobriety in the future was uncertain given her behavioral issues. Moreover, although she was caring for her six

month old child while living with her aunt, the mother had not obtained housing or employment. **Dissent:** Schaller, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493E.pdf

In re Zion R., 116 Conn. App. 723 (2009)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate by (1) failing to credit her progress at a treatment program, Youth Challenge, (2) finding that her rehabilitation was not foreseeable, and (3) erroneously considering the child's best interests during the adjudicatory phase. The Appellate Court held that the trial court's determination was supported by the record and the trial court properly considered the mother's progress at her highly structured Youth Challenge program, but also considered that she was not yet self-sufficient of living in the community drug free and she required another year of treatment. Moreover, the evidence demonstrated that her chances of relapsing were high and that it was unclear how many of her mental and behavioral issues were addressed and resolved at the program. The Appellate Court further held that the trial court did not err by considering the child's best interest during the adjudicatory phase, but rather properly considered *"the age and needs of the child,"* as required by statute. The trial court properly considered the fact that the child resided with the same foster parents since birth and further delay was unacceptable.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP444.pdf

In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously found she failed to rehabilitate. The Appellate Court held that ample evidence supported the trial court's determination. The evidence demonstrated that the mother complied with the specific steps, but was unable to learn proper parenting skills so that she could properly care for the child. Multiple service providers testified against reunification because the mother lacked the judgment and the ability to keep the child safe. For example, despite constant parenting instruction, the mother would leave the baby unattended in a stroller in public places and thought her older brother who sexually abused her during her childhood would be an appropriate caretaker for her own child. "The ultimate measure in a termination of parental rights proceeding is not whether the parent complies with the various services provided, but whether she benefits therefrom. . . . [M]otivation to parent is not enough, and instead, ability is required."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP4.pdf

In re Christopher B., 117 Conn. App. 773 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother made two claims. (1) The mother claimed that the trial court erroneously relied on evidence of DCF's reunification efforts pertaining to a prior case involving the child's siblings three years earlier, rather than assessing DCF's efforts arising from the present action. She asserted that the prior information may be informative, but should not be dispositive of either the reasonable efforts finding or the failure to rehabilitate finding. The Appellate Court disagreed and held that the trial court did not abuse its discretion in considering evidence of DCF's involvement with the mother and child before the most recent petition. The trial court did consider present DCF efforts, including a referral to individual counseling. The Court concluded that the trial court should consider *all* potentially relevant evidence, no matter the time to which it relates and because the parent-child relationship

is at issue, all relevant facts and family history should be considered to obtain a historical perspective of the mother's child caring and parenting abilities. (2) The mother also claimed that the trial court improperly determined she failed to rehabilitate. The Appellate Court also held that the trial court's decision was not clearly erroneous because the evidence demonstrated that the mother was belligerent with DCF and refused them access to her home. She further failed to cooperate fully with parenting services and counseling. Moreover, despite her history with DCF and services, she failed to make almost no progress in keeping a sanitary home. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP19.pdf

In re Gabrielle M., 118 Conn. App. 374 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the children's the best interests. The Appellate Court affirmed. The mother claimed that the trial court erroneously gave too much credit to a psychologist's evaluation and not enough credit to the fact that she was making progress by recently obtaining an apartment and receiving counseling. The Appellate Court held that the trial court's findings were supported by the record and her argument was without merit. "The psychological testimony from professionals is rightly accorded great weight in termination proceedings" and despite multiple psychiatric hospitalizations, the mother continued to deny that she was delusional or psychotic and needed treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP64.pdf

In re Kaitlyn A., 118 Conn. App. 14 (2009)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and that the termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to support the finding of failure to rehabilitate because there was no evidence that she was incapable of caring for her child. The Appellate Court held that the evidence supported the trial court's judgment. The mother failed to comply with specific steps, namely that she tested positive for cocaine, was homeless, and at the time of trial she was convicted for a violation of probation and was incarcerated.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP31.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother made numerous claims challenging the court's finding that she failed to rehabilitate. The mother claimed that the trial court: (1) made incorrect factual findings regarding the mother's refusal to take a drug test, (2) misconstrued the definition of "personal rehabilitation" by improperly finding that the mother relied too much on the Health Center's support, and (3) improperly used the best interest standard to assess rehabilitation. The Appellate Court held that the trial court's judgment was proper because the trial court: (1) made appropriate findings regarding the mother's consistent refusals to take a hair drug test for over a year, (2) recognized personal rehabilitation can include help from supportive services, but found *despite the health center's extensive help,* the mother had not achieved sufficient personal rehabilitation, and (3) did not apply an improper balancing test in assessing rehabilitation, but rather properly considered the mother's progress in light of the child's age and needs. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Cheila R., 112 Conn. App. 582 (2009)
The trial court terminated the minor mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that

the trial court erred in terminating her parental rights. The Appellate Court held that evidence was sufficient for the trial court to conclude that she failed to rehabilitate and a termination was in the child's best interest because despite numerous services, including a residential placement for her and her child at St. Agnes House, the mother had not bonded with the child or gained the ability to safely parent her. The mother repeatedly violated the rules of St. Agnes, left and requested the child return to foster care. The minor mother had unresolved mental health and sexual victimization issues. The mother was seventeen when her child was born and the father of the child was the maternal grandmother's boyfriend. She failed to cooperate with DCF and service providers or make necessary lifestyle changes to protect and nurture the child. The child was bonded to her foster parents whom she knew since birth and required permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP148.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. The mother claimed that she should be given another chance to rehabilitate. The Appellate Court held that the trial court's determination was supported by the evidence. The mother failed to attend or to complete numerous treatment and counseling programs offered to her regarding ongoing domestic violence between her and the child's father. She was also unable to make progress in improving her parenting skills and failed to obtain stable housing and employment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding that the father failed to rehabilitate. The trial court properly afforded great weight to the expert psychologist's testimony not supporting reunification after DCF's failed attempt to reunify by placing the child with the father until her subsequent removal following a domestic violence episode in her presence. The evidence further demonstrated that the father was not in a better position to parent the child than before based on his continued contact with the mother, their domestic violence in front of the child, his arrest and the child's negative reactions towards him. The father further claimed that the court's finding that he failed to rehabilitate violated his due process rights. The Appellate Court declined to review the father's due process claim because the father did not raise the claim at trial, nor did he file a motion for articulation or request review pursuant to *State v. Golding* or the plain error doctrine. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Trevon G., 109 Conn. App. 782 (2008)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The Appellate Court held that substantial compliance with rehabilitative programs does not bar a termination of parental rights. Although the mother complied with substance abuse treatment and enrolled the children in therapy and was willing to work with intensive reunification service programs, the record supported the trial court's judgment based on evidence that she continued to lack employment, income, and housing. Moreover, the mother had continuing mental health problems, refused anger management services, and continued a pattern of arrest and incarceration for over four years. Additionally,

the court appointed evaluator opined that she was a "poor prospect for rehabilitation."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP448.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. Without any legal analysis, the Court held that based on the trial court's detailed memorandum of decision, the judgment was amply supported by the evidence. The facts of the case demonstrated that the mother beat the child before the child was placed in foster care, then sporadically visited the child, who had special needs, and that the mother had significant emotional problems that interfered with her ability to parent the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The parents claimed that DCF failed to demonstrate a "compelling reason" for the termination. The Appellate Court held that the trial court's finding that the parents failed to rehabilitate was not clearly erroneous because the parents failed to attend substance abuse and mental health treatment regularly, failed to obtain adequate housing and stable employment and continued using drugs.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Brittany J., 100 Conn. App. 329 (2007)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interest. The Appellate Court affirmed. The Appellate Court held the evidence supported the trial court's determination that she failed to rehabilitate because the mother had untreated mental health issues and refused to take her psychotropic medication until the eve of trial, even though DCF offered a plethora of services and the children had been in foster care for more than two years. Although there was a strong bond between the mother and her children, the mother exercised poor judgment with regard to her children and would continue to do so in the future. The evidence also supported that a termination was in the children's best interest. The children's desire to return home to live with their mother was ambivalent at best and the children required permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP100/100AP219.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the child. The mother and child both appealed. The Appellate Court affirmed. The mother claimed that she fully rehabilitated because she successfully completed some programs while incarcerated. The Appellate Court held that the trial court's decision was not clearly erroneous because although the mother had completed some programs while incarcerated, the mother had a 20 year history of substance abuse with repeated relapses and domestic violence and repeated involvement. The mother also failed to recognize and address her trauma and substance abuse. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify,

the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that she was "by and large" compliant with the specific steps. The Appellate Court held that the record amply supported the trial court's finding that the mother failed to rehabilitate because the mother had over two years to comply with the orders and she continued to demonstrate inappropriate behavior during supervised visitation such that the visitation center terminated her visitation. Moreover, she failed to comply with parenting program, was arrested and failed to accept responsibility for her neglect of the children. The Appellate Court also held that the trial court did not abuse its discretion in admitting the social study as it was relevant and not prejudicial to both the adjudicatory and dispositional phases of a termination of parental rights hearing. In termination of parental rights cases, the court is required to obtain an "historical perspective of the respondent's child caring and parenting abilities." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Selena O., 104 Conn. App. 635 (2007), reversed
The trial court denied the petition to terminate the mother's parental rights. The Appellate Court reversed. DCF appealed and claimed that the trial court erred in finding that the mother's rehabilitation foreseeable because the decision was speculation and based on facts not in evidence. The Appellate Court agreed. The Appellate Court held the parties agreed that the trial court based its decision on a factual predicate that was not in evidence, namely that the mother successfully participated in a particular substance abuse program and then speculated that she would complete it within three months. The Court found the error harmful and concluded that the court's finding on this important issue was central to its decision and "undermine[s] appellate confidence in the court's fact finding process...."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP30.pdf

In re Anthony H., 104 Conn. App. 744 (2007), cert. denied, 285 Conn. 920 (2008)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The mother claimed that she was in a better position to care for the children than at the time the children were removed and that the children were strongly bonded to her. The Appellate Court held that the trial court properly concluded that the mother failed to rehabilitate because the evidence demonstrated that although the mother's personal situation had improved and she was able to care for her third child in a supportive housing situation, the mother failed to maintain stable housing in a long term manner, failed to maintain employment and complete a parenting program as well continued a relationship with an abusive boyfriend. Moreover, the needs of the other two children were not same needs of the youngest child because they had special needs. Furthermore, the Court explained that the statement, "to the extent the parents can demonstrate to [the child] that they care about her and love her, they have a responsible position in her life," in *In re Jessica M.* is dicta. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP42.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The Appellate Court held that the trial court's judgment was amply supported by the record because in this domestic violence case, the mother was still abusing substances and still under the control of the father which impaired her parenting abilities and she failed to obtain employment which rendered her further dependent on the abusive father. The court also correctly found that the father failed to rehabilitate because he was diagnosed with an antisocial personality disorder which is untreatable and the father pervasively lied to service providers about his domestic violence. Although the parents complied with some specific steps, they were

still not in a position to parent the children who also had psychological issues.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re Coby C., 107 Conn. App. 395 (2008)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that she rehabilitated because she substantially complied with four specific steps and fully complied with twelve other specific steps. The Appellate Court held that the trial court's determination was amply supported by the evidence. The Appellate Court concluded that the mother's claim merely "places a positive label on the court's negative findings without altering the substance of those findings." The trial court properly concluded that the mother failed to comply fully with parenting and individual counseling and was discharged unsuccessfully from individual therapy due to noncompliance with treatment, failed to maintain stable housing or stable employment and has lived a transient existence. The trial court properly found that the mother continued to suffer from mental health issues and gross parenting defects as well as poor judgment such that she could not safely parent her child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP257.pdf

In re Halle T., 96 Conn. App. 815, cert. denied 280 Conn. 924 (2006)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find he failed to rehabilitate and that the trial court improperly placed too much emphasis on his present ability to care for the child and there was no evidence regarding the amount of time it would take the father to assume care of his special needs child. The child had fetal alcohol syndrome and suffered from numerous developmental disabilities. The Appellate Court held that the trial court's decision to terminate the father's parental rights was not clearly erroneous because the record demonstrated that the father was not able to rehabilitate during the two years that the child was in foster care. While he made some personal rehabilitation, his progress was insufficient to meet the child's significant needs.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96ap398.pdf

In re Shaun B., 97 Conn. App. 203 (2006)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that DCF did not demonstrate a compelling reason to warrant termination. The Appellate Court held that the trial court's finding that she failed to rehabilitate was not clearly erroneous. The evidence demonstrated that the mother suffered from recurrent major depression and moderate and borderline personality disorder and it was recommended that she undergo long-term, intensive, inpatient treatment in order to address her mental health issues. During a supervised visit she absconded with the child and fled to New York until she surrendered herself and the child. She was then was arrested and incarcerated. She was also able to secure and maintain housing. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP425.pdf

In re Alejandro L., 91 Conn. App. 248 (2005)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that the mother suffered from a serious and long standing drug addiction. She left the child unattended in her car twice, repeatedly used cocaine, failed to comply with substance abuse and mental health treatment and

continued a relationship with the children's father despite the fact that her drug counselors advised her to sever her relationship with him because he was an impediment to her obtaining and maintaining sobriety. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP91/91AP476.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. Without disputing the accuracy of the court's findings, the parents claimed that the trial court failed to take into account the parents' poverty and their cognitive limitations to perform the specific steps, as well as their perceived ability to care for the one child that remained in their custody. The Appellate Court held that the trial court properly found by clear and convincing evidence that they failed to rehabilitate because they engaged in repeated acts of domestic violence, lacked the parenting skills and overall competence to safely take care of their children and exposed them to risks posed by unsafe housing and inappropriate caretakers, such as a grandparent on the sex offender registry. The fact that they could take care of one of their children did not negate their failure to rehabilitate especially in light of evidence that their parenting of the one child caused concerns. "The sad fact is that there is a difference between parental love and parental competence."
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved that the mother failed to rehabilitate. The evidence demonstrated that the mother consistently rejected efforts to help her overcome her substance abuse problem and mental health issues. Moreover, she failed to comply with specific steps such as not successfully completing a substance abuse program, not maintaining housing or income and being involved with criminal justice system.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate because: (1) the court found that she had complied with the court-ordered steps and based on the DCF social worker's testimony that she complied with the specific steps, DCF is precluded from arguing otherwise because the testimony constituted an admission, and (2) the evidence was insufficient. The Appellate Court held that the record demonstrated that the trial court never found that the mother complied with the specific steps. The Court also held that the DCF social worker's testimony could not be construed as an admission because the record was unclear as to whether the social worker was a "party" and the mother never sought an articulation on the issue. Lastly, the Court concluded the evidence was sufficient to support the trial court's determination because the mother had a long history of cocaine addiction, mental health issues and incarcerations. The trial court properly found that she complied with some of the specific steps in terms of attendance, but she failed to understand her role in the process and the reason why the services were being provided to her as well as internalize the new behaviors that were necessary for reunification. "If a parent is unwilling or unable to adopt the necessary behaviors, no matter how many classes the parent attends, the parent has not achieved sufficient rehabilitation." Unless she was threatened with incarceration

or was incarcerated, the mother did nothing to address her substance abuse and behavioral problems and that she can remain sober only while she is in a structured environment in order to achieve short-term goals. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Vanna A., 83 Conn. App. 17 (2004)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate because the evidence demonstrated that in light of her progress, if given continued help, she could achieve the necessary degree of rehabilitation. The Appellate Court held that the evidence amply supported the trial court's findings. The evidence demonstrated that the mother generally complied with the majority of specific steps set forth by the court, but her continued involvement with the criminal justice system and inability to admit and take responsibility for abusing her child thwarted her rehabilitation. By her actions, the mother elevated her desires over the child's need for her as a mother. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap290.pdf

In re Ashley M., 82 Conn. App. 66 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly: (1) found she failed to rehabilitate, (2) failed to consider events after the filing of the termination petition, and (3) failed to sua sponte order a drug test to assess the mother's rehabilitation. The Appellate Court held that the evidence was sufficient to find the mother failed to rehabilitate because of her substance abuse issues, and failure to cooperate with substance abuse treatment. The psychologist testified that the mother's "prognosis for long-term recovery is poor, given her attitude toward treatment, her lack of insight, her poor judgment and her pattern of failure." (2) The Court concluded that the trial court did consider events subsequent to the filing of the petition and to do so is within the sound discretion of the trial court. Although after the filing of the petition, the mother moved into a new apartment, tested negative for drugs and was caring for her newborn, the trial court properly found she failed to rehabilitate. (3) The Court ruled that there was no reason for the trial court to independently order another drug test when it had ample evidence supporting a termination.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP82/82ap211.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the termination was the result of the initial removal of the children that "snowballed" into a termination and that the children were removed because of criminal charges that were eventually nolled. The Appellate Court held that based on the record, the mother's rights were terminated because of her unwillingness to cooperate with DCF to rehabilitate. The trial court properly considered the mother's positive efforts, including her ability to care for another child in her custody. However, over a five year period, the mother repeatedly failed to comply with drug treatment, drug screenings, counseling and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Victoria B., 79 Conn. App. 245 (2003)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court

affirmed. The mother claimed that she made efforts towards rehabilitation and that her ability to assume the role of a responsible caretaker for her children was foreseeable. The Appellate Court held that the trial court properly took a bifurcated approach by first finding that the mother failed to rehabilitate by the adjudicatory date, the filing of the termination petition, because the mother did not successfully complete counseling programs or maintain adequate housing, legal income or employment, and she had been involved with the criminal justice system for motor vehicle offenses. Secondly, the trial court properly found that the mother could not assume a role of responsibility for her child within the foreseeable future. The evidence demonstrated that the mother had bipolar disorder and that based on the depth and seriousness of her mental health problems, it was uncertain regarding how long it could take before she *might* be in a position to parent the child. Whatever personal gains the mother made were not sufficiently timely.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP79/79ap501.pdf

In re Jennifer W., 75 Conn. App. 485 (2003)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court violated her due process right to fundamental fairness by not considering events that occurred after the filing of the termination petition (adjudicatory date). The Appellate Court held that the mother's due process rights were not violated because (1) pursuant to the Practice Book rule § 35a-7(a), the trial court has discretion whether to consider such events in the adjudicatory phase, and (2) here, the trial court did in fact consider post adjudicatory facts in finding that the mother failed to rehabilitate. The mother further claimed that the trial court improperly found she failed to rehabilitate and failed to consider the positive strides she made toward rehabilitation. The Appellate Court held that evidence amply supported the trial court's judgment because she failed to complete mental health treatment for her personality disorder, visited the children inconsistently, threatened to kill the DCF social worker, and continued to be arrested for numerous criminal activities including possession of narcotics and burglary.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap215.pdf

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to amend the termination petition filed by DCF to include, in part, allegations that the father complied with his probation. The father further argued that by denying his motion, the trial court could not and did not consider in the adjudicatory phase of the termination proceedings whether he had achieved personal rehabilitation over the last eighteen months because in that phase, the court can review only facts and events that occurred up to the filing of the petitions or the latest amendment. First, the Appellate Court held that the trial court did not abuse its discretion in denying the motion. Although Practice Book § 35-1(c) states "any party" may file a motion to amend, allowing the father to amend DCF's termination petition would have resulted in a substantial injustice to DCF because the amendment would have required DCF to prove the father's legal position. The Court concluded that the practice book rule is usually relied on by petitioners who seek to amend petitions that they themselves have filed. Secondly, the Appellate Court held that based on caselaw and Practice Book rule § 35a-7(a) the trial court has discretion whether to consider events in the adjudicatory phase that occurred after the adjudicatory date.
http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Sheila J., 62 Conn. App. 470 (2001)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and she

failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate and the trial court, in the adjudicatory phase, improperly considered events that occurred subsequent to the filing of the termination petition. The Appellate Court held that the record amply supported the trial court's judgment because although the mother was able to care for one of her seven children, and she eventually completed domestic violence treatment, she continued to demonstrate poor judgment in her choice of partner. Furthermore, the mother sporadically visited with the child and showed little affection for her, even failing to remember her birthday. The trial court characterized the mother's relationship with the child as "limited." Secondly, the Appellate Court held that the mother's contention that the trial court considered improper events was without merit because the memorandum of decision reflected that the alleged improper sentence was just an inadvertent error and this error did not demonstrate the trial court's decision was factually or legally incorrect.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap233.pdf

In re William R., 65 Conn. App. 538 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate because it relied on the expert psychologist's testimony and the expert lacked key information. She argued that commentators have recognized that evaluations predicting future behavior are often unreliable. She further contended that the residential treatment facility would provide her in the near future with a place to be reunited with the children. The Appellate Court held that in light of the entire record, the trial court properly determined the mother failed to rehabilitate because the mother had a twenty year substance abuse history that resulted in her incarceration and the children being in foster care for years, despite the mother's successful placement in an inpatient substance abuse facility for a year. The trial court properly considered the expert's lack of certain information, but relied on the expert's opinion that as a result of the past decades of drug and alcohol abuse, the mother would require another two years of participation in the inpatient program to prepare her to parent the children safely. http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap556.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate. Specifically, the mother contended that the trial court improperly relied on an event that was not in the specific steps, namely that the mother continued to reside with the father who was still using drugs. The Appellate Court held that the evidence supported the trial court's findings because while the mother made commendable progress, including overcoming her addiction and remaining drug free, as well as complying with all of the specific steps, the mother failed to maintain adequate housing and income. The Appellate Court held that the trial court properly found that one month before the termination hearing that the mother moved out of the home she shared with the father and took steps to obtain a divorce, even though the mother had received explicit advice from DCF that regaining custody of her child depended on her living apart from the child's father until he was drug-free.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

In re Gary B., 66 Conn. App. 286 (2001)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify the children with him and that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly found he failed to rehabilitate. The Appellate Court held that the trial

court's decision was amply supported by the record because the father was incarcerated during the first couple of years while the children were in foster care, but upon his release, he failed to visit the children consistently and failed to complete the recommended services.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap598.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erred by measuring her rehabilitation from the child's perspective. The Appellate Court held that the trial court properly found that while the mother made progress in recovering from her drug addition, her personal strides were not timely enough to assist the child and that the mother was not able to understand her child's needs to be able to parent her.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Ashley S., 61 Conn. App. 658 (2001)
The trial court terminated the pro se mother's parental rights finding that the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother listed thirty six issues on appeal. The Appellate Court held that the trial court properly found the mother failed to rehabilitate. The evidence demonstrated that the mother had mental health issues and was unable to care for her three children with specialized needs during her weekly visitation with them. The mother visited them in highly structured settings for almost past two years and did not show improvement in her parenting abilities. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap194.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The parents made several unsuccessful failure to rehabilitate claims. First, the parents claimed that there was insufficient evidence to support the finding that they failed to rehabilitate. The Court held that the trial court's finding was not clearly erroneous because the evidence demonstrated that the parents have over a decade of alcohol and substance abuse. Both children have witnessed the substance abuse and domestic violence and have been in and out of DCF care numerous times. The parents have failed to remain sober despite attending numerous DCF offered substance abuse treatment programs. Secondly, the parents claimed that the trial court improperly elevated the failure to rehabilitate standard to require that the parents achieve "complete" rehabilitation. The Court held that the trial court's decision applied the proper standard in determining whether the parents' rehabilitation was foreseeable. Third, the Court rejected the parents' claim that the trial court improperly considered events occurring after the filing of the petition because nothing in the trial court's decision indicates that it relied on the events occurring prior to the adjudicatory date.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Sheena I., 63 Conn. App. 713 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, she committed an act of commission or omission and that a termination was in the best interest of the children. The mother claimed that the trial court, in finding that the mother failed to rehabilitate, improperly considered her conduct after the adjudicatory date. The Appellate Court held that it not address this claim because the mother did not also appeal the trial court's finding that she committed an act of commission or omission.

"To prevail on her claim that the court improperly terminated her parental rights, the [mother] must successfully challenge all of the bases of the judgment terminating her parental rights. If [any] of the grounds on which the trial court relied are upheld on appeal, the termination of parental rights must stand...."
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap441.pdf

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Appellate Court held that notice by publication in a previous neglect proceeding to an incarcerated father was inadequate. The trial court properly denied the failure to rehabilitate ground because the father lacked an opportunity to participate in the neglect proceedings and did not know what he needed to do to rehabilitate. Although the father's failure to receive adequate notice of the neglect petition may have violated his due process rights in that proceeding, this did not prevent the court from terminating his parental rights on abandonment.
Concurring: Spear, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Sarah Ann K., 57 Conn. App. 441 (2000)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly: (1) interpreted and applied the termination statute, and (2) found that he failed to rehabilitate. Specifically, the father asserted that, in violation of the statute as amended, DCF never provided him with specific steps to follow to facilitate the return of the child. The Appellate Court held that since DCF filed the termination petition prior to the date that the statutory amendment became effective, the former statute applied. The Court also concluded that the evidence demonstrated that DCF did provide the father with specific steps, contrary to his assertion. Secondly, the Appellate Court held that ample evidence supported the trial court's finding that the father failed to rehabilitate because the father never played a constructive role in the child's life, the father had a long history of criminal activity and incarcerations, he failed to visit his child consistently upon release from prison, and the father continued to have an alcohol problem.

In re Tyscheicka H., 61 Conn. App. 19 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that because after the termination petition was filed she entered an inpatient substance abuse treatment facility and made progress there, that her rehabilitation was foreseeable within a reasonable time. The Appellate Court held that ample evidence supported the trial court's finding because the mother failed to comply with numerous services and test positive for drugs numerous times, including when in treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap59.pdf

In re Deana E., 61 Conn. App. 197 (2000), cert. denied, 255 Conn. 941 (2001)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find he failed to rehabilitate. The Appellate Court held that the trial court's judgment was not clearly erroneous because the record showed that the father, who repeatedly physically abused his children, had ample opportunity to rehabilitate, but chose not to complete any of the parenting classes, parent aid programs, anger management courses, or men's support groups that were offered to him by DCF.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap126.pdf

In re Mariah S., 61 Conn. App. 248 (2000), cert. denied, 255 Conn. 934 (2001)
The trial court terminated the teenage mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that she was in a better position to parent her child at the time of trial than she was at the time of the child's removal. The Appellate Court held that the evidence amply supported the trial court's judgment because multiple psychologists observed the teen mother and child together and opined that the child had no real relationship with the mother and the mother failed to take advantage of the many opportunities she was offered to prepare herself for parenthood and bond with her daughter through counseling and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap112.pdf

In re Stanley D., 61 Conn. App. 224 (2000)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that he was "clearly closer" to being able to care for his child on the adjudicatory date than he was on the date the child was removed from his custody. The Appellate Court rejected the father's argument that the "simple gauge" to determine whether a parent has rehabilitated is whether the parent is "any closer" to resuming care and custody of his child. The Appellate Court held that the record contained sufficient evidence to support the trial court's conclusion that the father failed to achieve rehabilitation. Based on the record, the father did make some progress from the filing of the neglect petition to the filing of termination petition, but these positive changes were not dispositive in light of the evidence that the father violated his probation during the adjudicatory period, threatened the DCF social worker, had angry outbursts and engaged in domestic violence.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap110.pdf

In re Kasheema L., 56 Conn. App. 484 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court found she rehabilitated by acknowledging her 18 month period of recovery. The Appellate Court held that the trial court found the mother made progress in her recovery since the termination petition was filed. In considering whether the mother had achieved rehabilitation, however, the trial court properly considered only the events that occurred prior to the filing of the termination petition. Here, the evidence supported the trial court's findings because the mother was still not able to care for her children because the mother's sobriety was too fragile and the risk of relapse was too great. The Court noted that a parent who obtained a job and remained drug free is not necessarily rehabilitated.

In re Michael L., 56 Conn. App. 688 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate. The Appellate Court held that the evidence supported the trial court's judgment because while the mother maintain employment and made progress through her religious work, the court properly found the mother inconsistently attended substance abuse programs, failed to attend individual counseling and continued to use drugs. The visits were also unproductive.

In re Amber B., 56 Conn. App. 776 (2000)

The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed, in part, that the trial court considered facts occurring after the filing of the petition in the adjudicatory phase finding that he failed to rehabilitate. The Appellate Court ruled that it is axiomatic that the court can consider "factors occurring after the date of the filing of the petition to terminate parental rights when considering if additional time would promote rehabilitation" and held that here the court relied on post adjudicative facts relating to the father's alcoholism only for the dispositional determination regarding the best interests of the child. The father further claimed that the trial court lacked sufficient evidence to find he failed to rehabilitate. The Appellate Court held that the evidence sufficiently demonstrated that he had not risen to the level of being a useful parent because he had a significant alcohol problem, failed to attend parenting classes or understand the child's special needs.

In re Hector L., 53 Conn. App. 359 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed, in part, that the trial court's only evidence for finding that he failed to rehabilitate was his incarceration and that there was no other testimony presented demonstrating his own testimony regarding his rehabilitation while in prison was inaccurate. The Appellate Court held that the trial court is not bound by uncontradicted testimony and that the evidence demonstrated that his incarceration was not the sole basis of the termination. While the father could not benefit from DCF rehabilitative services while incarcerated for 6 years, the father failed to enroll in substance abuse and parenting programs available through the Department of Corrections. Moreover, indicative of the father's lack of rehabilitation he had no plans of raising the children after release from prison and he testified that he was never a "bad father" despite the fact that at the time the children were removed "he had a decade long criminal history, used a series of aliases so the police could not learn his identity, fought with police with his child in his backpack and possessed thirty-eight packets of heroin while he was shopping with his children."

In re Galen F., 54 Conn. App. 590 (1999)
The trial court terminated the father's parental rights finding that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly determined he failed to rehabilitate based on insufficient evidence. The Appellate Court held that the record amply supported the trial court's judgment because the father virtually failed to comply with the specific steps. He failed to visit the child regularly, engaged in domestic violence, was incarcerated and failed to attend substance abuse and parenting programs. Moreover, the child had an adverse negative relationship with the father and was bonded to his foster family.

In re Natalia G., 54 Conn. App. 800 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court erred in finding that he failed to rehabilitate because he was young and drug dependent and he was not offered appropriate and meaningful assistance. The Appellate Court held that DCF made reasonable efforts by referring him to psychological evaluations, substance abuse treatment and offering him visitation. The father failed to comply with any of the services and he was unable to identify the methods he believes DCF should have used to provide appropriate programs when he continued to use drugs, did not inform DCF of his whereabouts or participate in any services.

In re Tricia A., 55 Conn. App. 111 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to demonstrate she failed to rehabilitate. The Appellate Court held the judgment was proper because the mother had a long history of unsuccessful attempts at overcoming her drug addiction and despite her recent sobriety, she required more time to rehabilitate was not ready to care for children. The children had been in foster care for years and viewed their foster parents as their psychological parents.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father claimed that the trial court improperly found that he failed to rehabilitate based on him sexually abusing his own child. The Appellate Court held that the trial court's judgment was not clearly erroneous because the evidence demonstrated that the father did not acknowledge his substance abuse or sexual abuse history. He was less able to care for the child at the time of trial than he was at the time the petitions were filed because pursuant to the terms of his conviction for risk of injury he was to have no contact with the child for another three years and at the time of trial he was incarcerated for violation of his probation. He further lacked housing and income.

In re Savanna M., 55 Conn. App. 807 (1999)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed that the trial court's finding regarding his failure to rehabilitate was erroneous. The Appellate Court held that the trial court's judgment was supported by the record because although the father availed himself to substance abuse programs while incarcerated, he failed to maintain a relationship with his child before then. He also has ongoing mental health issues and further time to rehabilitate was not reasonable given that the child had been in foster care for four years and did not want to live with her father.

In re John G., 56 Conn. App. 12 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, there was no ongoing parent child relationship, she abandoned the child and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate. The Appellate Court held that the record supported the trial court's finding because the child, who suffered from cerebral palsy, was in care for thirteen years and despite DCF's efforts to engage the mother, the mother only visited the child only minimally (16 times in 6 years), failed to secure accessible housing and only participated in the child's therapy on a sporadic basis. There was no evidence that she ever learned the exercises required for his cerebral palsy condition. The trial court properly found that the mother's "failure to be involved in the life of her son for nearly a decade resulted from her own inertia, and not from the malfeasance or misfeasance of the petitioner."

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the evidence was insufficient to conclude he failed to rehabilitate. The Appellate Court held that clear and convincing evidence supported the trial court's finding that the father failed to achieve sufficient personal rehabilitation because the father had been incarcerated for most

of the child's life and he did not take advantage of substance abuse programs and parenting programs available to him. Moreover, during visitation with his child, the father spent most of his time arguing with the DCF social worker rather than spending time with his child. Nevertheless, the Appellate Court vacated part of the trial court's decision holding that the trial court abused its discretion by ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and without a showing of compelling need, the court's decision cannot be released.

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding that the father failed to achieve the personal rehabilitation required as it related to the particular needs of the child. The evidence demonstrated that the child suffered from failure to thrive and reactive attachment disorder as a result of the care or lack thereof the child received from her parents. The father lacked an understanding of the child's medical and psychiatric condition and during testimony he was unable to name her special needs or her treating physicians. Moreover, the father failed to comply with service agreements as well as the specific steps such that he failed to attend parenting classes, he only visited the child 60% of the time, and he was involved in the criminal justice system.

In re Kristina D., 51 Conn. App. 446 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to prove she failed to rehabilitate. The Appellate Court held that the trial court's finding was supported by the record. While the mother, who had a drug addiction, completed some substance abuse programs, she subsequently relapsed. The trial court also properly found that the mother was unable to remain sober outside of a structured counseling setting.

In re Tabitha T., 51 Conn. App. 595 (1999)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, no ongoing parent child relationship, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to demonstrate she failed to rehabilitate. The Appellate Court held that the record clearly supported the trial court's finding. Although a DCF social worker testified that the mother had largely complied with specific steps prior to trial, another social worker testified that the mother's compliance was inconsistent regarding attending individual therapy, maintaining housing, and demonstrating appropriate interactions with the children. The psychologist also testified that the mother's efforts were "far from effective, adequate rehabilitation."

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that a court cannot terminate a parent's rights when a parent's mental illness prevents her from rehabilitating. The Appellate Court, noting the mother cited no legal authority for her claim, held that the law makes no distinction between mentally ill parents and other parents. The statute

permits terminating a parent's rights when the parent's mental deficiency interferes with the parent's ability to care for the child. Here, the trial court properly found the mother failed to rehabilitate.

In re Danuael D., 51 Conn. App. 829 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court failed to credit certain testimony and that the evidence was insufficient to find she failed to rehabilitate. The Appellate Court rejected the mother's first claim because the trier of fact is the best person to judge a witness' credibility and to afford appropriate weight accordingly. The Appellate Court also held that the record amply supported the trial court's finding because the mildly retarded mother continued to maintain relationships with abusive men, exposed her child to the abusive relationships and while she made minimal progress while cooperating with DMR, she failed to demonstrate appropriate judgment and an ability to care for her child with specialized needs.

In re Pascacio R., 52 Conn. App. 106 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate in light of her testimony that she stopped using drugs and embraced religion. The Appellate Court held that the record amply supported the trial court's judgment. The expert psychologists testified that the mother was unable to parent children with their special needs, even with 24-hour assistance and the trial court was under no obligation to give any weight to the mother's testimony.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence because some experts testified positively regarding the mother and child's relationship. The Appellate Court held that the evidence demonstrated that during the four years that the child had been in foster care, the mother failed to believe the child's disclosure of sexual abuse, failed to protect her, failed to cooperate with police and DCF regarding the charges, and failed to seek counseling. Moreover, the mother continued a relationship with the abusive boyfriend. The statute "requires the trial court to analyze the respondent's rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time." The court weighed the various expert testimony and relied on the expert opinion concluding that the mother failed to rehabilitate. Trial courts are entitled to give great weight to professionals in termination of parental rights cases.

In re Anna B., 50 Conn. App. 298 (1998)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF failed to provide clear and convincing evidence that she failed to rehabilitate. The Appellate Court summarily held that based on the pivotal issue that the mother failed to accept that her children were sexually abused by her older children, despite her own therapy, together with her poor parenting skills and personality disorder, that the record supported the trial court's findings. The Appellate Court stated that the trial court is not required to rely solely on certain specified portions of evidence and the mother's interpretation thereof.

In re Jessica B., 50 Conn. App. 554 (1998)

The trial court terminated the mentally retarded mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that there was insufficient evidence to find that she failed to rehabilitate because she was able to care for her other child. The Appellate Court held that the trial court's finding was not clearly erroneous. The Appellate Court concluded that the failure to rehabilitate finding was *not* based on her mental retardation, but rather on her failure to comply with the court-ordered specific steps designed to help her develop an adult support network. The expert psychologist testified that the mother was not able to care for the child on her own and that her rehabilitation required a competent support system. The mother relied on the child's father who was a convicted sex offender and opposed to support services. In determining whether the parental rights of mentally retarded parent should be terminated, the proper inquiry is the parent's conduct and relationship to her children, and not her status as a mentally retarded person.

In re Roshawn R., 51 Conn. App. 44 (1998)
The trial court terminated the father's parental rights on the grounds of abandonment, failure to rehabilitate and found that a termination was in the children's best interest. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove he failed to rehabilitate regarding two of his children because the trial court denied the termination petition regarding his two other children. The Appellate Court held that the trial court's findings were not clearly erroneous because the evidence supported finding that the father failed to rehabilitate regarding the two younger children, but not the two older children. The younger children had been in foster care for nearly their entire lives and while the father recently began to make sufficient progress regarding his drug addiction and to be a good parent, the trial court found the father could not achieve a responsible role in their life because they did not have the same type of relationship with their father as the older two children.

In re Marvin M., 48 Conn. App. 563 (1998), cert. denied, 245 Conn. 916 (1998)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The Appellate Court held that the evidence of the parents' failure to rehabilitate supported the court's decision to terminate their parental rights. Clear and convincing evidence demonstrated that the parents had a long standing history with cocaine and continued to test positive, the children were in foster care for six years, and the parents failed to comply with treatment programs and parenting classes and only visited children sporadically. Moreover, the mother gave birth to another child who also tested positive for cocaine at birth, and both the mother and father were arrested for drug related charges and disorderly conduct.

In re Soncheray H., 42 Conn. App. 664 (1996)
The trial court terminated the mother's parental rights because she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that there was insufficient evidence. The Appellate Court held that the cumulative effect of the evidence supported the trial court's judgment because the mother failed to comply with court-ordered drug screenings, refused to participate in counseling for drug abuse and parenting classes, refused to maintain regular visitation with her children, often going eight months without visiting, and failed to maintain housing and income for any length of time that would permit reunification.

In re Christina V., 38 Conn. App. 214 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a

termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she failed to rehabilitate because she was able to maintain a job and she had increased visits with her children. The Appellate Court held that there was ample evidence to support the trial court's judgment because while the mother achieved some personal rehabilitation with respect to maintaining employment and being drug free, she continued to lack proper judgment, insight and understanding of her children's needs to act as a parent. Furthermore, the mother acknowledged that she was unable to provide her children with a home, that the children had been in foster care for four years and that any further delay would be unreasonable.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the there was insufficient evidence for the court to find she failed to rehabilitate herself. The Appellate Court held that the trial court's findings were not clearly erroneous because the children had been in and out of foster care for four years and during this time, the mother failed to comply with the court-ordered specific steps, she visited the children irregularly and lacked understanding regarding the children's needs.

In re Felicia D., 35 Conn. App. 490 (1994)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found that she failed to rehabilitate. The Appellate Court held that the record supported the trial court's decision. The record demonstrated that the child was sexually abused and sustained serious head injuries while in the mother's care. Although the mother was not the person who inflicted the injuries, she continuously exposed the child to dangerous men in violation of the court-ordered specific steps and refused to acknowledge that it was possible that her husband who was convicted of risk of injury likely caused the injuries.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment, failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that DCF failed to establish by clear and convincing evidence that she failed to rehabilitate and that the trial court's finding was improper because she was never notified of the specific steps and had no idea what was expected of her in terms of rehabilitation. The Appellate Court held the failure to issue specific steps does not bar a termination judgment. In this case, the trial court did not rely on the mother's failure to complete the specific steps, but relied on the mother's failure to correct the conditions that led to the children's initial commitment. Moreover, the evidence amply supported the trial court's judgment based on the psychologist's testimony that the mother's prognosis was poor due to her failure to acknowledge that her substance abuse contributed to the children's commitment.

In re Mark C., 28 Conn. App. 247, cert. denied, 223 Conn. 922 (1992)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, committed acts of commission or omission and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that there was not clear and convincing evidence that she failed to rehabilitate because the father, not her, physically and sexually abused the children. The Appellate Court held the evidence supported the trial court's findings because although the father inflicted the abuse, the

mother was not relieved of her responsibilities to protect the children. The mother continued to expose the children to the father and the mother failed to attend therapy regularly.

In re Joshua Z., 26 Conn. App. 58, cert. denied, 221 Conn. 901 (1991)
The trial court terminated the mother's parental rights finding, in part, that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court applied an incorrect legal standard because there was no evidence that the child would be in "immediate physical danger" if returned to her. The Appellate Court held that "immediate physical danger" is not a required element of a termination action and the trial court applied the correct legal standard by requiring proof of clear and convincing evidence that the mother failed to rehabilitate. The Appellate Court also held there was sufficient evidence of the mother's failure to rehabilitate.

In re Sarah M., 19 Conn. App. 371 (1989), reversed
The trial court denied the petition to terminate the parents' parental rights. DCF appealed. The Appellate Court reversed in part and remanded. DCF claimed that the trial court's findings are inconsistent with its findings that DCF did not prove the parents' failed to rehabilitate. DCF further claimed that the trial court erred in stating that DCF did not allege that no ongoing parent child relationship existed. The Appellate Court held that the evidence supported the trial court's finding that the parents rehabilitated, but that the trial court erred in determining that the "no ongoing" ground was not claimed because DCF had filed a motion to amend that ground. The Appellate Court thus found error and remanded the case for a hearing on that claim. Regarding the rehabilitation claim, the Appellate Court held that the trial court's determination was factually supported and legally correct. The trial court properly found that despite the parent's inconsistent visitation with their child who suffered from an emotional disturbance and was placed in a residential program for at least another year, the parents had sufficiently changed their circumstances to be able to resume a proper parenting role for their child in the foreseeable future. The trial court also properly concluded that the fact that both parents needed further counseling did not mean they had not sufficiently rehabilitated.

In re Davon M., 16 Conn. App. 693 (1988)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the latest statutory amendment affected the definition of the term "rehabilitation" and that the determination of what constitutes reasonable time for rehabilitation within the meaning the applicable statute was a question of law. The Appellate Court held that the mother's claims lacked merit. Without analysis, the Appellate Court concluded that "it would be untenable to construe language which requires "consideration of age and needs of child," as having a fixed legal meaning." Further, the Supreme Court has consistently held that reasonableness is a question of fact.

In re Rayna M., 13 Conn. App. 23 (1987), reversed
The trial court denied the termination of the father's parental rights based on his consent because the consent was executed seven months prior to filing of the termination petition. The trial court also denied the termination of parental rights petition as to the mother finding that she did not abandon her child, that she did not fail to rehabilitate and that there was an ongoing parent child relationship. The Appellate Court reversed. DCF claimed that the trial court improperly applied the wrong legal standard. The Appellate Court held that the trial court erroneously applied an obsolete standard in determining that the mother failed to achieve personal rehabilitation when it applied the "at some future date" standard, rather than the

"within a reasonable time" standard. The Court concluded that '[a]t some future date' is quite another test than 'within a reasonable time.' Here, the mother spent her time truck driving, rarely visited the children and did not complete the specific steps while the children remained in foster care.

In re Shavoughn K., 13 Conn. App. 91 (1987)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the evidence was insufficient for the trial court to find that she failed to rehabilitate. The Appellate Court held that ample evidence supported the trial court's finding because the mother never attended counseling for her personality disorder, was involved with the criminal justice system and failed to obtain adequate housing and visit the children consistently. To the extent that this decision holds that the adjudicatory finding of failure to rehabilitate requires the trial court to consider the statutory dispositional factors, it was overruled by *In re Barbara J., 215 Conn. 31 (1990).*

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The trial court terminated the parents' parental rights finding that they failed to rehabilitate. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that they failed to rehabilitate was clearly erroneous. The Appellate Court first held that the statutory law effective at the time of the filing of the termination petition was binding, not the amendment that was in effect at the time of the termination trial. The Appellate Court further held that the trial court's decision was not factually supported or legally correct because the evidence did not support the trial court's finding that the parents' failed to rehabilitate. The evidence, rather, showed that the child was voluntarily placed with DCF because she had serious medical problems, a chronic kidney disease. According to the transcript, the care of the child is tantamount to paramedical care, and required several hours of medical attention each day. The determination was clearly erroneous because DCF did not prove by clear and convincing evidence that the parents failed to comply with all of the expectations, together with the lack of clarity as to some of those expectations, and the use of the expectations as the sole standard for the trial court's conclusion that their parental rights should be terminated. Here, the evidence did not show that the parents, who were Spanish speaking and poor, did not attend counseling or understand the child's needs or failed to secure adequate housing. Both parents love their child, have never been physically abusive to the child, and have never engaged in any deliberate act to harm the child. Moreover, their parental limitations lie in their inability to care for a seriously ill child. "It is the child's health problems, not some personal deficiency of theirs, which caused the original commitment. The wealthy parent who cannot give daily arduous care to a severely physically handicapped child obtains the care necessary by paying for it. The affluent parent does not have his parental rights terminated because of an inability to learn how to care full-time for a physically dependent child. The low income parent who cannot cope with the daily care of such a child should be put in no different position as far as concerns the termination of his or her parental rights."

In re Juvenile Appeal (84-3), 1 Conn. App. 463, cert. denied, 193 Conn. 802 (1984), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that the mother failed to rehabilitate was clearly erroneous. The mother was mentally limited and rarely visited the child. The child did not know her and was bonded to her foster parents. The Court held, however, that the trial court's findings were not supported by the evidence and based on the record as a whole were clearly erroneous because DCF failed to show that based on the

mother's borderline intelligence she was unable to provide the necessary care to her child.

In re Juvenile Appeal (84-7), 3 Conn. App. 30 (1984)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. Without any analysis, the Appellate Court held that the evidence was sufficient to support the trial court's determination that the mother failed to rehabilitate.

FAILURE TO REHABILITATE (GROUND E)

"Under § 17a–112 (j)(3)(E), the trial court may terminate the parent's parental rights if the requirements of § 17a–112 (j)(1) and (2) have been met and "the parent of a child under the age of seven years who *is neglected or uncared for,* has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable period of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families...." *See, In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court then terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. DCF claimed, in part, that the judgment terminating the mother's parental rights should not be reversed because even if the neglect adjudication must be opened, the trial court's finding that the mother failed to rehabilitate under ground E included a new finding of neglect. DCF further claimed that the mother never raised as the issue, reversing her parental rights, on appeal. Regardless of whether the mother raised the claim on appeal, the Supreme Court held that Appellate Court properly reversed the judgment because the trial court did not render a new neglect adjudication based on its finding that the father was noncustodial.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Mia M., 127 Conn. App. 363 (2011)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate under ground E and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that the evidence as a whole supported the trial court's finding that the mother failed to rehabilitate because the mother suffered from a grave schizoaffective disorder, and continued to suffer the manifestations of her serious and long-standing mental illness. The mother was hospitalized numerous times for her mental health issues and had ongoing physical confrontations with neighbors and her mother due to her paranoid delusions that resulted in criminal charges.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP286.pdf

FAILURE TO THRIVE

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding termination was in the child's best interest because the evidence demonstrated that the child suffered from failure to thrive and reactive attachment disorder as a result of the care, or lack thereof, the child received from her parents. Failure to thrive is a condition of low body weight due to inadequate care and insufficient calorie intake that can have an adverse effect on brain development. Reactive attachment disorder is a limitation in a child's ability to attach to and interact with the adults around her. The disorder results from disturbed caretaking. The father lacked an understanding of the child's medical and psychiatric condition and during testimony he was unable to name her special needs or her treating physicians. Moreover, the psychiatrist testified that the child should be adopted by her foster mother because the child's prognosis for overcoming her reactive attachment disorder was guarded, and once a child with an attachment disorder forms an attachment, it should not be disturbed. While the child was attached to her foster mother, it does not mean that she will be able to attach to another person.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. The child was committed to DCF after allegations that child was at risk of "failure to thrive" while in the mother's care. The parents claimed that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that the parents "have not established all the prerequisites necessary in order to grant the [motion]", was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal bases for the court's decision.

FINAL JUDGMENT

"Court must always determine the threshold question of whether the appeal is taken from a final judgment before considering the merits of the claim. We also recognize, however, that there is a "gray area" between those judgments "which are undoubtedly final and others that are clearly interlocutory and not appealable. The *Curcio* rule provides that [a]n otherwise interlocutory order is appealable in two circumstances: (1) where the order or action terminates a separate and distinct proceeding, or (2) where the order or action so concludes the rights of the parties that further proceedings cannot affect them." (Internal citations and quotation marks omitted.) *See, In re Shamika F., 256 Conn. 383 (2001).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if s/he is custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In this case, DCF claimed, in part, that the father's appeal is an improper collateral attack on the original neglect adjudication because the trial court denied the father's motion to open. The Supreme Court held that because the trial court's order regarding the motion to open was internally inconsistent, it was neither a final appealable judgment, nor was it an order appealable under *State v. Curcio*. Rather, it was an interlocutory order that the father was not required or permitted to immediately appeal. Accordingly, the Court ruled that the father was allowed to appeal the trial court's inconsistent order denying his motion to open. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The trial court found that DCF's administrative decision to place a former DCF employee on the child abuse registry was unsupported by the evidence in the record and remanded the case to DCF for further reconsideration. The trial court further rejected the former employee's constitutional claims. Both the former employee and DCF appealed. The Supreme Court, on transfer held that a remand from a trial court to an administrative agency constituted a final judgment for purposes of appeal. The Court further rejected all of the former employee's constitutional claims and ruled that the trial court improperly remanded the case to the administrative agency because there was sufficient evidence to place the former employee on the child abuse registry.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court, on transfer, affirmed. The mother claimed, in part, that the trial court's order extending commitment was an unconstitutional summary proceeding because she did not have notice of the hearing and she did not have an attorney at the hearing because the attorney had withdrawn. The Court held that at the time the mother became aware of the hearing and its orders, the mother never moved to open judgment or appeal it. Rejecting the claim, the Court stated that an extension of commitment is an immediately appealable final judgment and raising the issue on appeal from a TPR was an impermissible collateral attack on a final judgment. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Darlene C., 247 Conn. 1 (1998)
Reversing the trial court's judgment enjoining the Commissioner of DCF and her designees from drafting, signing and filing termination of parental rights petitions on the basis that it constitutes an unauthorized practice of law, the Court ruled that a permanent injunction is a final judgment for purposes of appeal.
Concurring: Borden, J., Berdon, J.

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court, rejecting DCF's argument that a TPR judgment may not be reopened after the twenty day appeal period, held that a TPR is a final judgment and subject to a motion to reopen the judgment pursuant to Conn. Gen. Stat. § 52-212a. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerated this holding.
Dissent: Borden, Norcott, JJ.

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors that occurred at the time the order of temporary custody (OTC) was granted three years earlier. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. Applying the *Curcio* test to determine whether a ruling is a final judgment, the Court concluded an OTC so concluded the rights of the parties that further proceedings could not affect them because an OTC decision interferes substantially with the right to family integrity. The Court reasoned that by holding that an OTC is a final judgment and a collateral attack is impermissible, the Court is protecting the best interests of the child as well as the parent-child relationship and the important legal interests of children in family stability in either the biological or foster family.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly transferred the visitation motions to the child protection session and improperly denied their motion to dismiss. The Appellate Court held a transfer of a case to another court and a denial of a motion to dismiss are not final judgments because neither order

concludes the rights of the parties.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly litigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing to the role of the state as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. Here, the Court ruled that the parents never appealed the neglect finding and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The trial court denied the mother's motion to dismiss the order of temporary custody (OTC) and also sustained the order of temporary custody. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to dismiss the OTC because a prior trial court previously vacated the OTC. Here, one judge vacated the OTC. The second judge vacated the first judge's ruling vacating the OTC and in effect revived the previous OTC. The Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judgment to modify the previous order. "[A] judge is not bound to follow the decisions of another judge made at an earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... [O]ne judge may, in a proper case, vacate, modify, or depart from an interlocutory order or ruling of another judge in the same case, upon a question of law."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Javon R., 85 Conn. App. 765 (2004)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found DCF provided reasonable efforts. In a prior permanency plan hearing, previous to the filing of the termination petition, the trial court found that continuing efforts to reunify were no longer appropriate. The Appellate Court held that the trial court did not err because the permanency plan finding was an immediately appealable final judgment. The mother failed to appeal the finding at the time and thus could not raise the claim to collaterally attack the termination judgment. Furthermore, although the trial court did not have to make the reasonable efforts finding again, the trial court nonetheless stated in its decision that it found by clear and convincing evidence that DCF provided reasonable efforts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap2.pdf

In re Kachainy C., 67 Conn. App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate that was rendered at the extension of commitment hearing. The Appellate Court

affirmed. The mother claimed that the previous determination that continuing efforts to reunify were no longer appropriate that was made at the extension hearing was improper because it was not supported by clear and convincing evidence. The Appellate Court declined to address this claim because it was an improper collateral attack on an immediately appealable final judgment. An extension of commitment decision was a final judgment and the mother never appealed the previous determination made therein.

In re Todd G., 49 Conn. App. 361 (1998)
The trial court granted DCF's motion to extend the child's commitment. The mother appealed. DCF filed a motion to dismiss the appeal claiming the Court lacked jurisdiction because the order extending the commitment was not a final judgment, but rather an interlocutory order. The Appellate Court denied DCF's motion to dismiss holding the court order was a final judgment. In doing so, the Court reasoned that the extension of commitment order satisfies the second prong of the *Curcio* test because if an appeal was not permitted the parent-child relationship would be disrupted for a significant period of time until DCF either moved to extend commitment again or to terminate parental rights.

In re Brianna F., 50 Conn. App. 805 (1998)
DCF filed a coterminous petition and while the trial court found the adjudicatory grounds were met, the trial court denied the termination petition finding that it was not in the child's best interest. The trial court found that the child suffered serious life threatening injuries at the hands of the mother's boyfriend and the mother failed to prevent the abuse, but also determined that the mother may be able to overcome her deficient judgment. The child's attorney subsequently filed a second termination of parental rights petition alleging that the mother failed to rehabilitate. The child's attorney filed a "motion for advice" regarding the effect of the denial of the first termination on the second termination petition. The trial court ruled that collateral estoppel did not apply to the first termination judgment and that the child's attorney could not proceed directly to the best interest/dispositional phase of the termination proceeding without relitigating the adjudicatory grounds. The Appellate Court first held that "motions for advice" were not recognized in Connecticut and the Court treated it as a "motion for clarification" and ruled that the "motion for clarification" was an appealable final judgment. The Court further affirmed the trial court's ruling on the motion for advice/clarification and held that collateral estoppel did not apply to the first termination adjudication because the parent has a fundamental right to raise and care for his/her children and whenever the parent child relationship is at issue, all the relevant facts at the time of the termination petition should be considered. "The parent-child relationship presents an ongoing dynamic that cannot be frozen in time. The entire picture of that relationship must be considered whenever the termination of parental rights is under consideration by a judicial authority." Although the trial court's ruling on the motion for advice appeared inconsistent, the Appellate Court ruled that the child's attorney could introduce evidence related to the first termination proceeding to be considered in the second termination proceeding.

In re Elizabeth H., 40 Conn. App. 216 (1996)
The trial court adjudicated the child neglected, but had not proceeded to disposition. The pro se parents appealed the neglect finding. The children and DCF filed a motion to dismiss for lack of jurisdiction because the neglect adjudicatory finding was not a final judgment. The Appellate Court granted the motion to dismiss and held that although "it is difficult to devise a comprehensive definition of what constitutes a final judgment," under *Curcio*, the neglect determination was not final judgment for appeal because the adjudicatory finding alone did not end the neglect proceedings nor conclude the rights of the parties.

FINANCIAL STATUS

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The father claimed that because he was impoverished, due process required that DCF must prove grounds for a termination must exist "beyond a reasonable doubt". Rejecting legal precedent from another state, the Appellate Court held that based on our Connecticut caselaw, termination proceedings are not criminal or quasi-criminal matters and the due process did not require that the statute be declared unconstitutional or that the termination grounds be proven "beyond a reasonable doubt."

In re Bruce R., 234 Conn. 194 (1995), aff'ing, 34 Conn. App. 176 (1994), reversed trial court
The father petitioned the probate court to terminate his own parental rights via consent. On transfer from probate court to the Superior Court, the Superior Court terminated the father's parental rights. The mother appealed. The Appellate Court reversed the trial court holding that the trial court failed to consider the financial status of the parents in determining whether it was in the best interest of the children to terminate the father's parental rights. The father appealed. The Supreme Court affirmed the Appellate Court. The father claimed that the relevant statute does not require the court to consider the financial condition of the parents in determining whether a termination is in the best interest of the children. Upholding state and federal public policy regarding child support, the Supreme Court held that the legislative scheme requires the court in consensual termination of petition proceedings to find that: (1) that the consent is voluntarily and knowingly, and (2) that the termination would be in the child's best interest. Although the parents' financial condition is not dispositive, when the termination of parental rights is contested, the court must consider the financial condition in determining the child's best interest. "It would be anathema for our law to allow parents to terminate voluntarily their parental rights "solely for the purpose of evading or relieving [themselves] of responsibility to pay child support. [S]imply put, no parent may blithely walk away from his or her parental responsibilities."

FOSTER PARENTS

"It is well established that persons interested in the prospective adoption of a child have no right to intervene in the *adjudicatory* stage of a termination proceeding. The technical reason for their exclusion is that, despite their obvious concern about the out- come of a termination proceeding, they have no personal legal interest at stake and, therefore, are not entitled to intervene. The functional reason for their exclusion is that [p]etitions for termination of parental rights are particularly vulnerable to the risk that judges or social workers will be tempted, consciously or unconsciously, to compare unfavorably the material advantages of the child's natural parents with those of prospective adoptive parents and therefore to reach a result based on such comparisons rather than on the statutory criteria [that govern the adjudication of parental rights]." (Internal citations and quotation marks omitted). *See, In re Vincent D., 65 Conn. App. 658 (2001).*

Hunte v. Blumenthal, 238 Conn. 146 (1996)
The trial court denied the foster parent's declaratory relief that they were state employees entitled to state defense and indemnification in cases involving a wrongful death action against them. The Appellate Court reversed. The Appellate Court held that the foster parents were employees, and not independent contractors, because the State retains the right to control the means and methods of the work performed by the foster parents. The Court rejected the State's argument that foster parents are like biological parents, even though the rights of foster parents are limited. The Court ruled that foster families do not have the same rights as biological families or adoptive families.

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the foster mother's letters to the DCF social worker were inadmissible hearsay. The Supreme Court held that the trial court properly admitted the foster mother's letters because the foster mother had a statutory duty to report to DCF and DCF had a statutory duty to collect and maintain the records of children in foster care.

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court affirmed the trial court's ruling denying the foster parents the right to intervene in the proceedings regarding the mother's motion to reopen the TPR judgment. Applying the *Horton v. Meskill* test, the trial court properly found, as a matter of right, that the foster parents have no legal interest at stake in a TPR proceeding. The trial court also did not abuse its discretion in denying the foster parents permissive intervention because their intervention would be of little value in determining whether the TPR adjudicatory grounds are proven. Quoting *In re Juvenile Appeal, 1888 Conn. 259 (1982)*, the Court stated, "[t]he intervention of foster parents as parties at the termination stage will permit them to shape the case in such a way as to introduce an impermissible ingredient into the termination proceedings. Petitions for termination of parental rights are particularly vulnerable to the risk that judges or social workers will be tempted, consciously or unconsciously, to compare unfavorably the material advantages of the child's natural parents with those of prospective adoptive parents and therefore to reach a result based on such comparisons rather than on the statutory criteria." **Dissent:** Borden, Norcott, JJ.

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and struck the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Juvenile Appeal, 188 Conn. 259 (1983), reversed
The trial court terminated the mother's parental rights. The Appellate Court reversed. During the termination trial, over the mother's objection, the trial court permitted the foster parents to intervene as parties. The mother appealed and claimed that the foster parents' intervention denied her a fair trial. The Appellate Court reversed. The Appellate Court held the intervention of the foster parents was improper because allowing them to intervene would permit them to "shape the case in such a way as to introduce an impermissible ingredient in to the termination proceedings." Termination proceedings involve an adjudicatory phase and a best interest phase, and the best interest of the child is not a factor in the adjudicatory phase.

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal. "A colorable claim is one that is superficially well founded but that may ultimately be deemed invalid...." To prove that they had a colorable claim, the foster parents must prove that they met the four part intervention as a matter of right test. The foster parents' claim failed to prove that they had a "direct and substantial interest" in the action. Although the transfer of guardianship judgment affected them emotionally, it did not directly affect their legal rights. The Appellate Court reiterated that foster parents' rights are statutory and they do not share the same rights as biological families or adoptive families. They do not have a fundamental liberty interest in the right to family integrity. While they have a statutory right to apply for a writ of habeas corpus under Conn. Gen. Stat. § 52-466(f) and a right to be heard under Conn. Gen. Stat. § 46b-129(o), they do not a have right to intervene in neglect matters.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written

motion to revoke commitment. The Appellate Court reversed. DCF claimed that the court acted outside its statutory authority of Conn. Gen. Stat § 46b-129 (m) and (o) when it sua sponte revoked the child's commitment without notice to any of the parties or the foster parent. The Appellate Court agreed and reversed the judgment. The Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority. As written, the statutes, requiring the filing of a motion and notice to the foster parents, are intended to provide for the orderly administration of justice as well to protect the due process rights of the parties and the foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed the foster parents to intervene and by permitting them to be present during the adjudicatory phase of the termination trial. The Appellate Court held that the trial court did not abuse its discretion because it allowed the foster parents to intervene for the limited purpose of observing and commenting on disposition. Other than the foster mother's testimony as a witness, the foster parents did not participate in the termination proceedings except for their comments with respect to disposition made toward the end of the trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically nor statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent. The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. Note: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly allowed the foster parents to append the trial court's memorandum of decision to any requests for protective orders to restrain the father from contacting them. The Appellate Court agreed and vacated the trial court's order. The Appellate Court held that the trial court abused its discretion in ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and without a showing of compelling need, the court's decision cannot be released.

In re Jennifer P., 17 Conn. App. 427 (1989), cert. denied, 211 Conn. 801 (1989), reversed
The foster parent filed a motion for visitation. The trial court concluded that the foster parent did not have standing to request visitation of a child in DCF custody. The Appellate Court reversed. The Appellate Court held that Conn. Gen. Stat. § 46b-59, a third party visitation statute, applied and a foster parent had

standing. The court remanded the case for a hearing regarding whether the visitation was in the best interest of the child.

GUARDIANSHIP

"The consequences of the removal of a parent as guardian of a minor child are far from the drastic results that occur when parental rights are terminated. Removal of a parent as guardian does not terminate the parent's right to see the child and to be involved in the child's life. In fact, [our statutes] specifically provides for the visitation rights of a parent removed as guardian." (Internal citations and quotation marks omitted.) See, In re Helen B., 50 Conn. App. 818 (1998).

"To determine whether a custodial placement is in the best interest of the child, the court uses its broad discretion to choose a place that will foster the child's interest in sustained growth, development, well-being, and in the continuity and stability of its environment." (Internal citations and quotation marks omitted.) *See, In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010).*

"Section 45a-611, which provides the procedure through which a parent may seek reinstatement of guardianship of his or her child, provides in relevant part: "(b) In the case of a parent who seeks reinstatement, the court shall hold a hearing following notice to the guardian, to the parent or parents and to the minor, if over twelve years of age, as provided in section 45a-609. If the court determines that the factors which resulted in the removal of the parent have been resolved satisfactorily, the court may remove the guardian and reinstate the parent as guardian of the person of the minor, if it determines that it is in the best interests of the minor to do so. At the request of a parent, guardian, counsel or guardian ad litem representing one of the parties, filed within thirty days of the decree, the court shall make findings of fact to support its conclusions." (Internal citations and quotation marks omitted.) *See, In re DeLeon J., 290 Conn. 371 (2009).*

In re Shanaira C., 297 Conn. 737 (2010), reversed

The trial court adjudicated the child neglected and transferred sole custody to the mother. The father's girlfriend intervened. In doing so, the trial court denied the intervening girlfriend's motion to transfer guardianship and visitation and the trial court granted DCF's motion for revocation. The Appellate Court affirmed. The Supreme Court reversed. DCF and the mother claimed that the girlfriend no longer had standing to participate in the revocation proceeding because her motion to transfer guardianship and visitation were denied. The Supreme Court held that granting the girlfriend intervening status was in the best interest of the child and her standing continued throughout the dispositional proceedings including the revocation of commitment proceedings because a revocation was part of the dispositional phase of a neglect petition. As such, she also had standing to appeal the trial court's judgment. Here, the girlfriend and child shared a close relationship for two years, during which time she cared for the child and the child referred to her as "Mommy" and expressed a desire to live with her. The intervening girlfriend claimed that she had a statutory right to an evidentiary hearing and that she was deprived of that right. Pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c), the Supreme Court held that the intervening girlfriend was entitled to a full evidentiary hearing. The trial court improperly limited the intervenor's participation by not allowing her to present evidence or cross-examine witnesses. Moreover, the trial court's improper limitation of her participation was not harmless. There is no way to know how the intervenor's meaningful participation, such as calling her own witnesses and cross-examining opposing witnesses, might have affected the court's ultimate decision.

http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re DeLeon J., 290 Conn. 371 (2009)
The trial court denied the mother's motion to be reinstated as guardian. On transfer, the Supreme Court reversed. The mother claimed that the trial court violated her due process rights by failing to provide her with adequate notice of the time and date of the hearing. The record clearly demonstrated that the sole purpose of the hearing was for the court to determine whether it had jurisdiction over the matter pursuant to the UCCJEA because the child was living out of state with his father. The parties were to submit briefs and present arguments on that date. The court never indicated that it would rule on the motion to reinstate guardianship. The Supreme Court first concluded that the trial court had continuing jurisdiction under the statute because the mother continued to reside in CT although the child was living with the father out of state. The Supreme Court also held that the trial court violated the mother's procedural due process rights by improperly expanding the scope of the hearing to deny the mother's motion on the merits without providing prior notice to the mother.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR34.pdf

In re Haley B., 262 Conn. 406 (2003), reversed
The trial court denied the intervening grandmother's motion to transfer guardianship and ordered weekly visitation with the grandmother. Subsequently, DCF filed a motion for clarification of the trial court's visitation order. Responding to the motion for clarification, the trial court modified the visitation order to monthly visitation. The grandmother appealed. DCF filed a motion to dismiss the appeal as untimely. The Appellate Court granted the motion and dismissed the grandmother's appeal. The Supreme Court reversed. The grandmother claimed a new appeal period arose after the trial court modified the visitation order and accordingly her motion was timely. The Supreme Court held that the Appellate Court erred in dismissing the grandmother's appeal as untimely because the trial court's alteration of the visitation order gave rise to a new appeal and thus the grandmother's appeal was timely filed. The Supreme Court ruled that although DCF's motion was entitled a "motion for clarification," the effect of the motion was to alter or modify the original judgment, not merely clarifying it. In doing so, the Court looked at the substance of the relief sought as well as the practical effect of the trial court's ruling, not just at the form of the motion.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr29.pdf

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court erred in granting the foster parents custody solely on the basis of the bond the child developed with the foster parents even though the bond was allowed to develop due to DCF's improper conduct. The Supreme Court held that the trial court did not abuse its discretion in concluding that it was in the child's best interest to grant custody to the foster parents based on the bond and on a number of additional factors including the ability of the foster parents to maintain sibling and extended family ties, the foster parents views against corporal punishment and their amenability towards tradition therapy. On the contrary, the named testamentary guardians did not have a connection to the child's biological extended family, supported corporal punishment and favored religious intervention over therapy. DCF's alleged improper conduct did not compel appointing the named testamentary guardians as the child's legal guardians. http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and denied the intervening grandmother's motion to transfer guardianship. The Appellate Court affirmed. The mother and the grandmother claimed, in part, that the trial court improperly denied the grandmother's motion to transfer guardianship. The Appellate Court held that the trial court did not abuse its discretion because despite the grandmother great love for the child, she lacked the ability to care for the child's special needs according to the "culturally competent" psychologist. Based on the evidence of the grandmother's lack of understanding regarding the child's special needs, DCF was not required to implement the psychologist's suggestions to perform additional evaluations.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Yarisha F., 121 Conn. App. 150 (2010), reversed
The trial court denied the termination of parental rights petition and transferred guardianship of the child to the maternal great grandmother ("grandmother") pending the results of an interstate study. The interstate study later recommended against placement with the grandmother. In an articulation of its judgment, the trial court further ruled the transfer of guardianship effective regardless of the outcome of the interstate study. DCF filed a motion to open the judgment based on newly discovered evidence. The trial court denied the motion to open. The Appellate Court reversed. In this case of first impression, the Appellate Court held that the trial court erred in transferring guardianship to the grandmother in Florida without first notifying and receiving approval from Florida pursuant to the Interstate Compact on the Placement of Children ("ICPC"). Applying the rules of statutory construction to interpret, Conn. Gen. Stat. § 17a-175, the Court concluded that the plain language of the statute does not authorize sending the child out of state without the approval of an interstate study and neither does the law allow the trial court to substitute its own independent best interest findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP297.pdf

In re Brian W., 124 Conn. App. 787 (2010)
In this appeal from probate court, the trial court granted the mother's petition to reinstate guardianship back to her. The pro se grandparents appealed. The Appellate Court affirmed. The grandparents claimed that the trial court improperly found that: (1) the mother resolved the factors that resulted in her prior removal as guardian, and (2) that transferring custody to the petitioner was in the best interests of the children. The Appellate Court held that there was ample evidence to support the trial court's determination that the mother resolved the factors that caused her to be removed as the children's guardian and that transferring guardianship back to her was in the children's best interest. The evidence demonstrated that the mother and children shared a strong bond, she maintained stable housing and employment and various professionals testified regarding the children's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP46.pdf

In re A.R., 123 Conn. App. 336 (2010), reversed
DCF filed a termination of parental rights petition. The grandmother intervened and filed a motion to transfer guardianship. The trial court granted the motion to intervene, but then sua sponte dismissed the grandmother's motion to transfer guardianship because the trial court concluded that by law it was a motion to revoke commitment and the grandmother was not statutorily permitted to file a motion to revoke commitment. The intervening grandmother appealed. The Appellate Court held that the trial court erred in

dismissing, sua sponte, the intervenor's motion to transfer guardianship. Specifically, the Appellate Court reversed the trial court's ruling prohibiting an intervenor from filing a motion to transfer guardianship by incorrectly construing it as a motion to revoke commitment. According to C.G.S. § 46b-129(m), an intervening party is not permitted to file a motion to revoke commitment. Finding that the statutory scheme regarding proceedings following a neglect adjudication clear and unambiguous, the Appellate Court interpreted, C.G.S. § 46b-129(j) and P.B. § 35a-20(b) to allow an intervenor to file a motion to transfer guardianship as an appropriate way for her to request consideration as a potential guardian for the children. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP514.pdf

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal. "A colorable claim is one that is superficially well founded but that may ultimately be deemed invalid...." To prove that they had a colorable claim, the foster parents must prove that they met the four part intervention as a matter of right test. The foster parents lacked a direct and substantial interest in the action because although the transfer of guardianship judgment affected them emotionally, it did not directly affect their legal rights. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Christopher C., 129 Conn. App. 55 (2011)
The trial court adjudicated the child neglected and committed him to DCF. The intervening grandmother and the father filed a motion to transfer guardianship to the grandmother. The trial court denied the motion. The pro se father appealed. Based on the evidence demonstrating that the grandmother was an unsuitable caretaker because she did not believe her son was guilty of criminal sexual offenses that required him to be placed on the sex offender registry, the Appellate Court held that the trial court properly found that the child's safety would be jeopardized in the grandmother's care.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP427.pdf

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court denied the father's motion for contempt against DCF and motion for revocation and granted DCF's motion to transfer guardianship as well as approved DCF's permanency plan. The Appellate Court affirmed. The father claimed that the trial court abused its discretion in approving DCF's permanency plan and transferring guardianship to the grandparents because the father did nothing wrong. The Appellate Court held that the trial court did not abuse its discretion in finding that the child's best interests mandated a transfer of guardianship to the grandparents, rather than a revocation of commitment to the father. The record amply demonstrated that the child had been living with his grandparents and was happy and bonded to them. The child was also bonded to the father, but the father had very busy life with jobs and school and had no real plan for taking care of the child if he were to resume custody.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Elysa D., 116 Conn. App. 254, cert. denied, 293 Conn. 936 (2009)
The trial court granted the mother's motion to transfer guardianship to the out-of-state grandmother. The father appealed. The father claimed that the trial court improperly granted the motion and that he was

denied his due process right to effective assistance of counsel. The Appellate Court affirmed. The Appellate Court declined to review his claims because the record was inadequate for review in that the father never filed a motion for articulation or rectification. Furthermore, the father never raised the due process claim before the trial court and as such the trial court was not able to weigh the *Mathews* factors. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP400.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to revoke commitment and transfer guardianship of the child to the child's mother. The Appellate Court held that the trial court properly concluded that the mother failed to rehabilitate, thereby proving cause for commitment still existed and that a termination was in the child's best interest, thereby proving ongoing commitment was in the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. The Appellate Court summarily held that the trial court did not abuse its discretion in denying the motion because the child was bonded to his foster parents, whom he saw as his psychological parents and with whom he lived for two years. The foster parents wanted to adopt the child and the psychologist opined that it would not be in the child's best interest for him to move out of his current foster home to the home of another relative. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Karl J., 110 Conn. App. 22 (2008)
The trial court denied the mother's motion to reinstate guardianship and granted the father's motion to transfer guardianship to the aunt. The mother appealed. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion, determining that it was not in the child's best interests to reinstate the mother's guardianship. The child suffered from reactive attachment disorder and had been living with the aunt and making progress developmentally. The child was bonded to the aunt and wanted to remain there. Although the trial court found "cause for the original commitment" no longer existed, the denial of the mother's motion was in the best interests of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP458.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The parents claimed that cause for commitment no longer existed because the aunt was a suitable caretaker for the child. The Appellate Court held that the trial court's decision to deny the revocation of commitment was amply supported by the evidence because the parents were still struggling with homelessness, substance abuse and mental health problems and a transfer of guardianship to the aunt was not in the child's best interest given the child's need for permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Cameron C., 103 Conn. App. 746 (2007), cert. denied, 285 Conn. 906 (2008)
The trial court granted the father's motion to reinstate his guardianship and the grandmother appealed. The Appellate Court affirmed. The grandmother claimed that the trial court improperly applied the standard in the motion for revocation statute, Conn. Gen. Stat. § 46b-129(m) instead of the custody statute, Conn. Gen. Stat. § 46b-56(c) and that the evidence was insufficient to support reinstating the father's guardianship. The Appellate Court first held that the trial court properly construed the father's motion to transfer guardianship as a motion to revoke commitment pursuant to *In re Stacy G.* Applying the rules of statutory construction, the Court held that the best interest factors in Conn. Gen. Stat. § 46b-56(c), a dissolution statute, were inapplicable. Secondly, the Appellate Court held that the evidence demonstrated that the father met his burden of proof that "cause for commitment" no longer existed and the grandmother failed to prove that reinstatement of the father's guardianship was not in the best interest of the child. While the grandmother claimed that the trial court ignored her evidence that she cared for the child since birth for more than six years and was his psychological parent, the trial court properly found that based on the evidence presented, the father now understood his parenting responsibility and was visiting the child, consistently attended counseling sessions, completed parenting and an anger management assessment, and maintained stable employment and housing. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP103/103AP419.pdf

In re Anthony E., 96 Conn. App. 414, cert. denied 280 Conn. 914 (2006), reversed
After the children had been adjudicated neglected and sole custody was transferred to the father, the trial court later granted the mother's motion to modify custody and granted the parents shared custody. The father appealed. The Appellate Court reversed. Pursuant to Conn. Gen. Stat. § 46b-56(b), the father claimed that there was insufficient evidence of a material change in the mother's circumstances to justify the modification and that the trial court erred as a matter of law in failing to find that a change in custody was in the best interest of the children. The Appellate Court held first that there was sufficient evidence of a material change in the mother's circumstances because she maintained adequate living conditions, complied with her mental health program, recovered from substance abuse, gained employment and had adequate income and child care arrangements. The Appellate Court reversed the trial court's judgment, however, holding that the trial court misapplied the law and abused its discretion by modifying the custody order without making a finding that the modification was in the children's best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96AP351.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father asserted two claims. First, the father claimed that the trial court improperly denied his motion for continuance to obtain an independent psychological evaluation to rebut evaluations that the trial court improperly admitted into evidence. The Appellate Court held that the trial court abused its discretion in denying the father's motion for continuance because a few weeks earlier a different judge granted the father the right to release and disclose the DCF record to the independent psychologist. The trial court improperly predetermined the evidence when it denied the motion stating that an independent evaluation would not change the outcome. Secondly, the father claimed that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that

it read the evaluations just prior to rendering its decision. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Haley B., 81 Conn. App. 62 (2004), on remand
The trial court denied the grandmother's motion to transfer guardianship of the child to her. The Appellate Court affirmed. The child was placed with the grandmother while she was committed to DCF, but then removed from her care. The Appellate Court held that there was ample evidence to support the trial court's finding that it was not in the child's best interest to have guardianship transfer to the grandmother because the grandmother failed to limit the visitation between the child and her parents in violation of DCF's guidelines. The grandmother repeatedly allowed the mother to see the child without DCF's supervision. "To determine whether a custodial placement is in the best interest of the child, the court uses its broad discretion to choose a place that will foster the child's interest in sustained growth, development, well-being, and in the continuity and stability of its environment."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap125.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
The trial court sustained an order of temporary custody ("OTC") for an infant born to an eleven year old minor mother. The minor mother was in DCF's care under an OTC. In doing so, the trial court ruled that the mother to the minor mother (the grandmother to the infant), did not have standing as the minor mother's legal guardian to contest the OTC regarding the infant because the trial court appointed the minor mother a guardian ad litem ("GAL") as well as an attorney. The grandmother appealed. The Appellate Court affirmed. The grandmother claimed she had standing to contest the OTC on her minor daughter's behalf as her legal parent and legal guardian. In this case of first impression, the Appellate Court held that the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother. Specifically, between a GAL and a natural guardian, the Court ruled that a presumption exists that the court-appointed GAL is the proper person to speak for the child for the purposes of the court action, unless the GAL cannot properly fulfill the GAL role and another is better suited. The grandmother failed to show that the GAL could not properly represent the child's best interest and here the grandmother was not better suited since she allowed her eleven year old child to be sexually assaulted by a seventy five year old man as well as agreed to her child being in DCF custody. In reaching this holding, the Court recognized the general proposition that guardianship includes the responsibility to safeguard a child's best interest, the parent's constitutional right to family integrity as well as the State's interest to act as parens patriae to protect the child and further stated the right to family integrity is not absolute. "From a child's perspective, family integrity consists of nurturance and protection. It is not conceptual; rather it is practical and tangible, moment by moment." The Court also analyzed the role of a GAL verses a child's attorney. The GAL is charged with protecting the child's best interest as well the child's legal rights in the process and the GAL should refrain from acting as a second attorney for the child. "Just as it is not normally the province of the attorney to testify, it is not the province of the GAL to file briefs with the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

In re Sheena I., 63 Conn. App. 713 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, she committed an act of commission or omission and that a termination was in the best interest of the children. The

mother claimed that the trial court improperly found the termination was in the children's best interest because it should have transferred guardianship to the grandmother or aunt to preserve the biological ties. The Appellate Court held that ample evidence supports the trial court's findings that termination was in the children's best interest because the mother was incapable of providing them with a stable and caring home environment and because of the sexual and physical abuse they suffered while in the mother's care, the children require permanency in a permanent placement or adoption. Transfer of guardianship would not meet the children's best interests. In the dispositional phase of a termination proceeding, the trial court properly considers only whether the parent's parental rights should be terminated, not where or with whom a child should reside following a termination.
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap441.pdf

In re Felicia B., 56 Conn. App. 525 (2000), cert. denied, 252 Conn. 952 (2000), per curiam
The trial court terminated the father's parental rights and denied the intervening relatives motion to transfer guardianship as well as denied their motion for visitation. The Appellate Court affirmed. The Appellate Court held that the trial court properly determined it was in the children's best interest to deny guardianship and visitation because the relatives would not be able to protect the children because they did not believe the father sexually abused the children.

In re Shyina B., 58 Conn. App. 159 (2000)
The trial court granted the maternal aunt and uncle the right to intervene and adjudicated the child neglected. The trial court then transferred guardianship to the maternal aunt and uncle instead of allowing the child to remain with her foster family. The Appellate Court affirmed. DCF asserted three errors. (1) DCF claimed that the trial court improperly applied the best interest standard by attempting to remedy DCF's prior decision to not place the child with the relatives based on the aunt's prior DCF "record." The court found that DCF was not able to produce the "record" that served as the basis for denying the relatives foster care license until seven months later and the record was unsubstantiated and vague. The Appellate Court held that the trial court properly applied the best interest standard because the trial court considered the history of the relatives and their relationship with DCF as it related to the issue of whether the relatives were suitable to care for the child. This determination was clearly relevant to what placement option was in the child's best interest. (2) DCF claimed that the trial court improperly applied the best interest standard when it considered the race of the relatives as a determining factor. The Appellate Court held that the trial court did not improperly consider the race of the maternal relatives in reaching its best interest determination to grant the relatives guardianship. The trial court properly considered the African American cultural phenomenon to utilize family supports as relevant to its determination that placement with the relatives was in the child's best interests. (3) DCF claimed that the trial court improperly applied the best interest standard by imposing a legal presumption of placing the child with relatives. The Appellate Court held that the trial court did not improperly apply a presumption in favor of the maternal relatives, but rather properly applied the best interest standard and in doing so weighed the respective alternatives.

In re Alexander C., 60 Conn. App. 555 (2000)
The trial court denied the mother's motion to reinstate her guardianship of her child, thereby ruling guardianship to remain with the grandparents. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion in denying the motion because the child lived with the grandparents since infancy for six years, the grandparents were the child's psychological parents and the psychologist testified that the child needs to make significant adjustments if guardianship were transferred to

the mother. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap33.pdf

In re Denzel A., 53 Conn. App. 827 (1999)
The trial court allowed the grandmother to intervene and terminated the parents' parental rights. The Appellate Court affirmed. The grandmother claimed that a termination of parental rights was not in the child's best interest because the child should be placed with family. She also claimed that the trial court failed to consider her motion for revocation and transfer guardianship. The Court held that the court's inaction was not plain error, in part because the grandmother agreed that court did not have to address the motion.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian based on the acts of commission or omission ground. The Appellate Court affirmed. The father claimed that the trial court improperly found this ground because the evidence regarding the father's conduct did not adversely affect the child. The Appellate Court held that the father's lifestyle, marred with illegal conduct, including selling drugs, engaging in domestic violence and sexually abusing the child's half-sister, denied the child the proper care necessary for her well-being and that it was in the child's best interest to terminate the father's parental rights. The father also claimed that the trial court improperly admitted evidence of the father's arrest for drug and weapon possession because it did not result in a conviction. The Appellate court held that the trial court properly considered the evidence because a police officer with first-hand knowledge testified regarding the father's conduct as impeachment of the father's testimony and the evidence was relevant to the statutory criteria requiring removal of a parent based on parental habits or misconduct.

In re Antony B., 54 Conn. App. 463 (1999)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts and that it was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly terminated her parental rights instead of a transferring guardianship of the children to the aunt and uncle who were serving as the children's foster parents. The Appellate Court held that the trial court's judgment was supported by the record because the expert psychologist testified it was in the children's best interest to have permanency and a transfer of guardianship does not afford as much permanency as a termination of parental rights. Moreover, the children were bonded to their aunt and uncle and not as bonded to their mother and the mother failed to rehabilitate from her mental condition.

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Juvenile Appeal (85-BC), 195 Conn. 344 (1985), reversed
The children were adjudicated neglected and committed to DCF. Guardianship was then transferred to the grandmother. The mother moved to "revoke the children's commitment" to the grandmother. DCF moved to "recommit" the children back to DCF. The trial court dismissed the mother's petition because the "extension of commitment" expired and custody reverted to the mother. Both DCF and the grandmother appealed. The Appellate Court held that the trial court erred in dismissing the petition because "extensions of commitment" do not apply to cases where guardianship was transferred to a third party. The Court further ruled that Conn. Gen. Stat. § 46b-129 confers exclusive jurisdiction to the Superior Court to enter custody and guardianship orders where the custody order arose from a prior finding of neglect. Moreover, an order vesting custody or guardianship of the children to their grandmother is an order subject to modification by the court based on the best interests of the children. Reversing the court order entitles the mother to a judicial hearing for the mother to prove that no cause for "commitment" exists so that guardianship can be transferred back to her.

GUARDIAN AD LITEM

In re Johnson R., 121 Conn. App. 464 (2010), aff'd, 300 Conn 486 (2011)
The trial court terminated the father's parental rights finding a termination was in the best interest of the children. After being found incompetent, the trial court appointed the father a guardian ad litem. The Appellate Court affirmed. The father claimed that the court violated his due process rights by not requiring DCF to collaborate with the father's guardian ad litem regarding reunification efforts. The Appellate Court declined to address the father's claim because it was not preserved at trial. While the father sought *Golding* review, the Appellate Court held that the record was inadequate because the father failed to provide the reviewing court with any transcripts, exhibits, memorandum of decision or motion for articulation from the competency hearing. The father bears the responsibility for providing an adequate record for review and "if the facts revealed by the record are insufficient, unclear or ambiguous as to whether a constitutional violation has occurred, appellate court will not attempt to supplement or reconstruct the record, or to make factual determinations, in order to decide the appellant's claim."
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP349.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR48.pdf

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem ("GAL") to represent their children's best interests. The Appellate Court held that the constitution did not require that the trial court sua sponte appoint a separate GAL and as a result, the parents' unpreserved claim failed under the *Golding* analysis because they were unable to establish "a clear violation of their constitutional rights." Neither party requested a separate GAL. It is the responsibility of the child's attorney to request a separate GAL if s/he perceives a conflict of interest. Side stepping the issue of whether the children have a constitutional right to counsel, the Supreme Court affirmed the Appellate Court and held that the trial court did not have a constitutional obligation to appoint a separate GAL because the factual record did not support a finding that the trial court knew or should have known that a conflict existed between what the children wanted and what their attorney advocated for. The Supreme Court applied the test utilized in a criminal context to determine whether the trial court had a duty to inquire if an attorney conflict existed: 1) when there was a timely conflict objection at trial, or 2) when the trial court knew or reasonably should have known that a particular conflict exists.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
The trial court sustained an order of temporary custody ("OTC") for an infant born to an eleven year old minor mother. The minor mother was in DCF's care under an OTC. In doing so, the trial court ruled that the mother to the minor mother (the grandmother to the infant), did not have standing as the minor mother's legal guardian to contest the OTC regarding the infant because the trial court appointed the minor mother a guardian ad litem ("GAL") as well as an attorney. The grandmother appealed. The Appellate

Court affirmed. The grandmother claimed she had standing to contest the OTC on her minor daughter's behalf as her legal parent and legal guardian. In this case of first impression, the Appellate Court held that the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother. Specifically, between a GAL and a natural guardian, the Court ruled that a presumption exists that the court-appointed GAL is the proper person to speak for the child for the purposes of the court action, unless the GAL cannot properly fulfill the GAL role and another is better suited. The grandmother failed to show that the GAL could not properly represent the child's best interest and here the grandmother was not better suited since she allowed her eleven year old child to be sexually assaulted by a seventy five year old man as well as agreed to her child being in DCF custody. In reaching this holding, the Court recognized the general proposition that guardianship includes the responsibility to safeguard a child's best interest, the parent's constitutional right to family integrity as well as the State's interest to act as parens patriae to protect the child and further stated the right to family integrity is not absolute. "From a child's perspective, family integrity consists of nurturance and protection. It is not conceptual; rather it is practical and tangible, moment by moment." The Court also analyzed the role of a GAL verses a child's attorney. The GAL is charged with protecting the child's best interest as well the child's legal rights in the process and the GAL should refrain from acting as a second attorney for the child. "Just as it is not normally the province of the attorney to testify, it is not the province of the GAL to file briefs with the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The child was appointed a guardian ad litem. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Alexander V., 223 Conn. 557 (1992), aff'ing, 25 Conn. App. 741 (1991)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Supreme Court affirmed. The mother claimed that her right to due process required the trial court to sua sponte order a competency evaluation to determine whether a guardian ad litem is necessary. Applying the *Mathews* due process balancing test, the Supreme Court held that due process requires that a hearing be held to determine whether a parent in a termination of parental rights cases is legally competent when (1) the parent's attorney requests such a hearing, or (2) if the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte. Substantial evidence of the parent's mental impairment must exist. The Court also held that in this case the trial court was not obligated to order a competency hearing sua sponte because the evidence did not raise a reasonable doubt regarding whether the mother could understand the proceedings or assist in the presentation of her case. Although the evidence established that the respondent suffered from a personality disorder and at times exhibited

bizarre and inappropriate behavior, there was no testimony demonstrating that her disorder interfered with the mother's ability to present her case and the testimony also indicated that the mother understood the nature of proceedings. **Concurring:** Glass, Berdon, Santani-Ello, Borden, JJ.

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the GAL's/child's attorney's post-trial position statement containing extra-record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless error. Thus, the mother's claim also failed under the fourth prong of *Golding*.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Lyric H., 114 Conn. App. 582, cert. denied, 292 Conn. 921 (2009)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The child's attorney was acting as attorney and guardian ad litem and he supported the termination of parental rights petition. The mother claimed that her child was erroneously deprived of her constitutional right to conflict free legal representation because she indicated a preference for reunification. The mother further asserted that the trial court had an independent obligation to appoint a separate guardian ad litem. The Appellate Court side-stepped the issue of whether the child had a constitutional right to conflict free counsel and held that even if the Court were to assume she held such a constitutional right, the trial court did not have a duty to appoint a separate guardian ad litem sua sponte. Applying the test set forth in *In re Christina M.,* regarding whether a trial court has a duty to inquire regarding a conflict of interest, the Appellate Court held that the record in this case did not support the assertion that the trial court "knew or should have known that such a conflict existed." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP114/114AP302.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The father claimed that the child's attorney advocated for the termination contrary to one child's expressed interest and asserted that the trial court erred in denying his motion for the appointment of a separate guardian ad litem. The Appellate Court held that the trial court did not err in denying the motion because the father did not present sufficient independent evidence demonstrating that a conflict existed. The father merely stated that the child expressed to him that the child wanted to return home. Further, the child's attorney stated there was no conflict of interest and the father did not request an evidentiary hearing on the matter. The Court also held that the father failed to demonstrate how the trial court's alleged failure to appoint a separate guardian ad litem would have likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. First, the parents claimed that the trial court committed plain error by failing to appoint a separate guardian ad litem ("GAL") for the child pursuant to Conn. Gen. Stat. 46b-129a. The Appellate Court held that there was no

obvious conflict between the child's expressed wished and his attorney's position. The child expressed love and affection for the parents, but his behavior before and after visits indicated otherwise. The child was anxious, angry, aggressive and bedwetting. Furthermore, the parents failed to prove how this alleged error affected the result of the trial. The parents failed to explain how a person advocating solely for the child's best interest would have affected the outcome. Secondly, the father claimed that the trial court committed plain error by failing to appoint him a GAL pursuant to Conn. Gen. Stat. § 45a-708(a). The Court held that the trial court's alleged error did not affect the fairness or integrity of the TPR trial. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole demonstrated that the father understood the purpose of the TPR proceeding. The father was unable to demonstrate from the record that he was unable to assist his counsel at trial and there was no showing that the appointment of a GAL would have affected the outcome of the TPR judgment. Thirdly, the father claimed that the termination of parental rights violated his substantive due process rights because the trial court failed to appoint him a GAL and erroneously terminated his parental rights because of his mental impairment. The Appellate Court held that the father failed to satisfy the third prong of *Golding*, that an "alleged constitutional violation clearly exists and clearly deprived him of a fair trial." The father failed to prove a GAL was warranted because his trial attorney could have presented whatever alternative a GAL may have proposed. Moreover, the evidence showed that the parental relationship was detrimental to the child's well-being.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. The Court applied the *Mathews v. Eldrige* balancing test and stated that the "bottom line question is whether the denial rendered the trial fundamentally unfair in view of the *Mathews* factors." The Court ruled that the burden on the state in granting the continuance is slight and the risk of erroneous deprivation of the mother's parental rights outweighed the other factors. Noting the difference between the child's attorney and the guardian ad litem, the Court ruled that a continuance to obtain the transcripts were necessary to represent the children's best interest adequately. The other factor weighed was the state's primary interest in terminating proceedings to free the children for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000)
On appeal from probate court, the trial court denied the grandmother's petition to terminate the mother's parental rights and granted the grandmother guardianship. The Appellate Court affirmed. The grandmother claimed that the trial court improperly relied on the guardian of the child's estate's opinion regarding the best interest of the child. The guardian of the child's estate testified and submitted a letter advocating against terminating the mother's parental rights. The Appellate Court held that the submission of the letter was not improper and distinguished *Ireland v. Ireland* by reasoning that in this case the guardian of the estate must act in the child's best interest, but was not the child's attorney--a role that is limited to submitting argument through briefs and questioning witnesses.

In re Lori Beth D., 21 Conn. App. 226 (1990)
The probate court transferred the mother's petition to terminate the father's parental rights to the Superior Court. The Superior Court terminated the father's rights by finding that he abandoned his child. The Appellate Court affirmed. The father claimed that the trial court committed plain error by failing to appoint him a guardian ad litem based on his mental illness. The Appellate Court held that the trial court did not commit plain error because there was sufficient evidence demonstrating that the father did not appear incompetent. Furthermore, the father failed to prove that he was harmed by the trial court's alleged failure to appoint him a guardian ad litem.

HABEAS CORPUS

"General Statutes § 52-466(f) does now provide foster parents with standing to bring a habeas corpus petition. We further note that "[i]t is well settled in Connecticut law that a petition for a writ of habeas corpus is a proper procedural vehicle with which to challenge the custody of a child." *See, Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002).*

In re Jonathan M., 255 Conn. 208 (2001)
The trial court terminated the father's parental rights. The father filed a separate habeas corpus petition challenging the termination judgment claiming he was denied effective assistance of counsel. The trial court dismissed the father's habeas petition. On transfer, the Supreme Court affirmed. The father claimed that: (1) the trial court improperly concluded that he lacked standing to bring a writ of habeas corpus, and (2) due process required that he be permitted to file a habeas petition to attack collaterally the termination judgment. First, the Supreme Court held that the father had standing to file a habeas petition because the father has authority to prosecute his own ineffective assistance claim. Although after the termination of his parental rights, he was no longer the child's "legal" father, the father is the proper party to request an adjudication of the issues presented in the habeas petition because it is the termination of parental rights judgment itself that he is challenging in the habeas petition. Secondly, assuming, without deciding, that the father had a constitutional right to effective assistance of counsel at the termination proceeding, the Supreme Court concluded, nevertheless, that the writ of habeas corpus is not the appropriate vehicle by which the father may assert a claim of ineffective assistance of counsel to collaterally attack the termination judgment. Applying the *Mathews* balancing factors, the Supreme Court weighed father's right to family integrity with the State's parens patriae interest and the risk that the procedures used would lead to erroneous decisions and concluded that due process does not warrant the right to file a habeas petition. Other alternatives exist to challenge the termination judgment, including a direct appeal, or a motion to open or a petition for a new trial, except when an adoption has been finalized. "We are unwilling to infect the delicate and serious process governing the placement of foster children in permanent adoptive homes with perpetual uncertainty where the General Assembly has not directed us to do so." **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Brianna B., 66 Conn. App. 695 (2001)
The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held the foster mother in contempt. The Appellate Court affirmed. The former foster mother claimed that the nondisclosure order violated her constitutional First Amendment rights to free speech. Recognizing "the presumption of confidentiality of juvenile records, the Appellate Court held that the trial court properly limited the foster mother's First Amendment rights to disclose confidential information obtained during the course of the habeas proceedings. The court's order was narrowly tailored because it did not restrict her from speaking freely about information of which she had prior knowledge and it allowed

her permission to speak with the child advocate or her legislative representative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically nor statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent. The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. Note: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

Orsi v. Senatore, 230 Conn. 459 (1994)
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and struck the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

HARMLESS ERROR

"We have held in numerous cases that, where the facts contained in testimony admitted into evidence by an erroneous ruling are established by other evidence the ruling is harmless and does not constitute reversible error. 'The ultimate question in such a situation is whether the erroneous ruling of the court would have been likely to affect the result. (T)he appellant has the burden of establishing that there has been an erroneous ruling which was probably harmful to him." (Internal citations and quotation marks omitted.) *See, Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975).*

In re Shanaira C., 297 Conn. 737 (2010), reversed
The trial court adjudicated the child neglected and transferred sole custody to the mother. The father's girlfriend intervened. In doing so, the trial court denied the intervening girlfriend's motion to transfer guardianship and visitation and the trial court granted DCF's motion for revocation. The Appellate Court affirmed. The Supreme Court reversed. The intervening girlfriend claimed that she had a statutory right to an evidentiary hearing and she was deprived of that right. Pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c), the intervening girlfriend was entitled to a full evidentiary hearing is implicitly required when considering the proper disposition of a neglect petition, especially a contested motion for revocation. Here, the trial court limited the intervenor's participation by not allowing her to present evidence or examine witnesses. Moreover, the trial court's improper limitation of her participation was not harmless. There was no way to know how the intervenor's meaningful participation, such as calling her own witnesses and cross-examining opposing witnesses, might have affected the court's ultimate decision. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. Thirteen pages of the trial court's decision discussed the adverse inference and the Supreme Court could not find, with any certainty, that the trial court would have ruled the same way in the absence of the adverse inference. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court: (1) erroneously admitted the parents' hospital records regarding their hospitalizations for their mental illnesses as business records, and (2) erroneously relied on the court-ordered psychiatric evaluation that was never admitted into evidence. The Supreme Court held that the trial court committed error in both instances.

Nonetheless, the Court held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony.

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. Claiming *Golding* review for her unpreserved claim, the mother asserted that the trial court violated her due process rights by improperly relying on the GAL's/child's attorney's post-trial position statement containing extra record information that was never admitted into evidence. The Appellate Court held that the trial court's reliance upon the child's attorney's extra-record report was not plain error because it found the extra-record information cumulative and harmless error. Thus, the mother's claim also failed under the fourth prong of *Golding*.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly (1) admitted an anonymous report of suspected child abuse to DCF as a business record, and (2) permitted testimony regarding the children's credibility. The Appellate Court agreed and held: (1) the report contained hearsay information, and (2) that the trial court abused its discretion by allowing the social worker's testimony and the court-ordered psychologist's testimony about the children's credibility, but both errors were harmless. The Court found the first error harmless because an eyewitness to the allegations contained in the report testified and there was overwhelming evidence that the children were neglected. The second error was also harmless because the information was cumulative of properly admitted testimony. The social worker testified on direct examination without objection regarding their credibility and the court-ordered psychologist's report containing opinions about the children's credibility was admitted without objection. **Dissent:** Lavery, J. Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted information based on hearsay regarding her alcoholic husband. The Appellate Court held that while the trial court's reliance upon information deemed inadmissible hearsay was improper, the mother failed to show that the information was harmful and likely affected the result. The trial court cited the amount of alcohol consumed by the mother's husband along with the mother's improper judgment. The error was harmless and cumulative because the mother testified that she clearly knew her husband drank excessively, yet she allowed him to reside with her and the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a

termination was in the best interest of the children. The Appellate Court affirmed. The father claimed that the child's attorney advocated for the termination contrary to one child's expressed interest and asserted that the trial court erred in denying his motion for the appointment of a separate guardian ad litem. The Appellate Court held that the trial court did not err in denying the motion because the father did not present sufficient independent evidence demonstrating that a conflict existed. The father merely stated that the child expressed to him that the child wanted to return home. Further, the child's attorney stated there was no conflict of interest and the father did not request an evidentiary hearing on the matter. The Court also held that the father failed to demonstrate how the trial court's alleged failure to appoint a separate guardian ad litem would have likely affected the result. In addition, the father failed to show the harmfulness of his alternative evidentiary claim that the trial court improperly failed to qualify the children's therapist as an expert. The trial court considered the witness' testimony and still found that while the parents and children shared a loving bond that a termination of parental rights was in their best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008)
The trial court adjudicated the child neglected under the doctrine of predictive neglect. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly relied on an erroneous factual finding regarding the father picking up the mattress that the mother was lying on causing her to fall. The Appellate Court held that the alleged error was harmless in light of the other sufficient evidence demonstrating the child was predictively neglected. Here, the trial court properly adjudicated the child neglected under the doctrine of predictive neglect because at the child's birth the mother reported having thoughts of harming herself and the child. The father also suffered from suicidal thoughts and would benefit from medical treatment. The couple's martial conflict also contributed to the mother's obsessive thoughts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP95.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed
The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that it read the evaluations just prior to rendering its decision and as such the error was harmful. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his request to strike a sentence in the DCF social study as inadmissible hearsay. The Appellate Court held that the trial court did not abuse its discretion in not striking the sentence because the alleged error was harmless. Without deciding if the information was inadmissible hearsay, the Court concluded that other properly admitted evidence contained similar information and as such the alleged error would not have affected the ultimate result of the trial.

http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Sheila J., 62 Conn. App. 470 (2001)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court, in the adjudicatory phase, improperly considered events that occurred subsequent to the filing of the termination petition. The Appellate Court held that the mother's contention that the trial court considered improper events was without merit because the memorandum of decision reflected that the alleged improper sentence was just an inadvertent error and this error did not demonstrate the trial court's decision was factually or legally incorrect. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap233.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to preclude the state from calling her independent expert witness to testify. The mother's independent psychologist accidentally submitted her report to the DCF attorney and the court. The mother claimed that DCF and the court's use of her independent evaluation violated the attorney client privilege and work product rule. The Appellate Court held that any error that occurred by the trial court's denial of the motion and reliance upon the testimony or report was not an abuse of discretion because it was cumulative and harmless. The alleged error was harmless because the trial court also relied on another psychologist's testimony and report to terminate the mother's rights and thus the court had sufficient evidence without the mother's independent evaluation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed hearsay testimony within hearsay when it allowed the DCF social worker investigator to testify regarding what the child told another DCF social worker. The Appellate Court held that assuming the trial court permitted the hearsay erroneously, the mother failed to show the harmfulness of the error. The alleged error was harmless because it did not affect the result given ample properly admitted evidence that demonstrated that the child was sexually abused and neglected.

In re Galen F., 54 Conn. App. 590 (1999)
The trial court terminated the father's parental rights finding that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly admitted the social studies containing inadmissible hearsay regarding his extensive criminal history in the adjudicatory phase of the termination proceedings. The Appellate Court held that the trial court did not abuse its discretion in admitting the social studies because the hearing was not bifurcated and that Practice Book § 33-5 permits the trial court to consider events contained in the social studies in the adjudicatory phase. Moreover, the social studies were cumulative to other properly admitted evidence and as such if the admission of the social studies was improper, the alleged error was harmless error. In this case, the trial court could have reasonably concluded from other evidence that the father failed to take advantage of his opportunities to visit with his child.

In re Anna B., 50 Conn. App. 298 (1998)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted the DCF social study over her hearsay objection. Without deciding whether statements in the report were hearsay, the Appellate Court held that the challenged evidence contained in the social study was cumulative of the psychologist's testimony and the mother failed to prove that the result would have been different had the studies not been admitted. Therefore, any alleged error was harmless.

In re Angela C., 11 Conn. App. 497 (1987)
The trial court terminated the mother's parental rights finding a termination to be in the children's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly sua sponte continued the termination proceeding to allow the mother more time to rehabilitate. The mother claimed that had the court not continued the matter, there would have been insufficient evidence to terminate her parental rights at that time. The Appellate Court held that the trial court clearly found that prior to continuing the matter that there was sufficient evidence to terminate the mother's parental rights. The mother therefore failed to show that the continuance harmed her. Thus, the trial court did not abuse its discretion in granting a continuance.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the child's out-of-court statements were inadmissible hearsay. The Appellate Court held that the child's out-of-court statements were inadmissible hearsay because they were not admissions by a party opponent or verbal acts and they did not meet requirements under the residual hearsay exception. Nonetheless, in light of the additional clear evidence of abuse, namely the child's own testimony and the mother's admission that her boyfriend urinated on the child, the Appellate Court held that the error was harmless and thus not reversible.

In re Juvenile Appeal (84-7), 3 Conn. App. 30 (1984)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly took judicial notice of prior allegations of abuse in the file of the underlying neglect proceedings. The Appellate Court held that assuming arguendo that the trial court improperly took judicial notice of the file, the alleged error was harmless because there was independent evidence presented through DCF's witnesses that the mother had abused her children.

HEARSAY

"[O]ut-of-court statements offered to establish the truth of the matter asserted are hearsay. Such statements generally are inadmissible unless they fall within an exception to the hearsay rule. A hearsay statement that does not fall within one of the traditional exceptions to the hearsay rule nevertheless may be admissible under the residual exception to the hearsay rule provided that [1] the proponent's use of the statement is reasonably necessary and [2] the statement itself is supported by equivalent guarantees of trustworthiness and reliability that are essential to other evidence admitted under traditional exceptions to the hearsay rule." Conn. Code Evid. § 8-9." (Internal citations and quotation marks omitted.) *See, In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010).*

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted the DCF social worker affidavit because it had hearsay statement of other declarants. Assuming the hearsay claim was properly preserved at trial, the Appellate Court held that the trial court did not err because the statements were not hearsay because they were not offered to prove the truth of the matter asserted. On appeal, the Supreme Court held that the trial court did not err in admitting the children's hearsay statements under the residual hearsay exception. As a matter of first impression, the Court concluded that a child's out-of-court statement may be admissible under the residual hearsay exception if the child is "unavailable," and a child is "unavailable" if there is "competent evidence that the children will suffer psychological harm" by testifying. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted information based on a hearsay statement regarding her alcoholic husband. The Appellate Court held that while the trial court's reliance upon information deemed inadmissible hearsay was improper, the mother failed to show that the information was harmful and likely affected the result. The trial court cited the amount of alcohol consumed by the mother's husband along with the mother's improper judgment. The error was harmless and cumulative because the mother testified that she clearly knew her husband drank excessively, yet she allowed him to reside with her and the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Stacy G., 94 Conn. App. 348 (2006), reversed

The trial court denied the father's motion to reinstate guardianship of his child. The child was previously adjudicated neglected. The Appellate Court reversed. The father claimed, in part, that the trial court improperly admitted written psychological evaluations containing hearsay without giving the father an opportunity to cross-examine the authors. The Appellate Court held that the reports themselves were hearsay and contained hearsay information and that the trial court improperly relied on the reports that were not properly admitted into evidence. The Appellate Court concluded that while the trial court did not make specific findings regarding the contents of the evaluations, the trial court stated that it read the evaluations just prior to rendering its decision and as such the error was harmful. "We recognize, as well, that reports, including the ones at issue, sometimes may find their way, albeit improperly, into court files, particularly in family or juvenile cases. That in itself does not make them admissible evidence, nor does it entitle a trial judge to take judicial notice of them."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP94/94AP531.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed hearsay testimony within hearsay when it allowed the DCF social worker investigator to testify regarding what the child told another DCF social worker. The Appellate Court held that assuming the trial court permitted the hearsay erroneously, the mother failed to show the harmfulness of the error. The alleged error was harmless because it did not affect the result given ample properly admitted evidence that demonstrated that the child was sexually abused and neglected.

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court violated her due process rights by improperly admitting hearsay statements of the foster mother, psychologist and social worker regarding the child's disclosures of sexual abuse. Applying a *Golding* review because the hearsay statements were not objected to at trial, the Court held that the claim was not reviewable because the mother failed to prove the second prong of *Golding*, that her claim was of constitutional magnitude. Although the Court recognized the mother's constitutional right to raise her children, it ruled that "unpreserved hearsay claims do not automatically invoke constitutional rights." The mother was not allowed to put a constitutional tag on a nonconstitutional evidentiary claim.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the child's out-of-court statements were inadmissible hearsay. The Appellate Court held that the child's out-of-court statements were inadmissible hearsay because they were not admissions by a party opponent or verbal acts and they did not meet requirements under the residual hearsay exception. Nonetheless, in light of the additional clear evidence of abuse, namely the child's own testimony and the mother's admission that her boyfriend urinated on the child, the Appellate Court held that the error was harmless and thus not reversible.

In re Cynthia A., 8 Conn. App. 656 (1986)

The trial court committed the child to DCF and the mother appealed claiming, in part, that the court erred in admitting the social study containing hearsay in violation of her due process rights. The Appellate Court affirmed. The Court held that the mother could not challenge the admission of the social study because she did not object to it at trial and further introduced most of the information contained therein during trial. Upholding the judgment, the Court ruled that "[i]n juvenile proceedings certain procedural informalities are constitutionally permissible, allowing, for example, the liberal interpretation of the formal rules of evidence as long as due process standards are observed."

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not err when it admitted as evidence the children's statements as verbal acts. The children's statements, such as a threat by one child to "make love" to his five year old sister and recounting being sodomized by his father were statements demonstrating the children possessed knowledge beyond their years. The statements were relevant to the conditions in which the children lived and to an inference of the parents' acts of commission or omission.

HOUSING

In re Patricia C., 93 Conn. App. 25, cert. denied, 277 Conn. 931 (2006)
The trial court denied the mother's motion for revocation and approved DCF's permanency plan for long term foster care. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her revocation motion, in part, because at the time of the commitment the trial court said all the mother needed to do was obtain a larger apartment to be reunified with her children. At the time of the revocation the mother had a larger apartment. The Appellate Court held that the trial court did not abuse its discretion in denying the revocation motion and approving the permanency plan even though she had appropriate housing. Although the Appellate Court held that it was unclear whether the trial court ruled regarding cause for commitment continued to exist, the Appellate Court nonetheless concluded that there was ample evidence to support the trial court's finding that it was in the children's best interest to remain committed to DCF. The evidence demonstrated that the mother lacked furniture, was currently unemployed and had depression. While the parenting counselor testified she could adequately parent her children and she visited the children consistently and completed all the specific steps and the children eventually wanted to return home, the court found a continued commitment to be in their best interests because they were doing well in their foster home and bonded to their foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP100.pdf

In re Ebony H., 68 Conn. App. 342 (2002)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable efforts to reunify because DCF responded inadequately to her request for housing assistance. The Appellate Court found DCF's response to mother's request for housing shameful and unacceptable because the social worker only made one phone call to a local community agency with no follow up. Nonetheless, the evidence overwhelming supported the trial court's finding that DCF made reasonable efforts because it provided her with numerous services including substance abuse treatment, anger management and visitation. The trial court properly discounted DCF's lapse in services in light of the evidence as a whole. http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap203.pdf

IMMIGRATION

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child. While incarceration alone does not constitute abandonment, the father engaged in criminal activity that caused him to be imprisoned and later detained by immigration. His incarceration is not a valid excuse for failing to take advantage of programs that would have helped him maintain contact with his child. Not only did he not perform any of the minimal parenting obligations, such as providing financial support, maintaining regular contact and visitation, but he threatened the mother causing protective orders that precluded further contact with his son. The Court noted that termination of parental rights on the ground of abandonment may pose significant legal issues when one parent alienates the other parent from the child. However, no such showing was made in this case. To the contrary, the father's conduct as a whole demonstrates a lack of concern and interest in his child sufficient to prove abandonment. In addition, applying a plenary standard of review, the Appellate Court affirmed the trial court's denial of an incarcerated father's motion for continuance. The Court held that the denial of a continuance when the immigration authorities did not allow the father access to a telephone to participate in the TPR trial did not violate his constitutional due process rights.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

IMPEACHMENT

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

INCARCERATION OF A PARENT

"The trial court was careful to indicate that in its view imprisonment alone does not constitute abandonment or failure to rehabilitate. On the other hand, the inevitable restraints imposed by incarceration do not in them selves excuse a failure to make use of available though limited resources for contact with a distant child. . . .Although the respondent could not avail himself of the rehabilitative programs available through the department because of his incarceration, it does not excuse his failure to use the resources offered by the department of correction." *See, In re Katia M., 124 Conn. App. 650, cert. denied, 299 Conn. 920 (2010).*

In re Terrance C., 58 Conn. App. 389 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment because he was not given any assistance, a service agreement or specific steps (aka "expectations"). The Appellate Court held that the trial court properly found that the father never acknowledged paternity until 3 years after the child was born, only asked to visit his child once since his birth and while he sent him some cards, he failed to show overall concern for the child. While the father's incarceration impacts his ability to provide all the general obligations of parenthood, incarceration is not an excuse not to take advantages of available resources to demonstrate concern for one's child.

In re Lukas K., 300 Conn. 463 (2011), aff'ing, 120 Conn. App. 465 (2010)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had both abandoned the child and that there was no ongoing parent-child relationship. While incarceration alone does not constitute abandonment per se, the father's self-created imprisonment is not a valid excuse for failing to perform any of the minimal parenting obligations, such as expressing love and concern, as well as providing for the child. There was no evidence that the father was prevented from maintaining a relationship with the child for any reason other than his own actions. In addition, applying a plenary standard of review, the Supreme Court affirmed the Appellate Court's conclusion that the trial court's denial of a transcript and continuance to an incarcerated father did not violate his constitutional due process rights. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Juvenile Appeal, 187 Conn. 431 (1982)
The Supreme Court affirmed the trial court's judgment terminating the incarcerated putative father's parental rights by finding that he abandoned his child. The evidence demonstrated that the father did not provide the child any financial support before he left the state to avoid arrest. While he was incarcerated he did not show any paternal interest in the child. Although incarceration alone does not constitute abandonment, neither does it excuse the father's failure to take advantage of limited resources to contact the child.

In re Luciano B., 129 Conn. App. 449 (2011)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify, they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. In this consolidated appeal, the father claimed that DCF's efforts were unreasonable for numerous reasons, including that DCF failed to offer increased visitation, failed to communicate with the father while he was incarcerated, and failed to provide adequate case management services while he was incarcerated. The Appellate Court held that once a month visitation while the father was incarcerated was reasonable and that DCF effectively communicated to the father the need to complete domestic violence services, but the father failed to do so. Further, DCF offered what services it could while the father was incarcerated. Although visitation was the main service offered the incarcerated father, DCF also communicated with prison counselors. Prison counselors informed DCF that the father's inability to participate in counseling services while incarcerated was the direct result of an altercation he had with another inmate.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP448.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had abandoned the child. While incarceration alone does not constitute abandonment, the father engaged in criminal activity that caused him to be imprisoned and later detained by immigration. His incarceration is not a valid excuse for failing to take advantage of programs that would have helped him maintain contact with his child. Not only did he not perform any of the minimal parenting obligations, such as providing financial support, maintaining regular contact and visitation, but he threatened the mother causing protective orders that precluded further contact with his son. The Court noted that termination of parental rights on the ground of abandonment may pose significant legal issues when one parent alienates the other parent from the child. However, no such showing was made in this case. To the contrary, the father's conduct as a whole demonstrates a lack of concern and interest in his child sufficient to prove abandonment. In addition, applying a plenary standard of review, the Appellate Court affirmed the trial court's denial of an incarcerated father's motion for continuance. The Court held that the denial of a continuance when the immigration authorities did not allow the father access to a telephone to participate in the TPR trial did not violate his constitutional due process rights.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Anvahnay S., 128 Conn. App. 186 (2011)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and he failed to rehabilitate. The Appellate Court affirmed. The incarcerated father claimed that DCF did not provide him services while he was incarcerated so that he could rehabilitate and that there was insufficient evidence of any failure to rehabilitate given his not so serious problems. The Appellate Court held that DCF's efforts were reasonable although DCF did not contact the incarcerated father directly until six months after having learned of his reincarceration. While the father was on escape status, incarcerated or in a half-way house, he failed to contact DCF. "We cannot fault the department for not being able to deliver services to the [father] when he failed to inform [DCF] of his whereabouts...." DCF further informed the father to take advantage of services while in prison. Moreover, the trial court properly found that DCF reasonably relied on the grandparents to provide visitation to the father based on their willingness to do so. The father did not identify how the period "without direct contact was unreasonable where the inevitable restraint imposed by his incarceration restricted the [DCF's] ability to do little more than provide visits with

[the child]." The trial court concluded that the father failed to rehabilitate because the father lacked the ability or willingness to parent his child. He was incarcerated or his whereabouts were unknown for all but three months of the child's life. Upon release to a half-way house, he failed to notify or contact DCF and did not seek reunification with his child or participate in any services.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP349.pdf

In re Gianni C., 129 Conn. App. 227 (2011)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate. The Appellate Court affirmed. The mother was convicted of robbery and was serving four years in prison. The incarcerated mother claimed that she was a model prisoner and the court improperly found she failed to rehabilitate based on her past conduct. The Appellate Court held that the trial court's decision was amply supported by the record because although by all accounts the mother was a model of rehabilitation while incarcerated and did everything asked of her and more, the court-appointed expert psychologist opined that the mother would need to demonstrate that she could maintain herself in the community, with or without supports, for a reasonable period of time before reunification was possible. The evidence demonstrated that when and if the mother would be granted parole was uncertain. To allow the mother additional time to rehabilitate would further delay the children's need for permanence and stability. The trial court also properly considered the mother's past problems when she was not in a structured environment and the negative influence her family had on her.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP431.pdf

In re Katia M., 124 Conn. App. 650, cert. denied, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that the father was unable or unwilling to benefit from reunification efforts, DCF provided reasonable efforts, and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly terminated his rights based on his incarceration alone. The Appellate Court ruled that incarceration imposes limitations on what DCF and its social workers can do and what services it can provide for an incarcerated parent facing termination of his or her parental rights. The Court held that the trial court's decision was not clearly erroneous because the record demonstrated that given these limitations, DCF provided visitation to the father while he was incarcerated in Connecticut, but thereafter the father failed to comply with the specific steps and keep DCF aware of his whereabouts as he was transferred to different out-of-state prisons. DCF made efforts to contact him by phone and in writing. Although the father participated in substance abuse treatment and parenting classes, he did so three years into his incarceration and right before trial. Moreover, the evidence demonstrated that the father was incarcerated for the child's entire life (four years) and allowing more time to reunify was unreasonable given he was not yet released and upon release he would require housing, employment and significant time in the community to demonstrate his sobriety and to refrain from criminal activity. Thus, the findings were not predicated solely on the basis of his incarceration.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP33.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court found that she substantially complied with the specific steps and that incarceration alone cannot serve as proof of failure to rehabilitate. The mother and child shared a "powerful" bond. Here, the mother committed a robbery while intoxicated and the child was placed in foster care. While released on bond, the mother completed the specific steps and DCF's plan was reunification. The mother was then sentenced to two years in prison and DCF filed a termination petition.

The Appellate Court held that the mother's incarceration was not the sole basis for the termination. Based on the record, the trial court properly terminated the mother's rights because the mother failed to acknowledge her alcohol abuse and this raised issues about her fitness as a parent upon release from incarceration. The court also considered the amount of time that the child would be in foster care before the mother could resume a constructive role in her life.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Tremaine C., 117 Conn. App. 521, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the father's parental rights on the basis of abandonment. The Appellate Court affirmed. The father visited his child while incarcerated and for a short time after being released. The father then discontinued contact with DCF and his son and faced violation of probation charges. Neither DCF nor the criminal justice system could find him. At the onset of the termination trial, the father was defaulted. After two days of trial, the father was reincarcerated and was present at trial. DCF moved to reopen the proceedings and the trial court provided the father transcripts, granted him a continuance to prepare and allowed him to recall witnesses. The father claimed that the trial court violated his constitutional due process rights to be present and confront witnesses by not sua sponte ordering a new trial when the father resurfaced. Pursuing *Golding* review of his unpreserved claim, the Appellate Court held that the father failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived him of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the father to be low because the father chose not to be present for the termination trial. He refused to remain in contact with DCF and received proper notice of the trial and chose not to be present while he was not incarcerated. Moreover, delaying the termination proceeding for a trial de novo would place unnecessary burden on DCF's interest in furthering permanency for the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP462.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The trial court properly found that DCF proved by clear and convincing evidence that the father had abandoned the child and that terminating the father's parental rights was in the best interest of the child. Although incarceration alone does not constitute abandonment, his incarceration does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. Upon release from prison, the father's contact with his son was sporadic at best and he never provided any financial support to the child. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Alexander C., 67 Conn. App. 417 (2001), aff'd, 262 Conn. 308 (2003), per curiam
The trial court terminated the father's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court, per curiam, affirmed the Appellate Court. The father claimed that the trial court applied an incorrect legal standard when it found there was no ongoing parent child relationship because the child had been in DCF's custody since birth, as in *In re Valerie G.* The Appellate Court held that the trial court did not err because this case is distinguishable from *In re Valerie G.* Although the child was in foster case since birth, the father's actions and inactions caused the lack of relationship. The father was incarcerated for sexually abusing the child's sibling and a protective order was in place. The father never inquired about the child, contacted the social workers, sought to modify the protective order, participated in any parenting classes or counseling while incarcerated and had no positive memories of the child or desire to develop a relationship.

Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr19.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap105.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. Although incarceration alone does not constitute abandonment, his incarceration does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. The severely developmentally disabled child was 11 years old, and the father had been incarcerated for all but 10 months of the child's life. While he sent the child cards, he had not expressed an interest in visiting the child while incarcerated. Upon release from prison, he behaved violently and abused substances around the child. The father's contact with his child was sporadic at best, and he never provided financial support.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that as a whole the father's interest and concern for his son was sporadic. After the father's arrest, he had no contact with his son for five months. His subsequent requests for visits were sporadic and riddled with ambivalence, and he never recognized the child's birthday or holidays. The Appellate Court further held that the abandonment statute, Conn. Gen. Stat. § 17a-112(c)(3)(A) was not void for vagueness because it provided fair warning of the conduct expected from an incarcerated parent in order to avoid an abandonment adjudication. Both the statute and caselaw provide adequate notice. As a result, the father's unpreserved constitutional claim fails under the third prong of *Golding* requiring the father to prove a clear constitutional violation existed. The father also raised the following unpreserved constitutional claims that were all rejected by the Appellate Court because the father failed to prove that a constitutional violation existed under *Golding*: (1) the abandonment statute was unconstitutionally vague because it failed to put an incarcerated person on notice of what s/he must do to avoid a termination of parental rights, (2) the abandonment finding violated the double jeopardy clause under the Fifth Amendment of the U.S. Constitution because the termination of his parental rights punished him on the basis of his incarceration, and (3) the termination of parental rights decision violated his due process rights because DCF failed to demonstrate a compelling state interest in terminating his parental rights when DCF could have granted guardianship of the child to the maternal grandparents so that the child could be with his extended biological family.

In re Shane P., 58 Conn. App. 234 (2000)
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly found there was no ongoing parent child relationship because DCF failed to arrange visits while she was incarcerated and failed to consider the possibility of her early release from prison. The Appellate Court held that the evidence clearly supported the trial court's finding that there was no ongoing parent child relationship because although DCF failed to arrange visits for six months, the mother, not DCF caused the lack of relationship. When the mother was not in prison, the mother did not visit her son because she was using drugs. The child was bonded to his foster parents and had no present memories or feelings for his mother and the trial court did not err in not speculating regarding whether the mother would be released early.

In re Deana E., 61 Conn. App. 185 (2000)
The Appellate Court held that the trial court's judgment granting TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. Although incarceration alone does not constitute abandonment, his incarceration does not excuse his failure to demonstrate care and concern for his son or his failure to contact or visit him. The father made no effort to determine where his children were to contact them nor attempted to schedule a visit. Upon release from prison, the father made minimal effort to contact his children and any visits were brief. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Hector L., 53 Conn. App. 359 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed, in part, that the trial court's only evidence for finding that he failed to rehabilitate was his incarceration and that there was no other testimony presented demonstrating his own testimony regarding his rehabilitation while in prison was inaccurate. The Appellate Court held that the trial court is not bound by uncontradicted testimony and that the evidence demonstrated that his incarceration was not the sole basis of the termination. While the father could not benefit from DCF rehabilitative services while incarcerated for 6 years, the father failed to enroll in substance abuse and parenting programs available through the Department of Corrections. Moreover, indicative of the father's lack of rehabilitation he had no plans of raising the children after release from prison and he testified that he was never a "bad father" despite the fact that at the time the children were removed "he had a decade long criminal history, used a series of aliases so the police could not learn his identity, fought with police with his child in his backpack and possessed thirty- eight packets of heroin while he was shopping with his children." The Appellate Court further held that DCF made reasonable efforts by transporting his children to the prison for visits.

In re Roshawn R., 51 Conn. App. 44 (1998)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment, but the Appellate Court held that the trial court properly found that the father was in prison more than he was out of prison and his incarceration was due to his drug addiction and illegal activities. While incarceration alone does not constitute abandonment, neither does it excuse the father's failure to have contact or express concern for his children. While in prison, he did not take advantage of the resources to assist him to visit or maintain contact with his children. When not incarcerated, he failed to visit his children in foster care or cooperate with services, such as substance abuse treatment. The father also claimed that the evidence was insufficient to prove a termination was in the children's best interests because DCF did not provide reasonable efforts. The Appellate Court held that the trial court's findings were not clearly erroneous because the evidence supported the finding that based on the father's lifestyle of substance abuse and reoccurring incarcerations, DCF was prevented from providing services other than visitation which it did provide.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that: (1) the court lacked subject matter jurisdiction to consider the claim because DCF did not check off the abandonment box on the TPR petition, (2) she

lacked proper notice of the claim depriving her of her right to due process, and (3) the evidence was insufficient to prove abandonment. Because the accompanying TPR summary of facts adequately pled abandonment, the mother had sufficient notice of the abandonment claim against her and was not deprived of her due process rights. The court was also not deprived of subject matter jurisdiction. The Appellate Court further held that the trial court's finding was amply supported by the record because the mother inconsistently visited, rarely made phone calls to the children and never sent cards or letters. Although DCF ceased visits just before the filing of the TPR and incarceration alone does not constitute abandonment, the abandonment finding was based on the mother's sporadic contact and interest before the cessation of visitation.

In re Wayne A. II, 25 Conn. App. 536 (1991)
The father consented to the TPR on the basis of a signed stipulation that DCF would provide him with post TPR contact with his son and that DCF would endeavor to find an adoptive home that would allow post-adoption contact. After finding an adoptive home, DCF moved to have the permanency plan approved. After the contested hearing, the trial court approved the permanency plan of adoption and denied the father's motion to enforce the stipulation and instructed the father to deal with DCF extra judicially. The incarcerated father who was allowed to participate via telephone claimed that the trial court abused its discretion by violating his due process rights to be present. The Appellate Court held that the trial court did not abuse its discretion by denying the incarcerated father's motion for continuance so that he could be physically present because he fully participated via telephone.

In re Jonathan P., 23 Conn. App. 207 (1990), reversed
The trial court terminated the father's parental rights. The Appellate Court reversed. The incarcerated father claimed that the trial court violated his due process rights by starting the proceedings in his and his counsel's absence. The Appellate Court held that although the issue was not raised at trial, the claim was reviewable because the trial court committed plain error by allowing the expert witness to testify in his absence, knowing that the incarcerated father was on his way to court, in violation of statute, practice book rule, and due process. Applying the *Mathews* factors, the Appellate Court ruled that because a parent is a necessary party to a termination hearing and he had a right to be present, it was clearly improper for the trial court to proceed in the absence of the father and his counsel. "[I]t should be emphasized that, under the circumstances of this case, it would have been improper for the court to proceed before the [father] arrived at court, even if his counsel had been in the courtroom at the time."

In re Juvenile Appeal (84-6), 2 Conn. App. 705 (1984)
The trial court terminated the father's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The incarcerated father claimed that the trial court erred in finding that there was no ongoing parent child relationship because although the children have present negative memories and feelings for the father, this is proof of his ongoing parental relationship with his children. The father stabbed his daughter and wife to death in the home and the oldest child witnessed it. The children do not want to see him or talk to him and have suffered tremendously as a result of the father's terrorizing crime. For the first time, the Appellate Court held that, based on the rules of statutory construction, the phrase "feelings for the natural parent" refers to feelings of a positive nature. This language does not encompass the extreme, psychologically corrosive and destructive feelings which are evident in this situation. Thus, in the absence of any positive feelings for their father, the trial court properly determined there was no ongoing parent child relationship.

INEFFECTIVE ASSISTANCE OF COUNSEL

"Because of the substantial interests involved, a parent in a termination of parental rights hearing has the right not only to counsel, but to the effective assistance of counsel. The appellate court articulated the following standard: In determining whether counsel has been ineffective in a termination proceeding, we have enunciated the following standard: The range of competence . . . requires not errorless counsel, and not counsel judged ineffective by hindsight, but counsel whose performance is reasonably competent, or within the range of competence displayed by lawyers with ordinary training and skill in [that particular area of the] law. . . . The respondent must prove that [counsel's performance] fell below this standard of competency and also that the lack of competency contributed to the termination of parental rights. . . . A showing of incompetency without a showing of resulting prejudice . . . does not amount to ineffective assistance of counsel.'' (Internal citations and quotation marks omitted.) *See, In re Dylan C., 126 Conn. App. 71 (2011).*

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The children's dually appointed attorney and GAL advocated for the termination despite the fact that the children wanted to return to the care of their parents. The parents claimed, in part, that the children's attorney's failure to request a separate attorney to advocate for the children's best interest as a GAL violated their children's constitutional rights. The Appellate Court held that the parents could not prevail on their ineffective assistance of counsel claim on behalf of their children because it was not raised at the trial level. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The trial court terminated the father's parental rights. The father filed a separate habeas corpus petition challenging the termination judgment claiming he was denied effective assistance of counsel. The trial court dismissed the father's petition. On transfer, the Supreme Court affirmed. The father claimed that: (1) the trial court improperly concluded that he lacked standing to bring a writ of habeas corpus, and (2) due process required that he be permitted to file a habeas petition to attack collaterally the termination judgment. First, the Supreme Court held that the father had standing to file a habeas petition because the father has authority to prosecute his own ineffective assistance claim. Although after the termination of his parental rights, he was no longer the child's "legal" father, the father is the proper party to request an adjudication of the issues presented in the habeas petition because it is the termination of parental rights judgment itself that he is challenging in the habeas petition. Secondly, assuming, without deciding, that the father had a constitutional right to effective assistance of counsel at the termination proceeding, the Supreme Court concluded, nevertheless, that the writ of habeas corpus is not the appropriate vehicle by which the father may assert a claim of ineffective assistance of counsel to collaterally attack the termination

judgment. Applying the *Mathews* balancing factors, the Supreme Court weighed the father's right to family integrity with the State's parens patriae interest and the risk that the procedures used would lead to erroneous decisions and concluded that due process does not warrant the right to file a habeas petition. Other alternatives exist to challenge the termination judgment, including a direct appeal, or a motion to open or a petition for a new trial, except when an adoption has been finalized. "We are unwilling to infect the delicate and serious process governing the placement of foster children in permanent adoptive homes with perpetual uncertainty where the General Assembly has not directed us to do so." **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Alexander V., 223 Conn. 557 (1992), aff'ing, 25 Conn. App. 741 (1991)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Supreme Court affirmed. The mother also claimed that she was denied her right to effective assistance of counsel because the mother's counsel failed to raise the issue of competency at trial. The Supreme Court held that the mother' ineffective assistance of counsel claim fails because the evidence of the mother's sometimes bizarre and inappropriate behavior would not necessarily have prompted a lawyer of ordinary training and skill to raise the issue of the mother's competency and as such her attorney did not act unreasonably in failing to request a competency hearing. **Concurring:** Glass, Berdon, Santani-Ello, Borden, JJ.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother claimed that she was denied effective assistance of counsel. Though her claim was not properly preserved, the Supreme Court reviewed the claim anyway to examine whether no substantial injustice had been done. As a matter of first impression, the Supreme Court held that the constitutional right to effective assistance of counsel in criminal matters does not apply to respondents in termination of parental rights cases. The parents are however entitled to a statutory right of effective assistance of counsel. Because of the substantial interests involved, a parent in a termination of parental rights hearing has the right not only to counsel, but to the effective assistance of counsel. The Court enunciated the test to be applied: "The range of competence ... requires not errorless counsel, and not counsel judged ineffective by hindsight, but 'counsel whose performance is reasonably competent, or within the range of competence displayed by lawyers with ordinary training and skill in (that particular area of the) law.' The defendant must, moreover, demonstrate that the lack of competency contributed to the termination of parental rights." The Court held that the mother failed to prove her ineffective assistance of counsel claim because the mother failed to demonstrate that the trial counsel's failure to make merely pro forma motions to correct or dismiss the termination petition negatively affected the outcome of the case.

In re Christopher C., 129 Conn. App. 55 (2011)
The trial court adjudicated the child neglected and committed him to DCF. The intervening grandmother and the father filed a motion to transfer guardianship to the grandmother. The trial court denied the motion. The pro se father appealed and claimed, in part, that he was denied effective assistance of counsel. He specifically claimed that his attorney failed to cross-examine witnesses aggressively, that she did not contact fifty-five witnesses he had proposed and that his attorney prevented him from testifying. The Appellate Court denied the father's claim because the father failed to meet his burden of proving that any alleged inadequacy of his trial counsel affected the outcome of neglect proceedings, particularly the denial of the transfer of guardianship motion. Based on the evidence demonstrating that the grandmother was an

unsuitable caretaker because she did not believe her son was guilty of criminal sexual offenses that required him to be placed on the sex offender registry, the Appellate Court held that the trial court properly found that the child's safety would be jeopardized in the grandmother's care.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP427.pdf

In re Dylan C., 126 Conn. App. 71 (2011)
The trial court terminated the mother's parental rights on the ground that she failed to rehabilitate. The Appellate Court affirmed. On appeal, the pro se mother claimed that she received ineffective assistance of counsel. The Appellate held that the claim was not preserved and was inadequately briefed, yet ruled that the mother failed to demonstrate that any alleged deficiency in her legal representation resulted in prejudice. The Court further concluded that the evidence showed instead that the mother's own conduct, not that of her lawyer, were responsible for the termination of her parental rights. Moreover the record did not reflect that the mother notified the court that she was receiving ineffective assistance of counsel, or that she requested alternative counsel.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP165.pdf

In re Mariah S., 61 Conn. App. 248 (2000), cert. denied, 255 Conn. 934 (2001)
The trial court terminated the teenage mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The mother claimed that her trial counsel was ineffective because she failed to seek an administrative remedy to secure more favorable visitation. The Appellate Court held that the record demonstrated it was the teen mother's own resistance to DCF that prevented her from benefitting from DCF's reunification efforts that served as a basis for the termination of parental rights. The Court concluded that the mother failed to meet her burden of proving that any alleged inadequacy of counsel affected the outcome of the termination proceedings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap112.pdf

In re Amanda A., 58 Conn. App. 451 (2000)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that her due process rights were violated by her trial attorney's ineffective assistance of counsel by failing to request a competency hearing and an appointment of a guardian ad litem. The Appellate Court held that the mother's due process claim fails because she failed to prove that the evidence would have raised a reasonable doubt in the mind of the trial judge and consequently the trial attorney as to whether the mother understood the proceedings or could have assisted her counsel in her defense. The evidence of incompetency had to be substantial enough to support the conclusion that requesting a competency hearing was the only course of action a reasonably effective lawyer would have pursued. Moreover, the mother failed to present sufficient evidence regarding the standard of competency for attorneys in this field and whether the trial attorney's conduct fell below the standard. The Appellate Court suggested that a parent may pursue an ineffective assistance of counsel through an adversarial hearing similar to a habeas corpus proceeding. But see, In re Jonathan M., 225 Conn. 208 (2001).

In re Matthew S., 60 Conn. App. 127 (2000)
The Appellate Court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the child's best interest. The Appellate Court affirmed. The father claimed his counsel was ineffective, in part, because he did not offer an alternative dispositional plan. The Appellate Court found the claim baseless and held that any alleged deficiencies in his counsel's representation did not affect the outcome given the overwhelming evidence that supported the court's judgment. Here, the father barely

visited the child during the three years he was in foster care and when the father was incarcerated he never requested visits. There was no existing parental bond and the father failed to comply with rehabilitative services. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap526.pdf

INJUNCTIVE RELIEF

"To obtain injunctive relief, the applicants must demonstrate that they would suffer irreparable harm and that they lack an adequate remedy at law." *See, Manifold v. Ragaglia, 102 Conn. App. 315 (2007).*

In re Darlene C., 247 Conn. 1 (1998)
The trial court, sua sponte, enjoined the Commissioner of DCF and her nonlawyer designees from drafting, signing and filing termination of parental rights petitions on the basis that it constitutes an unauthorized practice of law. On transfer, the Supreme Court reversed the judgment. The Supreme Court held that the trial court improperly enjoined the Commissioner and her designees because both the statutes and practice book rules authorized the social workers to file petitions in court and, therefore, such activities did not constitute the unauthorized practice of law. **Concurring:** Borden, J., Berdon, J.

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the trial court granted DCF's motion for summary judgment finding that DCF and the social workers were statutorily immune from suit by the parents and their children claiming infliction of emotional distress after DCF removed the children from the home for 5 days via a 96 hour hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease. The trial court further denied the parents' and children's motion for injunctive relief directing (1) DCF to expunge all of its records relating to them, and (2) DCF "to inform its investigators of the facts and circumstances attending wrongful removals, so that injury to similar families can be averted." The Appellate Court affirmed. The Appellate Court upheld the finding that DCF and its social workers were statutorily immune because the parents failed to show that they acted wantonly, recklessly and maliciously even though DCF removed the children without any direct evidence of abuse and precluded any testing regarding blood disorders. Regarding the injunction, the trial court properly denied the injunctive relief to expunge their records because the parents failed to exhaust their administrative remedies and properly denied the relief to instruct the social workers because the parents failed to allege that DCF failed to educate their social workers regarding wrongful removals.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue. The issue of venue was waived because DCF included venue as a basis in its objection to the child's application. Distinguishing *In re Elisabeth H.,* the Appellate Court further held that the matter was not moot because although the child

turned eighteen, the court may still provide her practical relief based on the agreement between the parties preceding the application for temporary injunction. Moreover, the record does not reflect whether the placement is appropriate. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Jeffrey C., 64 Conn. App. 55 (2001), rev'd on other grounds, 261 Conn. 189 (2002)
After granting DCF's motion to open and modify the disposition of the children to commitment, the court also granted DCF's motion to hold the father in contempt for failing to comply with the specific steps. The trial court also issued a temporary restraining order. The Appellate Court reversed the trial court's judgment holding the father in contempt for failing to comply with the specific steps. The Supreme Court reversed the Appellate Court and upheld the trial court's finding of contempt. Regarding the restraining order, on appeal, the father claimed that the trial court improperly issued the temporary restraining order prohibiting him from having contact with the children. The Appellate Court declined to address his claim because it was moot. Although the father contended that the 'capable of repetition yet evading review' exception applied, the Appellate Court ruled that the temporary restraining order expired by its own terms and the Court was unable to offer him any practical relief and that the matter was not one of public importance. Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

INTERLOCUTORY ORDERS

"In determining whether a decision by a trial court is a final judgment for purposes of appellate review, we rely on the standard articulated in *State v. Curcio.* That standard permits the immediate appealability of an order "in two circumstances: (1) where the order or action terminates a separate and distinct proceeding, or (2) where the order or action so concludes the rights of the parties that further proceedings cannot affect them." (Internal citations and quotation marks omitted.) *See, In re Todd G., 49 Conn. App. 361 (1998).*

"A decision of a trial judge that is res judicata binds a subsequent judge, but a decision that is interlocutory does not limit the power of a subsequent judge to decide otherwise under appropriate circumstances." *See, In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if s/he is custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In this case, DCF claimed, in part, that the father's appeal is an improper collateral attack on the original neglect adjudication because the trial court denied the father's motion to open. The Supreme Court held that because the trial court's order regarding the motion to open was internally inconsistent, it was neither a final appealable judgment, nor was it an order appealable under *State v. Curcio.* Rather, it was an interlocutory order that the father was not required or permitted to immediately appeal. Accordingly, the Court ruled that the father was allowed to appeal the trial court's inconsistent order denying his motion to open.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf;
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The trial court denied the mother's motion to dismiss the order of temporary custody (OTC) and also sustained the order of temporary custody. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to dismiss the OTC because a prior trial court previously vacated the OTC. Here, one judge vacated the OTC. The second judge vacated the first judge's ruling vacating the OTC and in effect revived the previous OTC. The Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judgment to modify the previous order. "[A] judge is not bound to follow the decisions of another judge made at an

earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... [O]ne judge may, in a proper case, vacate, modify, or depart from an interlocutory order or ruling of another judge in the same case, upon a question of law." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Todd G., 49 Conn. App. 361 (1998)
The trial court granted DCF's motion to extend the child's commitment. The mother appealed. DCF filed a motion to dismiss the appeal claiming the Court lacked jurisdiction because the order extending the commitment was not a final judgment, but rather an interlocutory order. The Appellate Court denied DCF's motion to dismiss holding the court order was a final judgment. In doing so, the Court reasoned that the extension of commitment order satisfies the second prong of the *Curcio* test because if an appeal was not permitted the parent-child relationship would be disrupted for a significant period of time until DCF either moved to extend commitment again or to terminate parental rights.

INTERSTATE COMPACT

In re Emoni W., 129 Conn. App. 727, cert. granted, 302 Conn. 917 (2011)
After DCF removed the children from their mother, the trial court granted DCF an order of temporary custody. The children's father was noncustodial and lived out of state. He maintained a relationship with the children and at the OTC moved for custody. The trial court ruled that an interstate study was required before the children could be placed with their noncustodial out-of-state father. The father and the children appealed. During the pendency of the appeal, the interstate study was completed and recommended placement with the father. The trial court then placed the children with the father. The Appellate Court held that it lacked subjected matter jurisdiction to address the father and children's claim that the interstate compact does not apply to out-of-state parents because it was moot. All the parties agreed the claim was moot, but was reviewable under the "capable of repetition yet evading review" exception. The Appellate Court held that the case was moot and the "capable of repetition yet evading review" exception did not apply. Although the Court acknowledged the importance of this issue and that interstate studies can delay reunification of noncustodial parents and children, the Court stated that because the issue was moot, it would be improperly rendering an advisory opinion if it were to decide the issue. **Dissent:** Bishop, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493E.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate, and denied the intervening grandmother's motion to transfer guardianship. The Appellate Court affirmed. The mother and grandmother claimed, in part, that the trial court improperly failed to order an interstate study of the out-of-state grandmother as required by statute. The Appellate Court, in a footnote, held that it did not need to decide whether the statutory provision requiring an interstate study of a relative pursuant to Conn. Gen. Stat. § 46b-129(d)(2) applied because it came into effect after the filing of the grandmother's motion to intervene. Moreover, the Appellate Court concluded that the trial court properly found that the grandmother was not a suitable placement for the medically complex child base upon DCF's own assessment of the grandmother's suitability as a relative placement.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Yarisha F., 121 Conn. App. 150 (2010), reversed
The trial court denied the termination of parental rights petition and transferred guardianship of the child to the maternal great grandmother ("grandmother") pending the results of an interstate study. The interstate study later recommended against placement with the grandmother. In an articulation of its judgment, the trial court further ruled the transfer of guardianship effective regardless of the outcome of the interstate study. DCF filed a motion to open the judgment based on newly discovered evidence. The trial court denied the motion to open. The Appellate Court reversed. In this case of first impression, the Appellate Court held that the trial court erred in transferring guardianship to the grandmother in Florida without first notifying and receiving approval from Florida pursuant to the Interstate Compact on the Placement of Children ("ICPC"). Applying the rules of statutory construction to interpret, Conn. Gen. Stat. § 17a-175, the Court concluded that the plain language of the statute does not authorize sending the child out of state without the approval of an interstate study and neither does the law allow the trial court to substitute its

own independent best interest findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP297.pdf

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed, claiming, in part, that the evidence was insufficient to support the judgment. The Appellate Court affirmed. The Appellate Court held that the judgment committing the child to DCF was legally correct and factually supported. Although the court in its order stated that placement would be with the grandmother in Puerto Rico, the child was legally committed to DCF. The court's statement was merely a suggestion to DCF, not an order, to place the child there as it was in her best interest. Contrary to the mother's assertion, the suggestion that the child be placed in Puerto Rico was not a de jure or de facto termination of the mother's parental rights because Connecticut retained jurisdiction pursuant to the Interstate Compact.

In re Emoni W. et al., 305 Conn. 723 (2012)
After the DCF was granted an Order of Temporary Custody, the noncustodial father, who lived in Pennsylvania, appeared in court and sought to take custody of the children. DCF objected, contending that it had to proceed according to the Interstate Compact on the Placement of Children and have the father's home evaluated for fitness by a local child welfare agency, pursuant to Conn. Gen. Stat. § 17a-175. The trial court agreed, prompting an appeal by the father and the children. The children were placed with the father after an interstate placement study while the appeals were pending, and the Appellate Court ruled that the matter was moot and not capable of repetition but evading review. The Supreme Court reversed, finding that the only disputed prong of the mootness exception, whether the challenged action was sufficiently limited in duration so as to evade review, did apply. Father had challenged application of the ICPC to him as a matter of statutory construction and as a violation of his substantive due process right to parent his children. The Court ruled that while the statutory argument would not evade review, in cases where the noncustodial parent ultimately obtained custody through the ICPC, that parent would suffer an interruption in his right to parent his children that constituted a substantive due process violation. Since parents who were found unfit through the ICPC could not raise such a challenge, the Court reasoned, the constitutional issue would potentially never be resolved. The Court went on to rule that § 17a-175 is not applicable to noncustodial parents, based on a reading of the plain language of the statute, but that a noncustodial parent "must appear at the preliminary hearing concerning the placement of the child, answer questions and agree to reasonable conditions on the placement of the child with the parent. Moreover, when there is evidence before the court that an out-of-state noncustodial parent is unfit, the parties agree that the court should not place a child with the parent without ordering an investigation into the parent's fitness. They disagree only about whether the petitioner can conduct that investigation or, instead, the analogous agency in the receiving state must conduct it pursuant to § 17a-175." Justics McLachlan, with Zarella joining, dissented, reasoning (1) that the noncustodial parent could refuse the ICPC home study and bring a declaratory judgment action in which he raised the constitutional argument; and (2) that a noncustodial parent who was denied custody by the receiving state could, in fact, challenge the determination as a violation of his substantive due process right.

INTERVENTION

"In order for a proposed intervenor to establish that it is entitled to intervene as a matter of right, the proposed intervenor must satisfy a well established four element conjunctive test: [T]he motion to intervene must be timely, the movant must have a direct and substantial interest in the subject matter of the litigation, the movant's interest must be impaired by disposition of the litigation without the movant's involvement and the movant's interest must not be represented adequately by any party to the litigation.... Failure to meet any one of the four elements, however, will preclude intervention as of right." (Internal citations and quotation marks omitted.) *See, In re Joshua S., 127 Conn. App. 723 (2011).*

"In determining whether to grant a request for permissive intervention, a court should consider several factors: the timeliness of the intervention, the proposed intervenor's interest in the controversy, the adequacy of representation of such interests by other parties, the delay in the proceedings or other prejudice to the existing parties the intervention may cause, and the necessity for or value of the intervention in resolving the controversy. A ruling on a motion for permissive intervention would be erroneous only in the rare case where such factors weigh so heavily against the ruling that it would amount to an abuse of the trial court's discretion." (Internal citations and quotation marks omitted.) *See, In re Baby Girl B., 224 Conn. 263 (1992).*

In re Shanaira C., 297 Conn. 737 (2010), reversed

The trial court adjudicated the child neglected and transferred sole custody to the mother. The father's girlfriend intervened. In doing so, the trial court denied the intervening girlfriend's motion to transfer guardianship and visitation and the trial court granted DCF's motion for revocation. The Appellate Court affirmed. The Supreme Court reversed. DCF and the mother claimed that the girlfriend no longer had standing to participate in the revocation proceeding because her motion to transfer guardianship and visitation were denied. The Supreme Court held that granting the girlfriend intervening status was in the best interest of the child and her standing continued throughout the dispositional proceedings including the revocation of commitment proceedings because a revocation was part of the dispositional phase of a neglect petition. As such, she also had standing to appeal the trial court's judgment. Here, the girlfriend and child shared a close relationship for two years, during which time she cared for the child and the child referred to her as "Mommy" and expressed a desire to live with her. The intervening girlfriend claimed that she had a statutory right to an evidentiary hearing and that she was deprived of that right. Pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c), the Supreme Court held that the intervening girlfriend was entitled to a full evidentiary hearing. The trial court improperly limited the intervenor's participation by not allowing her to present evidence or cross-examine witnesses. Moreover, the trial court's improper limitation of her participation was not harmless. There is no way to know how the intervenor's meaningful participation, such as calling her own witnesses and cross-examining opposing witnesses, might have affected the court's ultimate decision.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court affirmed the trial court's ruling denying the foster parents the right to intervene in the proceedings regarding the mother's motion to reopen the TPR judgment. Applying the *Horton v. Meskill* test, the trial court properly found, as a matter of right, that the foster parents have no legal interest at stake in a TPR proceeding. The trial court also did not abuse its discretion in denying the foster parents permissive intervention because their intervention would be of little value in determining whether the TPR adjudicatory grounds are proven. Quoting *In re Juvenile Appeal, 1888 Conn. 259 (1982)*, the Court stated, "[t]he intervention of foster parents as parties at the termination stage will permit them to shape the case in such a way as to introduce an impermissible ingredient into the termination proceedings. Petitions for termination of parental rights are particularly vulnerable to the risk that judges or social workers will be tempted, consciously or unconsciously, to compare unfavorably the material advantages of the child's natural parents with those of prospective adoptive parents and therefore to reach a result based on such comparisons rather than on the statutory criteria." **Dissent:** Borden, Norcott, JJ.

In re Juvenile Appeal, 188 Conn. 259 (1983), reversed
The trial court terminated the mother's parental rights. The Appellate Court reversed. During the termination trial, over the mother's objection, the trial court permitted the foster parents to intervene as parties. The mother appealed and claimed that the foster parents' intervention denied her a fair trial. The Appellate Court reversed. The Appellate Court held that the intervention of the foster parents was improper because allowing them to intervene would permit them to "shape the case in such a way as to introduce an impermissible ingredient into the termination proceedings." Termination proceedings involve an adjudicatory phase and a best interest phase, and the best interest of the child is not a factor in the adjudicatory phase.

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal. "A colorable claim is one that is superficially well founded but that may ultimately be deemed invalid...." To prove that they had a colorable claim, the foster parents must prove that they met the four part intervention as a matter of right test. The foster parents' claim failed to prove that they had a "direct and substantial interest" in the action. Although the transfer of guardianship judgment affected them emotionally, it did not directly affect their legal rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial erred in allowing the grandparents to intervene and participate in the termination trial beyond the scope of the dispositional phase. The Appellate Court held that P.B. § 35-4 did not apply to grandparents and the trial court properly ruled on the mother's objections that the grandparents were participating in the adjudicatory phase by finding that the matters related to the

dispositional phase. Moreover, the mother failed to demonstrate how the alleged was harmful.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the pro se mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. DCF claimed that the scope of the grandmother's intervention was ambiguous because the trial court merely stated her intervention was "for dispositional purposes only" and did not specify if her intervention was just for the neglect case. The Appellate Court affirmed. The mother and grandmother appealed. The Appellate Court held that the intervening grandmother had standing to appeal the denial of the mother's motion to transfer guardianship to her because the court properly allowed the grandmother to intervene as a party, treated the motion as a jointly filed motion and the grandmother was aggrieved by the court's denial. The Appellate Court also summarily held that the trial court did not abuse its discretion in denying the motion to transfer guardianship because the child was bonded to his foster parents, whom he saw as his psychological parents and with whom he lived for two years. The foster parents wanted to adopt the child and the psychologist opined that it would not be in Anthony's best interest for him to move out of his current foster home to the home of another relative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Vincent D., 65 Conn. App. 658 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed the foster parents to intervene and by permitting them to be present during the adjudicatory phase of the termination trial. The Appellate Court held that the trial court did not abuse its discretion because it allowed the foster parents to intervene for the limited purpose of observing and commenting on disposition. Other than the foster mother's testimony as a witness, the foster parents did not participate in the termination proceedings except for their comments with respect to disposition made toward the end of the trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap564.pdf

In re Shyina B., 58 Conn. App. 159 (2000)
The trial court granted the maternal aunt and uncle the right to intervene and adjudicated the child neglected. The trial court then transferred guardianship to the maternal aunt and uncle instead of allowing the child to remain with her foster family. The Appellate Court affirmed. DCF asserted three errors. (1) DCF claimed that the trial court improperly applied the best interest standard by attempting to remedy DCF's prior decision to not place the child with the relatives based on the aunt's prior DCF "record." The court found that DCF was not able to produce the "record" that served as the basis for denying the relatives foster care license until seven months later and the record was unsubstantiated and vague. The Appellate Court held that the trial court properly applied the best interest standard because the trial court considered the history of the relatives and their relationship with DCF as it related to the issue of whether the relatives were suitable to care for the child. This determination was clearly relevant to what placement option was in the child's best interest. (2) DCF claimed that the trial court improperly applied the best interest standard when it considered the race of the relatives as a determining factor. The Appellate Court held that the trial court did not improperly consider the race of the maternal relatives in reaching its best interest determination to grant the relatives guardianship. The trial court properly considered the African American

cultural phenomenon to utilize family supports as relevant to its determination that placement with the relatives was in the child's best interests. (3) DCF claimed that the trial court improperly applied the best interest standard by imposing a legal presumption of placing the child with relatives. The Appellate Court held that the trial court did not improperly apply a presumption in favor of the maternal relatives, but rather properly applied the best interest standard and in doing so weighed the respective alternatives.

In re Denzel A., 53 Conn. App. 827 (1999)
The trial court allowed the grandmother to intervene and terminated the parents' parental rights. The Appellate Court affirmed. The grandmother claimed that a termination of parental rights was not in the child's best interest because the child should be placed with family. She argued that the child should remain committed so that she could establish a relationship with him and then assume guardianship rather than allowing him to be freed for adoption by strangers. Addressing the role of intervenors in TPR cases, the Appellate Court held that the purpose of the grandmother's intervention does not include the right to effect an adoption or custody, but "is solely for the purpose of affecting the termination itself." While the grandmother, at the time, was the only prospective adoptive parent, where and with whom the child should live "are not questions that relate to whether it is in his best interests to terminate his relationship with his parents." The Court further held that the trial court acted properly in terminating the parental rights based on the evidence regarding the statutory best interest factors.

In re Ryan V., 46 Conn. App. 69 (1997)
The trial court denied the grandmother's motion to intervene which was filed after the TPR trial, but before the decision was rendered. The Appellate Court affirmed the judgment. The grandmother claimed that she participated in the underlying neglect proceedings and did not get notice of the TPR proceedings. The Appellate Court held that the grandmother did not have standing to intervene because her purpose in intervening was to ensure adoption or custody to herself, not to contest whether the parent's rights should be terminated. Alternatively, the grandmother argued that intervention was not necessary because she had standing as a "de facto" party. The Court held that our law does not recognize "de facto" parties and that the grandmother lacked standing to intervene. Moreover, an intervention after the close of evidence would require opening the judgment, retrying the case and causing further delay in achieving permanency for the children.

JUDGES

Rule 2.11 (A)(1) of the Code of Judicial Conduct governs judicial disqualification and provides in relevant part: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party . . . ." A trial court's ruling on a motion for disqualification is reviewed for abuse of discretion. "In applying that standard, we ask whether an objective observer reasonably would doubt the judge's impartiality given the circumstances. . . . If an objective observer, in view of all of the facts would reasonably doubt the court's impartiality, the court's discretion would be abused if a motion to recuse were not granted. In determining whether there has been an abuse of discretion, every reasonable presumption should be given in favor of the correctness of the court's ruling. . . . Reversal is required only where an abuse of discretion is manifest or where injustice appears to have been done." "Courts have routinely held that the prior appearance of a party before a trial judge does not reflect upon the judge's impartiality in a subsequent action involving that party." (Internal citations and quotations omitted). *See, In re Christopher C., 134 Conn. App. 464 (2012)* **.**

In re Heather L., 274 Conn. 174 (2005)

The trial court terminated the father's parental rights. The Appellate Court affirmed. During the termination proceeding, the trial court denied the father's motion for mistrial and for sanctions claiming the trial judge was biased because he presided over a termination proceeding regarding another one of the father's children and had prior knowledge of the history, facts and circumstances of that case. On appeal, the father claimed that the trial judge should have treated the motion as a motion for disqualification and should have disqualified himself. The Appellate Court held that the trial court properly denied his motion because the father offered no legal authority for his contention that a judge's participation in a prior proceeding and his familiarity with the case in and of itself requires disqualification without any demonstration of bias. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR274/274CR79.pdf

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)

The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court and Supreme Court affirmed. The children's dually appointed attorney and GAL advocated for the termination despite the fact that the children wanted to return to the care of their parents. The parents claimed that the children had a constitutional right to conflict free legal representation and that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem to represent their children's best interests in light of such conflict. Side stepping the issue of whether the children have a constitutional right to counsel, the Supreme Court affirmed the Appellate Court and held that the trial court did not have a constitutional obligation to appoint a separate GAL because the factual record did not support a finding that the trial court knew or should have known that a conflict existed between what the children wanted and what their attorney advocated for. The Supreme Court applied the test utilized in a criminal context to determine whether the trial court had a duty to inquire if an attorney conflict existed: 1) when there was a timely conflict objection at trial, or 2) when the trial court knew or reasonably should have known that a particular conflict exists.

Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate

Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Allison G., 276 Conn. 146 (2005), reversed
The trial court adjudicated the child uncared for, but sua sponte dismissed the neglect allegation, and committed the child to DCF. DCF appealed. The Appellate Court dismissed the appeal finding that the issue was moot. The Supreme Court reversed the Appellate Court. The Supreme Court held that DCF was aggrieved by the trial court's decision to dismiss the neglect count and that the matter was not moot. DCF claimed that although it achieved its favored disposition, commitment, it was nonetheless aggrieved because there were prejudicial collateral consequences that could result from a failure to obtain a neglect adjudication and the case was not moot because the practical relief to be afforded was the neglect adjudication itself. The parents claimed that DCF was not aggrieved because it achieved the relief/disposition it requested and that the matter was moot. The Supreme Court noted that the judge's conduct was improper because the judge had engaged in the pretrial settlement and then went on the record and presided over the disposition of the case without the parties consent. The Court held that DCF was aggrieved, in part, because a neglect adjudication had future ramifications in further hearings, including permanency plan hearings and termination of parental rights matters. This decision highlighted the overlap between aggrievement and mootness and further expounded in detail upon the legal construct of a neglect petition, including the legal significance of adjudications and dispositions as it relates to the child protection statutory scheme. The Supreme Court also determined the case was not moot because there were no subsequent proceedings that rendered the case moot and because practical relief was available by way of obtaining a full evidentiary hearing and a possible neglect adjudication.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. In doing so, the Court reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. The Court also acknowledged that inadequate counsel in termination cases is a serious concern and instructed trial judges in their roles as "ministers of justice." "Although as a trial judge must adhere to the dictates of impartiality, he or she, nevertheless, has the duty to deter and correct misconduct of attorneys with respect to their obligations as officers of the court to support the authority of the court and enable the trial to proceed with dignity. Thus, a judge presiding over a proceeding wherein trial counsel had been woefully inadequate would not, consistent with judicial duty, sit idly by and permit the client to suffer the consequences. To be sure, the trial judge may be more inclined to vigilance in solemn proceedings, such as those terminating parental rights, wherein the indigent litigants have obtained court-appointed counsel." (internal quotations and citations omitted) **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Christopher C., 134 Conn. App. 464 (2012)
The trial court terminated the pro se father's parental rights finding that DCF made reasonable efforts and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to recuse. The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to recuse himself because although the judge sentenced the father in an earlier criminal case, there was no evidence presented that the judge was no longer objective, but

rather the judge stated that he had no recollection of the prior criminal case nor any preexisting opinion of the father.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP287.pdf

In re Nathan B., 116 Conn. App. 521 (2009), reversed
In an appeal from probate court, the trial court terminated the father's parental rights. During the trial, the judge made a number of improper statements about the father. At the conclusion of DCF's case, the father moved for a new trial on the basis that the judge was no longer impartial. The trial court denied the motion. The Appellate Court reversed. The father claimed that the judge should have disqualified himself and granted a new trial because the judge violated the principles of impartiality and fairness. The Appellate Court held that the trial court abused its discretion in denying the request for a new trial because the judge's comments implicitly questioned the father's credibility before he testified. A reasonable person would question the judge's impartiality. Here, on the first day of trial, the court stated to the father, "Somebody who cared would not stick himself in jail and stay there so he couldn't see his child. Now, I don't want to get into it any further. Move on. [I'm] [s]ick of these people who come in and say, 'Oh, I really care. I haven't seen him in nine years, Judge, but I really care.' Check with your attorney see what he has done in the last nine years with his family and how he has worked. Check with anybody here. They tended to their families. Move on." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116ap420.pdf

In re A.R., 123 Conn. App. 336 (2010), reversed
DCF filed a termination of parental rights petition. The grandmother intervened and filed a motion to transfer guardianship. The trial court granted the motion to intervene, but then sua sponte dismissed the grandmother's motion to transfer guardianship because the trial court concluded that by law it was a motion to revoke commitment and the grandmother was not statutorily permitted to file a motion to revoke commitment. The intervening grandmother appealed. The Appellate Court held that the trial court erred in dismissing, sua sponte, the intervenor's motion to transfer guardianship. Specifically, the Appellate Court reversed the trial court's ruling prohibiting an intervenor from filing a motion to transfer guardianship by incorrectly construing it as a motion to revoke commitment. According to C.G.S. § 46b-129(m), an intervening party is not permitted to file a motion to revoke commitment. Finding that the statutory scheme regarding proceedings following a neglect adjudication clear and unambiguous, the Appellate Court interpreted C.G.S. § 46b-129(j) and P.B. § 35a-20(b) to allow an intervenor to file a motion to transfer guardianship as an appropriate way for her to request consideration as a potential guardian for the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP514.pdf

In re Tayler F., 111 Conn. App. 28 (2008), aff'd, 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly permitted testimony regarding the children's credibility. The Appellate Court ruled that testimony regarding credibility invades the province of the trier of fact and is impermissible and agreed that the trial court abused its discretion by allowing the social worker's testimony and the court-ordered psychologist's testimony about the children's credibility, but found the error harmless because the information was cumulative of properly admitted testimony. The social worker testified on direct examination without objection regarding their credibility and the court-ordered psychologist's report containing opinions about the children's credibility was admitted without objection. The Court further ruled that in court trials, judges are expected, more so than jurors, to be capable of disregarding incompetent evidence. **Appellate Court Dissent:** Lavery, J.

Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Halle T., 96 Conn. App. 815, cert. denied 280 Conn. 924 (2006)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court violated his due process rights by "cutting and pasting" the DCF social study into its memorandum of decision, such that more than 50% of its memorandum of decision was verbatim sections of the social study. While the Appellate Court made clear that it did not approve nor endorse the trial court's improper 'parroting' significant portions of the social study as an exhibit into its written decision, the record demonstrated that DCF presented clear and convincing evidence that the father failed to rehabilitate and the trial court's actions did not dilute DCF's burden of proof. In doing so, the Court discussed in-depth the proper role of judges as fact-finders. "[W]e reassert our emphatic disapproval of the verbatim adoption from another source of the fact section in a trial court's memorandum of decision, whether it be a proposal submitted by the prevailing party, or, as in the present case, directly incorporated from documentary evidence. We recently emphasized the need for thorough and comprehensive factual findings. Particularly in cases involving the care and custody of children, it is incumbent on the trial courts to provide a decision, whether written or oral, that includes all of the necessary factual findings for the benefit of the parties, as well as for proper appellate review."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96ap398.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the court acted outside its statutory authority of Conn. Gen. Stat § 46b-129 (m) and (o) when it sua sponte revoked the child's commitment without notice to any of the parties or the foster parent. The Appellate Court agreed and reversed the judgment. The Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority. As written, the statutes, requiring the filing of a motion and notice to the foster parents, are intended to provide for the orderly administration of justice as well to protect the due process rights of the parties and the foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Salvatore P., 74 Conn. App. 23 (2002), cert. denied, 262 Conn. 934 (2003)
The trial court terminated the mother's parental rights in her absence after finding that she received notice by publication. More than four months later, the mother filed a motion to open the termination judgment. The trial court denied the motion to open. The Appellate Court affirmed. The mother claimed that: (1) the trial court, as the judge who also presided over the termination petition, should not have presided over the motion to open, and (2) she was unable to attend the termination hearing due to duress. The Appellate Court held that the trial court did not abuse its discretion in denying the motion to open because: (1) the mother never filed a motion to disqualify the trial judge before or during the motion to open, and (2) the motion was filed after the fourth month and the mother presented no evidence regarding her alleged duress.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap62.pdf

In re Tabitha P., 39 Conn. App. 353 (1995)

The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the judge was biased and the decision was flawed because the trial court stated that there was no ongoing parent child relationship, even though this ground was never alleged in the termination petition. The Appellate Court viewed the mother's claim as a request for a mistrial. The Appellate Court held that the mother's claim of judicial bias failed because the claim of bias or for a mistrial was never made at trial. Moreover, the allegation rests on a single comment made by the judge that did not occur in front of a jury.

In re Shana M., 26 Conn. App. 414 (1992)
The trial court terminated the mother's parental rights finding no ongoing parent child relationship existed. The Appellate Court affirmed. The mother claimed that the trial court engaged in improper ex parte contact with DCF's attorney. She specifically argued that the judge gave a copy of a case to DCF's attorney before the other parties and that constituted an improper ex parte contact. Reviewing the claim under a plain error analysis, the Appellate Court held "[o]ur examination of the record discloses a hard working trial judge who commendably wanted to share the fruits of his research with the attorneys before him. Although it would have been a better procedure for the trial judge to have delivered copies of the . . . decision to all counsel simultaneously, this slight departure from preferred procedure does not, in this case, warrant the drastic remedy of reversal."

In re Messiah S. et al., 138 Conn. App. 606 (2012)
The Appellate Court upheld the termination of mother's parental rights as to four children. The court rejected mother's argument that the trial judge should have recused himself after making critical comments concerning her attorney's questioning of witnesses, noting that while the comments were "unfortunate," they raised questions of judicial temperament, not conduct. The Appellate Court held that because the trial judge made exasperated comments concerning *all* counsel, there was no appearance of bias or prejudgment, and furthermore, the trial court's ruling was supported by the record. Mother was not required, as DCF asserted on appeal, to make the recusal request at least ten days prior to trial pursuant to Practice Book § 1-23, since the basis for the request for recusal only arose during the course of the trial and the request was then promptly made. The Appellate Court rejected mother's argument that the trial court's use of language in its written decision that was identical or nearly identical to the language it used in other TPR rulings evidenced a lack of meaningful, independent analysis of the evidence, noting that the decision to terminate parental rights was amply supported by the record and that, in any event, the trial court's specific references to trial testimony and argument evinced the court's reliance on and attention to the facts.

In re Aziza S.-B. et al., 138 Conn. App. 639 (2012)
Father in a TPR action could not argue on appeal that the trial judge's failure to recuse himself was reversible error because the claim was not preserved: the motion for recusal at trial was made by counsel for the mother (see In re Messiah S., 138 Conn. App. 606 (2012)) and the father never joined the motion, either orally or in writing. Father also raised challenges substantially similar to those raised by mother in Messiah S., which were rejected by the Appellate Court because the record amply supported the trial court's decision to terminate father's rights and not to transfer guardianship to the paternal aunt. Father's claim that the trial court pre-judged him was neither preserved at trial nor adequately briefed on appeal.

JUDICIAL NOTICE

"A party requesting the court to take judicial notice of a fact shall give timely notice of the request to all other parties. Before the court determines whether to take the requested judicial notice, any party shall have an opportunity to be heard. So long as the parties are offered an opportunity to be heard the court may notice any fact concerning the parties and events of the case that is appropriate for judicial notice. Trial courts may take judicial notice of facts contained in the court file; and may take notice of court files in other actions between the same parties." (Internal citations and quotation marks omitted.) *See, In re Jeisean M., 270 Conn. 382 (2004).*

"Judicial notice may ... be taken at any stage of the proceedings including on appeal. There is no question ... concerning our power to take judicial notice of files of the Superior Court, whether the file is from the case at bar or otherwise." (Internal citations and quotation marks omitted.) *See, In re Selena O., 104 Conn. App. 635 (2007).*

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court, on transfer, affirmed. The mother claimed, in part, that the trial court improperly took judicial notice of a prior finding that continuing efforts to reunify the mother with her child were no longer appropriate. The mother further asserted that the alleged error was due to her newly appointed counsel not unfamiliarity with the prior hearing and order. Finding no legal support for the mother's claim, the Supreme Court rejected the mother's argument and held that the trial court properly took judicial notice of the prior finding because the trial court gave the mother opportunity to be heard and the recently appointed attorney had ample time to familiarize himself with the prior procedural history of the case prior to the TPR trial.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
In this appeal from a trial court's granting of a TPR petition, the Appellate Court noted that it had authority to take judicial notice of the underlying Probate Court file that pertained to a petition to transfer temporary guardianship of the child to the grandmother. The Probate Court sua sponte ordered that DCF be the child's temporary guardian and transferred the case to the Superior Court for Juvenile Matters.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Selena O., 104 Conn. App. 635 (2007), reversed
The trial court denied the petition to terminate the mother's parental rights. The Appellate Court reversed. DCF appealed and claimed that the trial court erred in finding that the mother's rehabilitation foreseeable because the decision was based on speculation and facts not in evidence. The Appellate Court agreed. The Appellate Court held that the parties agreed that the trial court based its decision on a factual predicate that was not in evidence, namely that the mother successfully participated in a particular substance abuse program and then speculated that she would complete it within three months. To help demonstrate the

error, DCF requested and the Appellate Court took judicial notice of an ancillary case regarding the mother's other child. The Court found the error harmful and concluded that the court's finding on this important issue was central to its decision and "undermine[s] appellate confidence in the court's fact finding process...." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP30.pdf

In re Mark C., 28 Conn. App. 247, cert. denied, 223 Conn. 922 (1992)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, committed acts of commission or omission and that a termination was in the best interest of the children. The Appellate Court affirmed. Claiming plain error, the mother asserted that the trial court improperly took judicial notice of the earlier neglect findings resulting in the imposition of a lower standard of proof, fair preponderance of the evidence, in the termination of parental rights proceedings. The Appellate Court held that there was no plain error because the trial court properly took judicial notice. The mother did not object to the judicial notice at trial, and the trial court properly considered the prior noticed proceedings in determining whether to terminate the mother's rights and the mother failed to demonstrate that the trial court applied a lower standard of proof than clear and convincing evidence or solely relied on any judicially noticed fact regarding the findings supporting the termination. "During a parental termination hearing, the trial court may rely on evidence used to establish a finding of neglect as long as that evidence is considered under the clear and convincing evidence standard."

In re Juvenile Appeal (84-7), 3 Conn. App. 30 (1984)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly took judicial notice of prior allegations of abuse in the file of the underlying neglect proceedings. The Appellate Court held that assuming arguendo that the trial court improperly took judicial notice of the file, the alleged error was harmless because there was independent evidence presented through DCF's witnesses that the mother had abused her children.

JURISDICTION

''A determination regarding a trial court's subject matter jurisdiction is a question of law. . . . Subject matter jurisdiction involves the authority of a court to adjudicate the type of controversy presented by the action before it. . . . If a court lacks subject matter jurisdiction to hear and determine cases of the general class to which the proceedings in question belong, it is axiomatic that a court also lacks the authority to enter orders pursuant to such proceedings. . . . [W]here a decision as to whether a court has subject matter jurisdiction is required, every presumption favoring jurisdiction should be indulged.'' (Citations omitted; internal quotation marks omitted.) *See, In re Iliana M., 134 Conn. App. 382 (2012).*

"A court lacks discretion to consider the merits of a case over which it is without jurisdiction.... The objection of want of jurisdiction may be made at any time ... [a]nd the court or tribunal may act on its own motion, and should do so when the lack of jurisdiction is called to its attention.... The requirement of subject matter jurisdiction cannot be waived by any party and can be raised at any stage in the proceedings. If a party is found to lack standing, the court is without subject matter jurisdiction to determine the cause." *See, In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005).*

"Thus, [a]lthough related, the court's authority to act pursuant to a statute is different from its subject matter jurisdiction. The power of the court to hear and determine, which is implicit in jurisdiction, is not to be confused with the way in which that power must be exercised in order to comply with the terms of the statute. . . . [W]e conclude that the failure to allege an essential fact under a particular statute goes to the legal sufficiency of the complaint, not to the subject matter jurisdiction of the trial court. This conclusion "is consistent with the rule that every presumption is to be indulged in favor of jurisdiction. This is "consistent with the judicial policy preference to bring about a trial on the merits of a dispute whenever possible and to secure for the litigant his day in court"; by allowing the litigant, if possible, "to amend the complaint to correct the defect"; and avoids the bizarre result that the failure to prove an essential fact at trial deprives the court of subject matter jurisdiction (internal citations and quotations omitted). *See, In re Jose B., 303 Conn. 569 (2012).*

In re Jose B., 303 Conn. 569 (2012)

Two days before his 18th birthday, the youth filed a neglect petition seeking to have himself committed to DCF and the trial court dismissed the petition for lack of jurisdiction after the youth turned 18. The Appellate Court affirmed. The child appealed. The Supreme Court affirmed the Appellate Court. The Supreme Court concluded that the trial court lacks statutory authority under Conn. Gen. Stat. §46b-129(a) to adjudicate a person eighteen years or older and to commit such person to DCF under Conn. Gen. Stat. §46b-129(j). The Court held that the trial court properly granted DCF's motion to dismiss because the child's 18th birthday rendered the neglect petition moot based on the trial court's lack of statutory authority. Worth noting, the Supreme Court ruled that a claim based on the failure to establish an essential fact for obtaining relief pursuant to a particular statute is not a matter of subject matter jurisdiction, but of statutory authority.

http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf

In re Jessica M., 303 Conn. 584 (2012)
Before her 18th birthday, the youth filed a neglect petition seeking to have herself committed to DCF. By the time the trial court held a trial on the petition, the youth had reached her eighteenth birthday. The trial court then dismissed the petition for lack of jurisdiction because the youth turned 18. The Appellate Court affirmed. The Appellate Court held that pursuant to its recent holding in *In re Jose B.*, the trial court properly dismissed the petition for lack of subject matter jurisdiction because there is no statutory authority under Conn. Gen. Stat. § 46b-129(j) to permit retroactive commitment. The youth appealed to the Supreme Court. The Supreme Court affirmed the Appellate Court. The Supreme Court held that the trial court lacked statutory authority to adjudicate a person neglected or to provide dispositional relief after the person reached eighteen years of age. The petition was rendered moot and does not fall within the collateral consequences doctrine. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR19.pdf

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K*, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Here, pursuant to Conn. Gen. Stat. § 17a-11, it was undisputed that the child was not admitted to DCF through its voluntary services program. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction. **Concurring:** Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re DeLeon J., 290 Conn. 371 (2009)
The trial court denied the mother's motion to reinstate her guardianship. On transfer, the Supreme Court reversed. The mother claimed that the trial court violated her due process rights by failing to provide her with adequate notice of the time and date of the hearing. The record clearly demonstrated that the sole purpose of the December 10, 2007 hearing was for the court to determine whether it had jurisdiction over the matter pursuant to the UCCJEA because the child was living out of state with his father. The parties were to submit briefs and present arguments on that date. The court never indicated that it would rule on the motion to reinstate guardianship. The Supreme Court first concluded that the trial court had continuing jurisdiction under the statute because the mother continued to reside in CT although the child was living with the father out of state. The Supreme Court also held that the trial court violated the mother's procedural due process rights by improperly expanding the scope of the hearing to deny the mother's motion on the merits without providing prior notice to the mother.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR34.pdf

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)

The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. On appeal to the Supreme Court, the parents claimed that the children have a constitutional right to effective assistance of counsel and the trial court erred by not sua sponte appointing a separate GAL for the children. DCF claimed that the parents did not have standing to assert their children's constitutional rights. The Supreme Court held that the court had subject matter jurisdiction to decide the issue because the parents had standing to challenge the adequacy of their children's legal representation because the parents' rights are inextricably intertwined with those of their children and inadequate representation of their children could harm the parents and their own rights in a termination proceeding. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court improperly denied their motion to dismiss asserting that probate court had exclusive jurisdiction over the appointment of testamentary guardians pursuant to a valid will. The Supreme Court held that in light of the fact that a neglect petition was filed, the Superior Court for Juvenile Matters had exclusive jurisdiction to enter custody and guardianship orders and thus the court properly denied the motion to dismiss. The extreme and unusual circumstances of this case caused by the mother murdering the father and causing life-threatening injuries to the child vested the Superior Court with jurisdiction. The child was orphaned and in the hospital without any named custodian or guardian until DCF filed its OTC and neglect petition. The existence of a will does not deprive the court of its jurisdiction. It is the province of the Superior Court, not the Probate court, to determine the disposition of a neglected child. http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors that occurred at the time the order of temporary custody (OTC) was granted three years earlier. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. The Court concluded that the trial court's alleged lack of jurisdiction was not obvious and when deciding whether to permit a collateral attack for lack of subject matter jurisdiction, the Court considered whether (1) the father had the opportunity to litigate the question of jurisdiction in the original action, and, (2) if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so. A collateral attack to the court's subject matter jurisdiction was not permissible because he had ample opportunity, three years, to appeal and public policy supported not allowing him to attack the judgment so late.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

In re Michaela Lee R., 253 Conn. 570 (2000), reversed

The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that neither probate court nor the Commissioner of public health had subject matter jurisdiction to delete a biological parent's name from the child's birth certificate when there was no allegation that the information contained therein was inaccurate. **Dissent and Concurring:** MacDonald, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's motion to open the TPR judgment, the Supreme Court held that pursuant to Conn. Gen. Stat. § 52-212a, the trial court has limited jurisdiction to open the judgment within four months of the judgment, unless there has been a waiver or consent of the court's jurisdiction. By filing a Motion to Amend the TPR petition, DCF waived its objection to the court's jurisdiction to reopen the judgment after the four month period. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerated this holding. **Dissent:** Borden, Norcott, JJ.

In re Juvenile Appeal (85-BC), 195 Conn. 344 (1985), reversed
The children were adjudicated neglected and committed to DCF. Guardianship was then transferred to the grandmother. The mother moved to "revoke the children's commitment" to the grandmother. DCF moved to re-commit the children back to DCF. The trial court dismissed the mother's petition because the "extension of commitment" expired and custody reverted to the mother. Both DCF and the grandmother appealed. The Appellate Court held that the trial court erred in dismissing the petition because "extensions of commitment" do not apply to cases where guardianship was transferred to a third party. The Court further ruled that Conn. Gen. Stat. § 46b-129 confers exclusive jurisdiction to the Superior Court to enter custody and guardianship orders where the custody order arose from a prior finding of neglect. Moreover, an order vesting custody or guardianship of the children to their grandmother is an order subject to modification by the court based on the best interests of the children. Reversing the court order entitles the mother to a judicial hearing for the mother to prove that no cause for "commitment" exists so that guardianship can be transferred back to her.

In re Iliana M., 134 Conn. App. 382 (2012)
The trial court denied the parents' motion to dismiss the order of temporary custody ("OTC") finding that it had subject matter jurisdiction pursuant to the UCCJEA, Conn. Gen. Stat. §§ 46b-115k(a)(3) and 46b-121(a). The Appellate Court affirmed. The child was born in Massachusetts and DCF invoked a 96 hour hold and brought the child to Connecticut where it filed a motion for order of temporary custody. The parents filed a motion to dismiss. The trial court granted the motion to dismiss finding that the home state under the UCCJEA was Connecticut, but that pursuant to 46b-121(a), the child was not "within the state." The same day of the trial court's ruling, DCF then invoked a second 96 hour hold and filed a second OTC. The parents filed a second motion to dismiss and the trial court denied the second motion to dismiss finding that the court now had jurisdiction because the child was "within the state." The parents claimed that: 1) the trial court lacked subject matter jurisdiction under the UCCJEA, 2) DCF's conduct was inequitable, and 3) the mother was denied her due process right to have an evidentiary hearing in Massachusetts. First, the Appellate Court held that based on the trial court's factual findings that the parents were residents of Connecticut, the trial court properly found under the UCCJEA that the Connecticut court had subject matter jurisdiction to make the initial child custody determination. Both the child and the parents had a "significant connection with this state". Notably, at the time of the child's birth,

the parents gave Connecticut addresses to the Massachusetts hospital. Although Massachusetts could have made the initial child custody order, the Court ruled it did not have priority over a Connecticut court. Secondly, the Appellate Court held that the doctrine of unclean hands does not apply. "To seek equity, one must do equity, and they [the parents] have not." Thirdly, the Appellate Court found the mother's due process rights were protected by holding an evidentiary hearing in Connecticut and there was no legal basis to support her claim that her due process rights required a hearing in a Massachusetts court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP267.pdf

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that pursuant to Conn. Gen. Stat. § 52- 263, it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to dismiss the termination petition for DCF's failure to make a prima facie case by erroneously drawing inference in favor of DCF. The Appellate Court held that DCF established a prima facie case of failure to rehabilitate by showing that the mother's ongoing mental health issues continue to cast doubt regarding whether she could properly care for her children and the trial court is permitted to draw inferences.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly transferred the visitation motions to the child protection session and improperly denied their motion to dismiss. The Appellate Court held that a transfer of a case to another court and a denial of a motion to dismiss are not final judgments because neither order concludes the rights of the parties.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the trial court improperly granted the parents' oral motion to dismiss the petition when it failed to view the evidence in the light most favorable to the nonmoving party. The Appellate Court held that the trial court applied the incorrect legal standard when it granted the motion to dismiss for failure to make out a prima facie case by weighing the evidence and the credibility of DCF's case in chief. The Appellate Court further concluded that DCF did

present a prima facie case that grounds for the termination of parental rights existed. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The trial court denied the mother's motion to dismiss the order of temporary custody (OTC) and also sustained the order of temporary custody. The Appellate Court affirmed. The mother first claimed that the trial court improperly denied her motion to dismiss the OTC because a prior trial court previously vacated the OTC. The mother also claimed that the trial court lacked jurisdiction to preside over the OTC because the OTC hearing was not held within ten days as statutorily required. Here, one judge vacated the OTC. The second judge vacated the first judge's ruling vacating the OTC and in effect revived the previous OTC. First, the Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judgment to modify the previous order. "[A] judge is not bound to follow the decisions of another judge made at an earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... [O]ne judge may, in a proper case, vacate, modify, or depart from an interlocutory order or ruling of another judge in the same case, upon a question of law." Second, the Appellate Court held that the ten day hearing requirement in Conn. Gen. Stat. § 46b-129(d)(4) was directory not mandatory because the word "shall" does not invariably create a mandatory duty and the statute does not invalidate a hearing not held within that timeframe. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Thomas J., 77 Conn. App. 1 (2003), cert. denied, 265 Conn. 902 (2003)
The trial court denied the delinquent child's motion to review DCF's decision to not substantiate his claim that a DCF police officer slammed his head against a glass wall. The Appellate Court reversed the judgment for the purpose of instructing the trial court to dismiss rather than deny the aggrieved child's motion. The Appellate Court held that while Conn. Gen. Stat. § 17a-6 permits a child who is in DCF custody to file petitions when his statutory rights are violated, the child's "motion for review" was not a "petition" because the "motion" was not made under oath as required by the statute. The Court found the trial court did not lack subject matter jurisdiction, but rather lacked statutory authority, and as such should have dismissed the motion not denied it. Although related, the court's authority to act pursuant to a statute is different from its subject matter jurisdiction. The power of the court to hear and determine, which is implicit in jurisdiction, should not to be confused with the way in which that power must be exercised in order to comply with the terms of the statute. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap323.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically nor statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent. The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. **Note**: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Appellate Court held that notice by publication in a previous neglect proceeding to an incarcerated father was inadequate, but did not impact the TPR judgment. Although the father's failure to receive adequate notice of the neglect petition may have violated his due process rights in that proceeding, this did not prevent the court from terminating his parental rights on abandonment. The Court also rejected the father's claim that his due process rights were violated because he was not given proper notice of the TPR petitions. The father and his counsel were present at the trial and fully participated. The father thus waived any claim of lack of personal jurisdiction because he submitted to the court's jurisdiction. The trial court, however, properly denied the failure to rehabilitate ground because the father lacked an opportunity to participate in the neglect proceedings and did not know what he needed to do to rehabilitate. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly denied her motion to dismiss. The Appellate Court held that pursuant to the "waiver rule" because the mother proceeded to present her case and offered evidence after the denial of her motion to dismiss at the conclusion of DCF's case, the mother waived the right to appeal the denial of the motion to dismiss.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father was the biological father to one child and in the prior neglect proceedings the trial court found him to be the psychological parent of the child's sibling. The father claimed that he had standing to contest the termination petitions for both children. The Appellate Court held that the father, even though recognized as the psychological parent, has no standing to appeal the termination of parental rights decision for the child biologically unrelated to him. The termination statute does not include psychological parent, but rather defines "parent" to be a "natural or adoptive parent." Whether the father pursued custody of the unrelated child had nothing to do with whether the unrelated child's parents' rights

were terminated. Therefore, the Appellate Court lacked subject matter jurisdiction over the father's appeal pertaining to the unrelated child.

In re Savanna M., 55 Conn. App. 807 (1999)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to dismiss because DCF did not adequately plead that it made reasonable efforts to reunify when it failed to check off the appropriate box on the face of the termination petition. The Appellate Court held that the trial court properly denied the motion because the father had adequate notice of the grounds against him based on the paragraphs contained in the petition outlining the claims against him and the court's finding on the record at a prior hearing that reasonable efforts were no longer appropriate.

In re Todd G., 49 Conn. App. 361 (1998)
The trial court granted DCF's motion to extend the child's commitment. The mother appealed. DCF filed a motion to dismiss the appeal claiming the Court lacked jurisdiction because the order extending the commitment was not a final judgment, but rather an interlocutory order. The Appellate Court denied DCF's motion to dismiss holding the court order was a final judgment. In doing so, the Court reasoned that the extension of commitment order satisfies the second prong of the *Curcio* test because if an appeal was not permitted the parent-child relationship would be disrupted for a significant period of time until DCF either moved to extend commitment again or to terminate parental rights.

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court lacked jurisdiction over the TPR action because the trial court adjudicated the child neglected after the probate court had previously granted custody to the grandfather. She claimed that because she did not have custody at the time of the adjudication of neglect, the trial court was deprived of subject matter jurisdiction. The Appellate Court held that the trial court had proper jurisdiction to hear the TPR because this was a collateral attack against the neglect adjudication from which the mother never appealed and Conn. Gen. Stat. § 46b-129 does not require the parent in a neglect proceeding to have custody for the court to have the power to adjudicate the child neglected.

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Elisabeth H., 45 Conn. App. 508 (1997)
The trial court adjudicated the children neglected. The parents appealed. During the pendency of the appeal, the children reached 18, the age of majority. The Appellate Court dismissed the appeal as moot. The parents claimed that the case was not moot because there were collateral consequences that could arise from the neglect adjudication such as an inability to become foster parents as well as damage to their reputation. The Appellate Court held that the appeal was moot because the children were over 18 and any bar to them being foster parents was a result of the underlying previous order of temporary custody, not the neglect adjudication. Furthermore, there was no risk of their reputation being damaged because juvenile court proceedings and records are confidential and sealed. The issue was also not "capable of repetition, yet evading review."

In re Elizabeth H., 40 Conn. App. 216 (1996)
The trial court adjudicated the child neglected, but had not proceeded to disposition. The pro se parents appealed the neglect finding. The children and DCF filed a motion to dismiss for lack of jurisdiction because the neglect adjudicatory finding was not a final judgment. The parents claimed that the motion was untimely and the neglect finding was a final judgment. The Appellate Court granted the motion to dismiss and ruled it was not untimely because a "motion based on lack of jurisdiction may be filed at any time." The Appellate Court held that although "it is difficult to devise a comprehensive definition of what constitutes a final judgment," under *Curcio*, the neglect determination was not final judgment for appeal because the adjudicatory finding alone did not end the neglect proceedings nor conclude the rights of the parties.

In re Felicia D., 35 Conn. App. 490 (1994)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court lacked subject matter jurisdiction and the trial court improperly denied her motion to dismiss because: (1) the coterminous petition checked off the wrong box and alleged that one child was committed to DCF when she was not, (2) the neglect petition underlying the coterminous petition alleged different grounds than the termination petition, and (3) the failure to rehabilitate ground is not permitted as a proper ground for a coterminous petition. The Appellate Court affirmed. The Appellate Court held that the court was not deprived of subject matter jurisdiction: (1) based on a clerical error as long as the pleadings as a whole properly invoked the court's jurisdiction, (2) because the trial court properly construed the termination petition together with the underlying neglect petition to be a coterminous petition, and (3) the statute itself as well as the language of the petition both include failure to rehabilitate as a proper ground for a coterminous petition.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that: (1) the court lacked subject matter jurisdiction to consider the claim because DCF did not check off the abandonment box on the TPR petition, and (2) she lacked proper notice of the abandonment claim depriving her of her right to due process. Because the accompanying TPR summary of facts adequately pled abandonment, the mother had sufficient notice of the abandonment claim against her and was not deprived of her due process rights. The court was also not deprived of subject matter jurisdiction.

In re Jason D., 13 Conn. App. 626 (1988)
The parents filed a petition in probate court to terminate their parental rights to their adoptive son. The son was committed to DCF. The case was transferred to Superior Court. DCF filed a motion to dismiss the termination petition because the child was committed to DCF and the 14 year old son did not consent to the termination. The parents appealed. The Appellate Court affirmed. The Appellate Court held that the motion to dismiss was properly granted because the statute requires that a child over 12 must consent to the termination of parental rights petition filed in probate court. Here, the child did not join the petition, and thus the court lacked jurisdiction. The Court further held that given this express legislative requirement, the child cannot be deemed to either have waived his consent or be estopped from denying his consent on the basis of his behavior.

In re Adrien C., 9 Conn. App. 506 (1987)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother appealed claiming that the trial court lacked subject jurisdiction over the termination proceeding because DCF failed to file a termination petition within 90 days of the expiration of the child's commitment. Applying the rules of statutory construction, the Appellate Court held that because the word "shall" in the statute directing DCF to file a termination petition was discretionary rather than mandatory, the court had jurisdiction to entertain the termination petition. Moreover, the mother waived her right to contest the trial court's jurisdiction because she failed to file a motion to dismiss within thirty days of the filing of the termination petition.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed, claiming, in part, that the court erred in denying her motion to dismiss. The Appellate Court affirmed. The Appellate Court held that the trial court's denial of the motion was proper because the evidence not only established a prima facie case, but also satisfied DCF's burden of proof, by a fair preponderance of the evidence, that a commitment was in the best interest of the child.

In re Jessica M., 303 Conn. 584 (2012)
A seventeen-year-old filed a petition to be committed to the Department of Children and Families two and one half months before her eighteenth birthday, which was not heard until after she had turned eighteen. The trial court ruled that the petition was moot, and the Appellate Court affirmed. Following its ruling in Jose B., the Supreme Court also affirmed, ruling that the juvenile court lacks statutory authority to adjudicate a person neglected once she has turned eighteen, even where the alleged neglect occurred while she was still a minor. The child in this case had argued that the case was not moot because, even if the court lacked authority to enter a disposition, an adjudication of neglect could have collateral immigration consequences in her case. The Court disagreed, ruling that the collateral consequences doctrine applied only to defeat claims of mootness sounding in a court's inability to offer practical relief, whereas this case was moot because the court could not even make an adjudication. "The collateral consequences doctrine cannot confer statutory authority on the trial court that is otherwise lacking."

In re Jose B., 303 Conn. 569 (2012)
A seventeen-year-old filed a petition to be committed to the Department of Children and Families two days before his eighteenth birthday, which was not heard until after he had turned eighteen. The trial court ruled

that the petition was moot, and the Appellate Court affirmed. The Supreme Court also affirmed, ruling that the juvenile court lacks statutory authority to adjudicate a person neglected once he has turned eighteen, even where the alleged neglect occurred while he was still a minor, and a retroactive adjudication might make him eligible for ongoing services provided to young adults by DCF. The Court also took time to address the ongoing confusion concerning complaints in which statutorily require facts are not properly alleged, ruling that these complaints may be attacked for lacking legal sufficiency, but do not deprive the court of subject matter jurisdiction.

JURY

In re Melody L., 290 Conn. 131 (2009)
The children claimed for the first time on appeal that the termination of their mother's parental rights without a jury trial violated their constitutional rights. Affirming the termination of parental rights judgment, the Supreme Court declined to review their claim because although reviewable under *Golding*, they failed to adequately brief the issue by providing no legal analysis of their claim. **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The Appellate Court declined to review the parents' claim that due process entitled them to a jury trial when the court terminated their parental rights because their claim was not preserved at trial and was inadequately briefed. They did not provide any analysis under *Golding*, nor did they provide adequate and relevant legal support for their constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

JUVENILE COURT PROCEDURE

Anonymous v. Norton, 168 Conn. 421, cert. denied, 423 U.S. 935 (1975)
The trial court terminated the parents' parental rights based on their inability to care for the children due to their mental illnesses. The Supreme Court affirmed. The parents claimed, in part, that the trial court erroneously relied on the court-ordered psychiatric evaluation that was never admitted into evidence. In support of affirming the trial court's decision despite the trial court's evidentiary errors, DCF relied on the premise that in Juvenile proceedings certain informalities are constitutionally permissible. The Supreme Court stated that such informality cannot justify such "procedural irregularities in so serious a matter as the termination of parental rights" Quoting *Stanley v. Illinois*, the Court reasoned that the natural rights of parents in their children "undeniably warrants deference and, absent a powerful countervailing interest, protection." "Therefore, laxity in procedural safeguards cannot be swept away by mere reference to the so-called 'informalities' of Juvenile Court procedure." In this case the Court, nonetheless, held that the error was harmless and not reversible because the trial court's decision was supported by other properly admitted evidence that established the parents' mental health history, including the parents' testimony and the parents' psychiatrist's testimony

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

In re Brianna B., 66 Conn. App. 695 (2001)
The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held the foster mother in contempt. The trial court also denied her motion to open the confidential proceedings. The Appellate Court affirmed. The former foster mother claimed that the trial court improperly denied her motion to open the closed and confidential proceedings. The Appellate Court held that pursuant to Conn. Gen. Stat. § 46b-122, the judge has discretion to decide whether to open or keep close confidential juvenile court proceedings. The court did not abuse its discretion in denying the motion and ordering the proceedings closed because the court's decision was grounded in the statutory

mandate of § 46b-122, the constitution of the United States, and relevant privacy concerns pertaining to custody and adoption proceedings. http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the court erred in admitting the social study containing hearsay in violation of her due process rights. The Appellate Court affirmed. The Court held that the mother could not challenge the admission of the social study because she did not object to it at trial and further introduced most of the information contained therein during trial. Upholding the judgment, the Court ruled that "[i]n juvenile proceedings certain procedural informalities are constitutionally permissible, allowing, for example, the liberal interpretation of the formal rules of evidence as long as due process standards are observed."

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court rejected a number of the mother's evidentiary claims. In doing so, the Court first noted that in juvenile proceedings certain procedural informalities are constitutionally permissible. However, in cases of termination of parental rights, a liberal interpretation rather than strict application of the rules of evidence is permitted provided that due process rights are protected.

State v. Elias G., 302 Conn. 39 (2011)
State appealed juvenile court's denial of request to transfer a delinquency matter to adult court. While the appeal was pending, the Supreme Court ruled, in State v. Fernandes, 300 Conn. 104 (2011), that juveniles have a right to a hearing on such transfers, but that the hearing may be held by the receiving (adult) court. In the instant case, the Court ruled that Fernandes applied retroactively because "judgments that are not by their terms limited to prospective application are presumed to apply retroactively."

MEDICAL EXAMINATIONS

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

MENTAL DISABILITY

In re Devon B., 264 Conn. 572 (2003), reversed
The trial court adjudicated the child uncared for and committed her to DCF. The Supreme Court reversed. The mother claimed that the trial court improperly denied her motion to join the Department of Mental Retardation (DMR) as a necessary party in the neglect proceedings. The Supreme Court held that the trial court abused its discretion by not citing in DMR as a party because the mother was mentally retarded and "a party is deemed necessary if its presence is absolutely required to assure a fair and equitable trial." Given the mother's long standing involvement with DMR as a client, DMR's absence as a party would be improper. She was homeless and court ordered to complete specific steps such as obtain housing in order to be reunified with her child. While DCF is statutorily required to provide reunification efforts to assist the mother reunite with her child, it is not equipped to provide housing and/or other necessary services to the mentally retarded. **Dissent:** Sullivan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98e.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional rights by terminating her parental rights solely on the basis of her mental illness. The mother sought review for her unpreserved claim under *Golding* and the plain error doctrine. The Appellate Court recognized that the right to family integrity is a constitutional right. However, the Appellate Court held that the mother's claim was not reviewable under *Golding* because it was not of constitutional magnitude, as the mother essentially asserted that the trial court's findings were not supported by clear and convincing evidence. "Putting a constitutional tag on a nonconstitutional claim will [not] change its essential nature...." Neither did the record support a claim under the plain error doctrine.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Kelsey M., 120 Conn. App. 537 (2010)
The trial court sustained the order of temporary custody ("OTC") placing the children in the temporary custody of DCF. The Appellate Court affirmed. The mother claimed that there was not sufficient evidence demonstrating that the children were in imminent danger and the trial court improperly applied the predictive neglect doctrine. The Appellate Court held that the trial court's decision was amply supported by the record because the evidence demonstrated that the mother called a crisis hotline while she was alone with the children and intoxicated, asking how she could kill herself. She had a long history of mental health issues, was suicidal and made threats to harm herself or others, reported that there were guns in the house and refused help when the police arrived. The children were hiding and crying, and the father later insisted that the mother be discharged from the psychiatric hospital and denied that the mother had problems. The Appellate Court further held that the trial court did not decide whether there was predictive neglect, but whether the children were in imminent danger.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP253.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The mother claimed that the trial court improperly found that the child was neglected as of the date the neglect petition was filed. Specifically, she contended that on the day the petition was filed the child was not denied proper care and attention because he was safely in the care of his maternal grandparents. The Appellate Court held that evidence was sufficient to demonstrate that the child was neglected because the mother has psychiatric issues, refused to take her medication, was psychiatrically hospitalized right after giving birth and there was no court order preventing the mother from returning to the grandparents' home to regain custody of the child. Recognizing the State's responsibility to act before harm befalls a child, the Court further held that the fact that the child was in the care of the grandparents and that he was not harmed at the time of the filing of the neglect petition did not change the analysis of whether the child was neglected under the statute. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The trial court adjudicated the infant child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court abused its discretion when it adjudicated the child neglected and committed the child to DCF instead of ordering protective supervision. The Appellate Court held that there was sufficient evidence for the trial court to have found the child neglected and that it was in the child's best interest to be committed to DCF rather than the child be in the care and custody of the parents in light of the liberal, unsupervised visits the mother was permitted with her child while the child remained in foster care with her aunt. The Court acknowledged that in this case, "there may be no 'best,' but only a 'better,' solution." The evidence demonstrated that the father was a paranoid schizophrenic who had not been taking his medication and the mother alone could not protect the child from the father. In one incident, the mother discovered the father resting his hand on the baby's chest while the baby was naked on a wet towel. The father said the baby needed to "air out." Although the Appellate Court acknowledged that no actual harm befell the child, the Court nonetheless upheld the trial court's findings because neither the mother nor the father understood or attempted to learn the extent of the risk that the father posed to the child when not medicated.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole did not demonstrate that the father was mentally retarded. The Appellate Court held that DCF provided a plethora of services and the trial court's finding that DCF made reasonable efforts even though DCF did not coordinate services with DMR was not clearly erroneous. Nor was the father entitled to a reasonable accommodation under the ADA during the provision of services required to reunify the family. The Appellate Court further held that the trial court properly terminated the father's parental rights because he was unable to provide his child with necessary care not on the sole basis of his alleged mental impairment. In addition, the trial court did not improperly fail to appoint him a GAL in violation of his due process rights. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that a court cannot terminate a parent's rights when a parent's mental illness prevents her from rehabilitating. The Appellate Court, noting the mother cited no legal authority for her claim, held that the law makes no distinction between mentally ill parents and other parents. The statute permits terminating a parent's rights when the parent's mental deficiency interferes with the parent's ability to care for the child. Here, the trial court properly found the mother failed to rehabilitate. The Appellate Court refused to address the mother's ADA claim in her appeal from the trial court's judgment terminating her parental rights because the mother did preserve this issue at the trial. On appeal, the mother did not claim a constitutional violation or plain error. Thus, the unpreserved claim was unreviewable.

In re Jessica B., 50 Conn. App. 554 (1998)
The trial court terminated the mentally retarded mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed: (1) because the trial court already heard from two witnesses, the trial court improperly denied her motion for a mistrial once her competency was at issue; and (2) that there was insufficient evidence to find that she failed to rehabilitate because she was able to care for her other child. First, the Appellate Court held that the trial court did not abuse its discretion by denying the motion for a mistrial because the mother's due process rights were adequately protected by the court, sua sponte ordering a competency evaluation and then also providing all the parties with transcripts of the proceedings, as well as permitting the mother's attorney and guardian ad litem to recall the witnesses and to take as many recesses as needed to assist the mother in her defense. Furthermore, there was no evidence that the mother was prejudiced in any manner by the witnesses testifying prior to the evaluation. Secondly, the Appellate Court concluded that the failure to rehabilitate finding was *not* based on her mental retardation, but rather on her failure to comply with the court-ordered specific steps designed to help her develop an adult support network. The expert psychologist testified that the mother was not able to care for the child on her own and that her rehabilitation required a competent support system. The mother relied on the child's father who was a convicted sex offender and opposed to support services. In determining whether the parental rights of mentally retarded parent should be terminated, the proper inquiry is the parent's conduct and relationship to her children, and not her status as a mentally retarded person.

In re Nicolina T., 9 Conn. App. 598 (1987)
The trial court terminated the mother's parental rights finding that she committed an act of commission or omission, there was no ongoing parent child relationship and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court violated her rights to equal protection under the State constitution by terminating her parental rights on the basis of her mental illness. The Appellate Court held that the state termination statute makes no distinction between mentally ill and other persons. Accordingly, the statute applies with equal force to all persons regardless of their mental condition. Moreover, the trial court did not terminate the mother's rights solely based on her schizophrenia, but rather because the mother's schizophrenia impaired her ability to parent the children.

MISTRIAL

"Mistrial should be granted only if something occurs in the course of the trial that makes it apparent to the court that a party cannot have a fair trial and the whole proceedings are vitiated. Reviewing courts are hesitant to disturb a decision not to declare a mistrial, since the trial judge is the arbiter of the many circumstances which may arise during the trial in which his function is to assure a fair and just outcome. If curative action can obviate the prejudice, the drastic remedy of a mistrial should be avoided." *See, In re Jessica B., 50 Conn. App. 554 (1998).*

In re Heather L., 274 Conn. 174 (2005)
The trial court terminated the father's parental rights. The Appellate Court affirmed. During the termination proceeding, the trial court denied the father's motion for mistrial and for sanctions claiming the trial judge was biased because he presided over a termination proceeding regarding another one of the father's children and had prior knowledge of the history, facts and circumstances of that case. On appeal, the father claimed that the trial judge should have treated the motion as a motion for disqualification and should have disqualified himself. The Appellate Court held that the trial court properly denied his motion because the father offered no legal authority for his contention that a judge's participation in a prior proceeding and his familiarity with the case in and of itself requires disqualification without any demonstration of bias. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR274/274CR79.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. Holding that the trial court improperly denied, in violation of due process, the mother's request for a mistrial or continuance after her children's attorney died midtrial, the Court applied the *Mathews v. Eldrige* balancing test and ruled that the state's primary interest in terminating parental rights is to free the child for adoption or from uncertainty. In this case, the state's interest did not outweigh the other factors because the children were not immediately adoptable, if ever. "A few more weeks in parent-child limbo was not unreasonable when balanced against the constitutional rights of their mother and their right to have their future decided in their best interests." http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Jessica B., 50 Conn. App. 554 (1998)
The trial court terminated the mentally retarded mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, because the trial court already heard from two witnesses, the trial court improperly denied her motion for a mistrial once her competency was at issue. The Appellate Court held that the trial court did not abuse its discretion by denying the motion for a mistrial because the mother's due process rights were adequately protected by the court, sua sponte ordering a competency evaluation and then also providing all the parties with transcripts of the proceedings, as well as permitting the mother's attorney and guardian ad litem to recall the witnesses and to take as many recesses as needed to assist the mother in her defense. Furthermore, there was no evidence that the mother was prejudiced in any manner by the witnesses testifying prior to the evaluation.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the judge was biased and the decision was flawed because the trial court stated that there was no ongoing parent child relationship, even though this ground was never alleged in the termination petition. The Appellate Court viewed the mother's claim as a request for a mistrial. The Appellate Court held that the mother's claim of judicial bias failed because the claim of bias or for a mistrial was never made at trial. Moreover, the allegation rests on a single comment made by the judge that did not occur in front of a jury.

MOOTNESS

"Mootness is a question of justiciability that must be determined as a threshold matter because it implicates [this] court's subject matter jurisdiction.... Because courts are established to resolve actual controversies, before a claimed controversy is entitled to a resolution on the merits it must be justiciable. Justiciability requires (1) that there be an actual controversy between or among the parties to the dispute ... (2) that the interests of the parties be adverse (3) that the matter in controversy be capable of being adjudicated by judicial power ... and (4) that the determination of the controversy will result in practical relief to the complainant." (Citation omitted; internal quotation marks omitted.) "[A]n actual controversy must exist not only at the time the appeal is taken, but also throughout the pendency of the appeal.... When, during the pendency of an appeal, events have occurred that preclude an appellate court from granting any practical relief through its disposition of the merits, a case has become moot." (Internal citations and quotation marks omitted.) *See, In re Melody L., 290 Conn. 131 (2009).*

"In determining mootness, the dispositive question is whether a successful appeal would benefit the plaintiff or defendant in any way." *See, In re Jorden R., 293 Conn. 539 (2009), reversing, 107 Conn. App. 12 (2008).*

"[D]espite developments during the pendency of an appeal that would otherwise render a claim moot, the court may retain jurisdiction when a litigant shows that there is a reasonable possibility that prejudicial collateral consequences will occur." (Internal citations and quotation marks omitted.) *See, In re Alba P., 135 Conn. App. 744 (2012).*

"[A]n otherwise moot question may qualify for review under the capable of repetition, yet evading review exception. To do so, however, it must meet three requirements. First, the challenged action, or the effect of the challenged action, by its very nature must be of a limited duration so that there is a strong likelihood that the substantial majority of cases raising a question about its validity will become moot before appellate litigation can be concluded. Second, there must be a reasonable likelihood that the question presented in the pending case will arise again in the future, and that it will affect either the same complaining party or a reasonably identifiable group for whom that party can be said to act as surrogate. Third, the question must have some public importance. Unless all three requirements are met, the appeal must be dismissed as moot." (Internal citations and quotation marks omitted.) *See, In re Alba P., 135 Conn. App. 744 (2012)*

In re Jose B., 303 Conn. 569 (2012)

Two days before his 18th birthday, the youth filed a neglect petition seeking to have himself committed to DCF and the trial court dismissed the petition for lack of jurisdiction after the youth turned 18. The Appellate Court affirmed. The child appealed. The Supreme Court affirmed the Appellate Court. The Supreme Court concluded that the trial court lacks statutory authority under Conn. Gen. Stat. §46b-129(a) to adjudicate a person eighteen years or older and to commit such person to DCF under Conn. Gen. Stat.

§46b-129(j). The Court held that the trial court properly granted DCF's motion to dismiss because the child's 18th birthday rendered the neglect petition moot based on the trial court's lack of statutory authority. Worth noting, the Supreme Court ruled that a claim based on the failure to establish an essential fact for obtaining relief pursuant to a particular statute is not a matter of subject matter jurisdiction, but of statutory authority.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf

In re Jessica M., 303 Conn. 584 (2012)
Before her 18th birthday, the youth filed a neglect petition seeking to have herself committed to DCF. By the time the trial court held a trial on the petition, the youth had reached her eighteenth birthday. The trial court then dismissed the petition for lack of jurisdiction because the youth turned 18. The Appellate Court affirmed. The Appellate Court held that pursuant to its recent holding in *In re Jose B.*, the trial court properly dismissed the petition for lack of subject matter jurisdiction because there is no statutory authority under Conn. Gen. Stat. § 46b-129(j) to permit retroactive commitment. The youth appealed to the Supreme Court. The Supreme Court affirmed the Appellate Court. The Supreme Court held that the trial court lacked statutory authority to adjudicate a person neglected or to provide dispositional relief after the person reached eighteen years of age. The petition was rendered moot and does not fall within the collateral consequences doctrine. http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR19.pdf

Earl B. v. Commissioner of Children and Families, 288 Conn. 163 (2009), reversed
The trial court dismissed the child defendant's administrative appeal challenging his treatment plan and continued placement at CJTS. The Supreme Court reversed. The delinquent child requested an administrative hearing challenging DCF's treatment plan to extend his commitment and place him at CJTS for another 2 years. The hearing officer denied his request construing his request as a request for parole pursuant to Conn. Gen. Stat. §§ 46b-140(j) and 17a-7. DCF claimed that the issue was moot because it had placed the child in a residential treatment program and also claimed that the statutory scheme did not permit a hearing. The Supreme Court held that the issue was not moot because it met all the requirements of the capable of repetition, yet evading review doctrine. The Court found that most cases involving a controversy regarding a treatment plan decision would become moot pending appeal, that the cases are necessarily limited in duration and there was a likelihood that the issue would be raised again. Moreover, the resolution of the rights associated with a treatment plan for a juvenile adjudicated as a delinquent is a matter of public importance. The Court further held that the trial court erred in dismissing his appeal of DCF's administrative decision to deny him a hearing regarding the treatment plan. Pursuant to Conn. Gen. Stat. § 17a-15, the child is entitled to a treatment plan hearing and neither Conn. Gen. Stat. §§ 17a-7 nor 46b-140 pertain to treatment plans.
Majority: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318E.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court erred in denying their motion for visitation with their mother pending the outcome of the appeal by failing to apply the best interest of the child standard. The Supreme Court concluded that by

affirming the termination of parental rights judgment of the trial court, the visitation issue was moot because there was no practical relief (i.e. visitation pending the appeal) that the Court could grant. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was unwilling or unable to reunify, she committed an act of commission or omission and that termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment. At the Appellate Court, the mother only appealed the trial court's finding that the mother was 'unable or unwilling' to benefit from reunification efforts, and did not also appeal the trial court's finding that DCF made reasonable efforts to reunify. Either finding is sufficient to support a termination decision and the failure of the mother to appeal both findings rendered the claim moot because the Appellate Court could then afford the mother no practical relief. DCF need only prove either that it made reasonable efforts to reunify or that the parent is unable or unwilling. In this case, the trial court found that DCF proved both. Hence, a parent must appeal both findings to prevent the claim from being moot. The Supreme Court vacated the Appellate Court decision to provide instruction to trial court in applying the reasonable efforts statute, Conn. Gen. Stat. § 17a-112 (j)(1). Supreme Court:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court:
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Allison G., 276 Conn. 146 (2005), reversed
The trial court adjudicated the child uncared for, but sua sponte dismissed the neglect allegation, and committed the child to DCF. DCF appealed. The Appellate Court dismissed the appeal finding that the issue was moot. The Supreme Court reversed the Appellate Court. The Supreme Court held that DCF was aggrieved by the trial court's decision to dismiss the neglect count and that the matter was not moot. DCF claimed that although it achieved its favored disposition, commitment, it was nonetheless aggrieved because there were prejudicial collateral consequences that could result from a failure to obtain a neglect adjudication and the case was not moot because the practical relief to be afforded was the neglect adjudication itself. The parents claimed that DCF was not aggrieved because it achieved the relief/disposition it requested and that the matter was moot. The Supreme Court held that DCF was aggrieved, in part, because a neglect adjudication had future ramifications in further hearings, including permanency plan hearings and termination of parental rights matters. This decision highlighted the overlap between aggrievement and mootness and further expounded in detail upon the legal construct of a neglect petition, including the legal significance of adjudications and dispositions as it relates to the child protection statutory scheme. The Supreme Court also determined the case was not moot because there were no subsequent proceedings that rendered the case moot and because practical relief was available by way of obtaining a full evidentiary hearing and a possible neglect adjudication.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

Williams v. Ragaglia, 261 Conn. 219 (2002)
A relative appealed to the trial court from an administrative decision revoking her special study foster care license. The trial court dismissed her claim as moot because the relative was awarded custody of the children in a separate proceeding. The Appellate Court reversed the trial court and remanded the case for an adjudication on the merits. The Supreme Court affirmed the Appellate Court. DCF claimed that the

administrative appeal regarding the relative's special study licensure revocation was moot because any relief was impractical because the relative received custody of the children. The Supreme Court held that since there was a reasonable possibility of prejudicial "collateral consequences" from the revocation of her license the matter was not moot. The Court rejected DCF's claim that the relative must show that she "will or is likely to suffer specific foreseeable collateral consequences," and ruled instead that there need be a "reasonable possibility" of such consequences. Here, the relative, among other possibilities, may be negatively impacted in her ability to gain employment in a child related field or in future foster care options with DCF.
Dissent: Borden, J., with whom Norcott and Zarella, Js. join.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr92.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROcr/261cr92e.pdf

In re Candace H., 259 Conn. 523 (2002), vacating 63 Conn. App. 493 (2001)
The trial court adjudicated the child neglected and denied the mother's visitation motion. The mother appealed. The Appellate Court affirmed, reversed and remanded. The mother then voluntarily consented to the termination of her parental rights. DCF moved to vacate the Appellate Court judgment. The Supreme Court dismissed the appeal and vacated the Appellate Court's judgment. The Supreme Court held that the mother's voluntary relinquishment of her parental rights rendered the appeal moot, and vacating the Appellate Court decision was appropriate as it was in the public's interest. The Supreme Court concluded that the appeal was moot and that it did not fit within the exception to the mootness doctrine of being capable of repetition yet evading review.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/259cr33.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap397.pdf

In re Jessica M., 250 Conn. 747 (1999) vacating, 49 Conn. App. 229 (1998)
The trial court denied DCF's petitions to terminate the parents' parental rights. DCF appealed and the Appellate Court affirmed the denial of the termination petitions. DCF appealed to the Supreme Court. During the pendency of the appeal, DCF filed new termination of parental rights petitions. The Superior Court granted the termination of parental rights against the mother and the father consented. Neither party appealed the judgment terminating their parental rights. DCF moved to vacate the original Superior Court decision denying the termination as well as the Appellate Court judgment affirming the denial of the termination, claiming the appeal to the Supreme Court was moot. The Supreme Court held that the appeal was moot through no fault of the parties and granted the vacatur. **Dissent:** McDonald, J., with whom Berdon, J.

In re Romance M., 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights regarding three children, but not the fourth child because DCF did not prove that the court should waive the requirement that grounds for termination existed for at least one year. The Appellate Court affirmed. The Supreme Court affirmed. The Supreme Court declined to review DCF's claim that the trial court should have granted the waiver because the claim was moot after the Supreme Court upheld the termination of the mother's parental rights. The Court further held that the capable of repetition yet evading review doctrine did not apply because the certified question was improvidently granted based on a subsequent amendment to a Practice Book rule answering the question.

Orsi v. Senatore, 230 Conn. 459 (1994), reversed

The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court ruled that the foster parent's claim that DCF's regulation denying a preremoval hearing violated the child's constitutional rights was not moot because it fit within the "capable of repetition, yet evading review" exception. Appellate review may be appropriate "where the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration." Here the denial of a preremoval hearing is an important public issue, and it is likely that the court's ruling will have an effect upon both the child and ongoing procedures in the future. The Court further held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Alba P., 135 Conn. App. 744 (2012)
The trial court adjudicated the children neglected and ordered a period of protective supervision. The mother appealed. The order of protective supervision expired and DCF filed a motion to dismiss claiming the appellate issues were moot. The Appellate Court dismissed the appeal. The mother asserted that her appellate claim that the trial court improperly found the children neglected based on a prior substantiation of neglect and based on her minor daughter's pregnancy was not moot because it fell within the collateral consequences exception to the mootness doctrine or the capable of repetition yet evading review exception. The Appellate Court held first that the collateral consequences exception was inapplicable. Here, the mother's children were previously adjudicated neglected several years ago. Thus, the mother failed to demonstrate that there was a reasonable possibility that the recent adjudication of neglect would result in harmful collateral consequences such as being exposed to a later termination of parental rights petition. Additionally, according to the Appellate Court, there were no collateral consequences related to the mother's ability to appeal administratively through DCF the neglect substantiation and placement on the child abuse registry because an adjudication of neglect relates to the child, and are not findings as to the mother. Regarding the mother's second claim, the Appellate Court held the foster mother's assertion that the capable of repetition yet evading review applies is without merit. The mother failed to cite any authority in support of her contention that in cases where there is no inadequacy of parenting, the dispositions are inherently time limited and there is a reasonable likelihood that the question presented in this case would arise again. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP368.pdf

In re Christopher C., 134 Conn. App. 464 (2012)
The trial court terminated the pro se father's parental rights finding that DCF made reasonable efforts and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the evidence did not support the trial court's finding that DCF made reasonable efforts. However, the trial court also found that the father was unable or unwilling to benefit from reunification efforts. Because the statute requires DCF to prove either it made reasonable efforts *or* the father was unable or unwilling, the Appellate Court declined to review the father's moot claim due to the father's failure to challenge the court's finding that he was unable to benefit from reunification efforts. Reviewing the father's reasonable effort claim would be improper

because the Appellate Court cannot afford the father any practical relief.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP287.pdf

In re Kiara R., 129 Conn. App. 604 (2011)
The trial court declined to hold an evidentiary hearing regarding the mother's emergency motion to restore her visitation rights after DCF unilaterally suspended her visitation with her child that was committed to DCF. The trial court ruled that the mother must first request an administrative hearing. During the pendency of the appeal, the trial court granted the mother's motion to revoke commitment and the child was reunited with her mother. DCF filed a motion to dismiss. The Appellate Court dismissed the mother's appeal as moot. The mother claimed that the visitation issue was "capable of repetition, yet evading review." The Appellate Court held the matter was not "capable of repetition, yet evading review" because there is nothing about permanency plans that make them inherently limited in duration and others who are aggrieved by DCF's decisions regarding visitation or permanency plans are not substantially likely to also have their appeals rendered moot.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP468.pdf

In re Emoni W., 129 Conn. App. 727, cert. granted, 302 Conn. 917 (2011)
After DCF removed the children from their mother, the trial court granted DCF an order of temporary custody. The children's father was noncustodial and lived out of state. He maintained a relationship with the children and at the OTC moved for custody. The trial court ruled that an interstate study was required before the children could be placed with their noncustodial out-of-state father. The father and the children appealed. During the pendency of the appeal, the interstate study was completed and recommended placement with the father. The trial court then placed the children with the father. The Appellate Court held that it lacked subjected matter jurisdiction to address the father and children's claim that the interstate compact does not apply to out-of-state parents because it was moot. All the parties agreed the claim was moot, but was reviewable under the "capable of repetition yet evading review" exception. The Appellate Court held that the case was moot and the "capable of repetition yet evading review" exception did not apply. Although the Court acknowledged the importance of this issue and that interstate studies can delay reunification of noncustodial parents and children, the Court stated that because the issue was moot, it would be improperly rendering an advisory opinion if it were to decide the issue. **Dissent:** Bishop, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493E.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother appealed and the children filed their own brief. DCF claimed that the mother's appeal was moot because the trial court denied the mother's motion to revoke commitment during the pendency of the appeal. The Appellate Court held it retained jurisdiction because the appeal was not moot. In denying the motion to revoke commitment, the trial court did not confirm the previous finding of neglect or recommit the children to DCF. Rather, the trial court simply concluded that the mother failed to demonstrate that cause for commitment no longer existed. Accordingly, the Court ruled it could grant the mother practical relief. If the mother were to prevail on appeal, the adjudication and commitment would no longer be in effect. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Alison M., 127 Conn. App. 197 (2011)

The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in finding that the mother was unable to benefit from reunification efforts. The trial court also found, however, that DCF made reasonable efforts to reunify. The Appellate Court declined to review this claim concluding it to be moot. To prevail on this issue, the mother was required to prove that there was not clear and convincing evidence of (1) the department's reasonable efforts to locate and reunify her with the children *and* (2) her inability or unwillingness to benefit from reunification efforts. Both findings must be appealed in order for the claim to be reviewed. By only challenging one ground, there was no practical relief that could be afforded her. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly issued an interim ex parte order regarding visitation that allowed DCF to determine that the visitation schedule and that the trial court improperly issued the order without affording them a hearing. The Appellate Court dismissed these claims because the subsequent visitation orders issued after the interim visitation orders rendered the claims moot. There was no practical relief that could be afforded. DCF also appealed claiming that the trial court's sua sponte order granting unsupervised visitation to the parents violated its due process rights and was an abuse of discretion. For the same reasons, DCF's visitation claims were also rendered moot.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Forrest B., 109 Conn. App. 772 (2008)
The trial court sustained the order of temporary custody ("OTC") placing the children in DCF's custody. The mother appealed. During the pendency of the appeal, the trial court subsequently adjudicated the children neglected and committed them to DCF. DCF filed a motion to dismiss the appeal as moot. The Appellate Court dismissed the case as moot because there was no practical relief that could be afforded to the mother, as the children were committed and cannot be returned to her care and the matter was not "capable of repetition, yet evading review." The mother offered no evidence demonstrating that OTCs evade review and *In re Carl O.* already held that an OTC ruling is rendered moot after a neglect adjudication and disposition. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP445.pdf

In re Claudia F., 93 Conn. App. 343 (2006)
The trial court adjudicated the children neglected and committed them to DCF. The mother appealed. During the pendency of the appeal the mother consented to a petition to terminate her parental rights. DCF moved to dismiss the appeal, arguing that the appeal of the neglect petition was moot. The Appellate Court dismissed the appeal. The mother claimed that her appeal was not moot because it fit within the collateral consequences exception because her appeal from the neglect adjudication was her only remedy to remove her name from the DCF Child Abuse Registry. Specifically, she contended that having her name on the registry was stigmatizing and her DCF record could ultimately enter the public domain. The Court found this exception inapplicable because the mother failed to appeal the underlying order of temporary custody orders that would have served as the basis for her name being on the registry.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP152.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed

A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. DCF claimed that the application was rendered moot by the child reaching eighteen and that the child was allegedly in a clinically appropriate placement. Distinguishing *In re Elisabeth H.,* the Appellate Court held that the matter was not moot because although the child turned eighteen, the court may still provide her practical relief based on the agreement between the parties preceding the application for temporary injunction. Moreover, the record does not reflect whether the placement is appropriate. Nevertheless, the Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Thomas J., 77 Conn. App. 1 (2003)
The trial court denied the delinquent child's motion to review DCF's decision to not substantiate his claim that a DCF police officer slammed his head against a glass wall. The Appellate Court reversed the judgment for the purpose of instructing the trial court to dismiss rather than deny the aggrieved child's motion. Although the minor was no longer in DCF custody, the Appellate Court held that the matter was not moot because practical relief could be provided as a reversal of DCF's decision may be of some consequence in a successful civil action. The Court further held that while Conn. Gen. Stat. § 17a-6 permits a child who is in DCF custody to file petitions when his statutory rights are violated, the child's "motion for review" was not a "petition" because the "motion" was not made under oath as required by the statute.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap323.pdf

In re Amelia W., 62 Conn. App. 500 (2001)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly found that DCF made reasonable efforts. The Appellate Court dismissed this claim as moot because the father did not also challenge the trial court's finding that he was unwilling or unable to benefit from reunification services. The statute requires DCF to prove that it made reasonable efforts *unless* the court finds that parent is unable or unwilling. Thus, even if the father were to prevail in his reasonable efforts claim, the unchallenged "unable or unwilling" finding met the statutory requirement.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap250.pdf

In re Kachainy C., 67 Conn App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate that was rendered at the extension of commitment hearing. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in concluding that the trial court, in a termination proceeding, may rely on a previous finding that reasonable efforts to reunify were no longer appropriate that was made at an extension of commitment hearing. DCF claimed this issue was moot. The Appellate Court concluded the issue was not moot because if the mother prevailed on her claim, the Court could offer her practical relief by reversing the trial court judgment. The Appellate Court nonetheless held that the mother's claim lacked merit because the statute clearly permitted a court to find that DCF made reasonable efforts to reunify by relying on a previous finding that continuing efforts were no longer

appropriate. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Jeffrey C., 64 Conn. App. 55 (2001), rev'd on other grounds, 261 Conn. 189 (2002)
After granting DCF's motion to open and modify the disposition of the children to commitment, the court also granted DCF's motion to hold the father in contempt for failing to comply with the specific steps. The trial court also issued a temporary restraining order. The Appellate Court reversed the trial court's judgment holding the father in contempt for failing to comply with the specific steps. The Supreme Court reversed the Appellate Court and upheld the trial court's finding of contempt. Regarding the restraining order, on appeal, the father claimed that the trial court improperly issued the temporary restraining order prohibiting him from having contact with the children. The Appellate Court declined to address his claim because it was moot. Although the father contended that the 'capable of repetition yet evading review' exception applied, the Appellate Court ruled that the temporary restraining order expired by its own terms and the Court was unable to offer him any practical relief and that the matter was not one of public importance. Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

In re Cesar G., 56 Conn. App. 289 (2000)
The trial court denied the mother's motion for revocation of commitment. The Appellate Court affirmed. The mother appealed the revocation decision and DCF moved to dismiss the appeal claiming the appeal was moot because the trial court subsequently granted a motion to extend the children's commitment that the mother did not appeal. The Appellate Court denied the motion to dismiss because the appeal was not moot because the practical relief of revocation of commitment was potentially available.

In re Alex M., 59 Conn. App. 389 (2000)
The trial court declined to entertain DCF's motion to extend the child's commitment because it was untimely filed. DCF appealed. The trial court then granted DCF's petition to terminate the parents' parental rights. DCF filed a motion to vacate the trial court's decision to not hear the extension petition. The Appellate Court held the order declining to hear the extension motion was moot and denied DCF's motion to vacate the trial court's decision. The Appellate Court reasoned that the trial court's order was not a decision on the merits and there would be no practical impact on the parties because the parents' rights were already terminated in a separate action.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap446.pdf

In re David L., 54 Conn. App. 185 (1999)
The trial court adjudicated the child neglected pursuant to the mother's nolo plea and committed the child to DCF. The noncustodial father did not claim the child was not neglected by the custodial mother and did not offer a dispositional plan for the child. The Appellate Court affirmed. The father claimed that the trial court erred by not allowing him to contest the neglect adjudication to prove that he did not neglect the child. The Appellate Court dismissed his claim and held his claim was moot because there was no practical relief that could be granted to the father for his requested remedy: a finding that he was not at fault for neglecting the child. The Court concluded that an adjudication of neglect relates to the status of the child and is not a finding of fault by the parents. Based on the statutes and rules pertaining to neglect proceedings, the Court ruled that the father was not entitled to a remedy that determined each parent's blameworthiness for the child's neglect. Thus, given the father did not contest that the child was neglected and did not contest the disposition, the father's claim was moot.

Kevin S. v. Department of Children & Families, 49 Conn. App. 706 (1998)
The trial court dismissed the father's administrative appeal of DCF's denial of his treatment plan request as moot because DCF filed a TPR petition. The Appellate Court affirmed. The father claimed that the trial court should have dismissed DCF's TPR petition as unlawful because the father filed a request for a DCF treatment plan hearing before DCF filed the termination petitions. The Appellate Court held that the father's administrative appeal from DCF's administrative decision denying him a treatment plan hearing was rendered moot by DCF's actual filing of the termination of parental rights petition. The Court reasoned that even if the father prevailed in the administrative appeal, the hearing officer had no authority to compel DCF to withdraw termination petitions, nor is there any statutory requirement that DCF hold a treatment plan hearing prior to filing a TPR petition. Thus, the Court could not offer the father any practical relief. Further, the Appellate Court held that the trial court did not deprive the father of his due process rights by denying him a treatment plan hearing. The father's due process rights were protected because the issue raised during an administrative treatment plan hearing is the same issue raised at a TPR trial, but with greater due process protections because the burden of proof at a TPR trial is clear and convincing proof.

In re Catrina L., 47 Conn. App. 64 (1997)
The trial court adjudicated the child neglected and ordered the child to remain with the mother under an order of protective supervision. DCF filed an ex parte motion for order of temporary custody and a motion to modify the disposition. The trial court denied the motion to modify and vacated the ex parte OTC. DCF appealed. During the pendency of the appeal, the trial court granted DCF's subsequent motion for an order of temporary custody filed and scheduled a hearing on a subsequent motion to modify the disposition. The Appellate Court dismissed DCF's appeal as moot as there was no practical relief that could be granted.

In re Elisabeth H., 45 Conn. App. 508 (1997) over 18
The trial court adjudicated the children neglected. The parents appealed. During the pendency of the appeal, the children reached 18, the age of majority. The Appellate Court dismissed the appeal as moot. The parents claimed that the case was not moot because there were collateral consequences that could arise from the neglect adjudication such as an inability to become foster parents as well as damage to their reputation. The Appellate Court held that the appeal was moot because the children were over 18 and any bar to them being foster parents was a result of the underlying previous order of temporary custody, not the neglect adjudication. Furthermore, there was no risk of their reputation being damaged because juvenile court proceedings and records are confidential and sealed. The issue was also not "capable of repetition, yet evading review."

In re Michael A., 47 Conn. App. 105 (1997)
In a transfer from probate court, the trial court first granted the father's motion for temporary custody to vest in the grandmother. The trial court later granted the father's petition to remove the mother as the child's guardian and to grant sole guardianship and custody to the father. The Appellate Court affirmed. The mother first claimed that the trial court improperly failed to consider the order of temporary custody before granting the guardianship removal petition. The Appellate Court held the guardianship order rendered any appeal regarding the previous order of temporary custody moot because the order of temporary custody was academic.

In re Corey E., 40 Conn. App. 366 (1996)
The trial court granted DCF's motion to extend commitment of the children. The parents appealed. DCF

filed petitions to terminate their parental rights. DCF filed a motion to dismiss the parents' appeal of extension of commitment order claiming the orders were moot given the pending TPR petitions. The Appellate Court held that the appeal was not moot because there was practical relief that could be granted to the parents if this Court found the extension of commitment was improper—the children could be returned to the parents' custody even if for a short while pending the termination petitions.

In re Noel M., 23 Conn. App, 410(1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother appealed and DCF claimed that the mother's appeal was moot because the trial court granted DCF an extension of the child's original commitment. The Appellate Court held that the mother's appeal was not moot because the case was capable of repetition yet evading review. An actual controversy still existed because the child could be subject to multiple extensions of the original commitment and DCF's extension of commitment was based on the initial adjudication of neglect and order of commitment that the mother claimed was improper.

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court erred in granting the order of temporary custody. The Appellate Court held their claim academic and therefore moot because the child was subsequently adjudicated uncared for and committed to DCF a year after the order of temporary custody was granted. The parents never appealed the order of temporary custody at the time the order was entered.

In re Jessica M., 303 Conn. 584 (2012)
A seventeen-year-old filed a petition to be committed to the Department of Children and Families two and one half months before her eighteenth birthday, which was not heard until after she had turned eighteen. The trial court ruled that the petition was moot, and the Appellate Court affirmed. Following its ruling in Jose B., the Supreme Court also affirmed, ruling that the juvenile court lacks statutory authority to adjudicate a person neglected once she has turned eighteen, even where the alleged neglect occurred while she was still a minor. The child in this case had argued that the case was not moot because, even if the court lacked authority to enter a disposition, an adjudication of neglect could have collateral immigration consequences in her case. The Court disagreed, ruling that the collateral consequences doctrine applied only to defeat claims of mootness sounding in a court's inability to offer practical relief, whereas this case was moot because the court could not even make an adjudication. "The collateral consequences doctrine cannot confer statutory authority on the trial court that is otherwise lacking."

In re Jose B., 303 Conn. 569 (2012)
A seventeen-year-old filed a petition to be committed to the Department of Children and Families two days before his eighteenth birthday, which was not heard until after he had turned eighteen. The trial court ruled that the petition was moot, and the Appellate Court affirmed. The Supreme Court also affirmed, ruling that the juvenile court lacks statutory authority to adjudicate a person neglected once he has turned eighteen, even where the alleged neglect occurred while he was still a minor, and a retroactive adjudication might make him eligible for ongoing services provided to young adults by DCF. The Court also took time to

address the ongoing confusion concerning complaints in which statutorily require facts are not properly alleged, ruling that these complaints may be attacked for lacking legal sufficiency, but do not deprive the court of subject matter jurisdiction.

MOTIONS, GENERALLY

"The purpose of requiring written motions is not only to provide for the orderly administration of justice, but also to fulfill the fundamental requirement of due process of law." *See, In re Nasia B., 98 Conn. App. 319 (2006).*

"Regardless of how motion is characterized by party, reviewing court examines the practical effect of the trial court's ruling in order to determine its nature, looking to substance of relief sought by the motion rather than the form." *See, In re Haley B., 262 Conn. 406 (2003).*

In re Haley B., 262 Conn. 406 (2003), reversed
The trial court denied the intervening grandmother's motion to transfer guardianship and ordered weekly visitation with the grandmother. Subsequently, DCF filed a motion for clarification of the trial court's visitation order. Responding to the motion for clarification, the trial court modified the visitation order to monthly visitation. The grandmother appealed. DCF filed a motion to dismiss the appeal as untimely. The Appellate Court granted the motion and dismissed the grandmother's appeal. The Supreme Court reversed. The grandmother claimed a new appeal period arose after the trial court modified the visitation order and accordingly her motion was timely. The Supreme Court held the Appellate Court erred in dismissing the grandmother's appeal as untimely because the trial court's alteration of the visitation order gave rise to a new appeal and thus the grandmother's appeal was timely filed. The Supreme Court ruled that although DCF's motion was entitled a "motion for clarification," the effect of the motion was to alter or modify the original judgment, not merely clarifying it. In doing so, the Court looked at the substance of the relief sought as well as the practical effect of the trial court's ruling, not just at the form of the motion.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr29.pdf

In re Cameron C., 103 Conn. App. 746 (2007), cert. denied, 285 Conn. 906 (2008)
The trial court granted the father's motion to reinstate his guardianship and the grandmother appealed. The Appellate Court affirmed. The grandmother claimed that the trial court improperly applied the standard in the motion for revocation statute, Conn. Gen. Stat. § 46b-129(m) instead of the custody statute, Conn. Gen. Stat. § 46b-56(c) and that the evidence was insufficient to support reinstating the father's guardianship. The Appellate Court first held that the trial court properly construed the father's motion to transfer guardianship as a motion to revoke commitment pursuant to *In re Stacy G.* The father's motion was entitled "Motion to Transfer Guardianship," and the trial court stated that the label on the motion was not controlling. The Appellate Court assessed the "substance of the relief sought by the motion rather than its form because '[t]o hold [a litigant] strictly to the label on his filing would exalt form over substance.'" Applying the rules of statutory construction, the Court also held that the best interest factors in Conn. Gen. Stat. § 46b-56(c), a dissolution statute, were inapplicable.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP103/103AP419.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child

returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the court acted outside its statutory authority of Conn. Gen. Stat § 46b-129 (m) and (o) when it sua sponte revoked the child's commitment without notice to any of the parties or the foster parent. The Appellate Court agreed and reversed the judgment. The Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority. As written, the statutes, requiring the filing of a motion and notice to the foster parents, are intended to provide for the orderly administration of justice as well to protect the due process rights of the parties and the foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

MOTION FOR ADVICE

"Motions for advice are not recognized by the statutes or rules of court in this state. Our Supreme Court, well over a century ago, voiced its strong objection to the practice of requesting advisory opinions. Motions for interpretation or clarification, although not specifically described in the rules of practice, are commonly considered by trial courts and are procedurally proper." (Internal citations and quotation marks omitted.) *See, In re Brianna F., 50 Conn. App. 805 (1998).*

In re Brianna F., 50 Conn. App. 805 (1998)

DCF filed a coterminous petition and while the trial court found the adjudicatory grounds were met, the trial court denied the termination petition finding that it was not in the child's best interest. The trial court found that the child suffered serious life threatening injuries at the hand of the mother's boyfriend and the mother failed to prevent the abuse, but also determined that the mother may be able to overcome her deficient judgment. The child's attorney subsequently filed a second termination of parental rights petition alleging that the mother failed to rehabilitate. The child's attorney filed a "motion for advice" regarding the effect of the denial of the first termination on the second termination petition. The trial court ruled that collateral estoppel did not apply to the first termination judgment and that the child's attorney could not proceed directly to the best interest/dispositional phase of the termination proceeding without relitigating the adjudicatory grounds. The Appellate Court first held that "motions for advice" were not recognized in Connecticut and the Court treated it as a "motion for clarification" and ruled that the "motion for clarification" was an appealable final judgment. The Court further affirmed the trial court's ruling on the motion for advice/clarification and held that collateral estoppel did not apply to the first termination adjudication because the parent has a fundamental right to raise and care for his/her children and whenever the parent child relationship is at issue, all the relevant facts at the time of the termination petition should be considered. "The parent-child relationship presents an ongoing dynamic that cannot be frozen in time. The entire picture of that relationship must be considered whenever the termination of parental rights is under consideration by a judicial authority." Although the trial court's ruling on the motion for advice appeared inconsistent, the Appellate Court ruled that the child's attorney could introduce evidence related to the first termination proceeding to be considered in the second termination proceeding.

MOTION TO AMEND PETITION

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's motion to open the TPR judgment, the Supreme Court held that pursuant to Conn. Gen. Stat. § 52-212a, the trial court has limited jurisdiction to open the judgment within four months of the judgment, unless there has been a waiver or consent of the court's jurisdiction. By filing a Motion to Amend the TPR petition, DCF waived its objection to the court's jurisdiction to reopen the judgment after the four month period. DCF's decision to amend the TPR petition to allege new grounds and rely on new facts not previously in evidence constituted acquiescence to the court's jurisdiction. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerated this holding. **Dissent:** Borden, Norcott, JJ.

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to amend the termination petition filed by DCF to include, in part, allegations that the father complied with his probation. The Appellate Court held that the trial court did not abuse its discretion in denying the motion. Although Practice Book § 35-1(c) states "any party" may file a motion to amend, to have allowed the father to amend DCF's termination petition would have resulted in a substantial injustice to DCF because the amendment would have required DCF to prove the father's legal position. The Court concluded that the practice book rule is usually relied on by petitioners who seek to amend petitions that they themselves have filed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly allowed the father to amend the TPR petition to include the "no ongoing parent child relationship" ground. The Appellate Court held that the trial court did not abuse its discretion by granting the motion to amend because the practice book provides that a party may amend the petition any time prior to the final adjudication.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian. The Appellate Court affirmed. The father claimed that: (1) the aunt was not authorized by statute to amend the petition, (2) the trial court lacked authority to allow the amendment, and (3) the amendment violated his due process rights. The Court held that: (1) the statute permitted the aunt to file the petition, thus she also had standing to amend it, (2) after the transfer of probate case to the superior court for juvenile matters, the Practice Book specifically provides that the superior court may grant a motion to amend the petition as a juvenile matters case, and (3) the father had ample notice of his own behavior that served as the basis of the petition and adding the commission or omission ground to the already alleged abandonment ground did not harm him.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the midtrial amendment to the neglect petition alleging that the mother neglected the child by making false sexual abuse allegations deprived her of her due process rights. The Appellate Court held that the trial court violated the mother's due process right to adequate notice by granting the motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

In re Lori Beth D., 21 Conn. App. 226 (1990)
The probate court transferred the mother's petition to terminate the father's parental rights to the Superior Court. The Superior Court terminated the father's rights by finding that he abandoned his child. The Appellate Court affirmed. The father claimed that the trial court committed plain error in using the trial date instead of the petition date as the adjudicatory date based on the granting of a motion to amend the petition to add an additional ground. The Appellate Court held that the father failed to demonstrate how the trial court failing to grant a continuance, sua sponte, after the granting of the motion to amend, harmed him. The father never asked for a continuance.

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion by granting DCF's motion to amend the petition as the amendment related to events that occurred after the filing of the uncared for petition. The Appellate Court held that the trial court did not abuse its discretion in granting the amendment because the parents' argument lacked legal support and the trial court allowed the parents continuances to prepare for the case in light of the amendment.

In re Juvenile Appeal (1983-4), 39 Conn. Supp. 490 (1983)(appellate session)
The trial court adjudicated the child neglected and committed her to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the trial court erred in allowing DCF to amend the neglect petition. The Appellate Court held that the trial court complied with the Practice Book and did not abuse its discretion.

MOTION FOR ARTICULATION

"It is the sole responsibility of the appellant to provide this court with an adequate record for review. Practice Book § 61-10. Practice Book § 66-5 permits an appellant to seek an articulation by the trial court of the factual and legal basis on which it rendered its decision. [A]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification.... An articulation may be necessary where the trial court fails completely to state any basis for its decision ... or where the basis, although stated, is unclear.... The purpose of an articulation is to dispel any ... ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal. [W]e will, in the absence of a motion for articulation, assume that the trial court acted properly." (Internal citations and quotation marks omitted.) *See, In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009).*

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly shifted the burden of proof to the mother to prove she rehabilitated. The Appellate Court held that although the trial court stated in its decision that the mother had not made "significant progress to persuade the court by clear and convincing evidence that she met the objectives" and that the mother had not "established to the court's satisfaction that she is prepared . . . to assume the primary role of caring for her children," the decision as a whole indicated that the court required DCF to prove its case by clear and convincing evidence and that the court found that DCF in fact met its burden. The Court further held that the trial court's articulation did not change the basis of its memorandum of decision nor substitute its original decision. The articulation demonstrated that the court utilized the correct standard and there was nothing in the articulations that contradicted the substance of the court's decision. **Dissent:** Robinson, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Diamond J., 121 Conn. App. 392, cert. denied, 297 Conn. 927 (2010)
The trial court granted DCF's motion to modify the child's disposition from protective supervision to commitment. The Appellate Court affirmed. The Appellate declined to review the mother's appellate claims because she failed to provide the Appellate Court with a signed transcript of the trial court's oral decision and also failed to file a motion for articulation. The Appellate Court concluded that the hearing transcript, without a motion for articulation, did not clearly identify the basis for the trial court's decision to modify the disposition and it was incumbent upon the mother as the appellant to provide the court with an adequate record for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP341.pdf

In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously

found DCF made reasonable efforts and that the trial court applied an incorrect standard of proof. The Appellate Court held that the trial court correctly applied the 'clear and convincing' evidence standard of proof because it was the only standard stated in the memorandum of decision and it was referred to repeatedly. If the mother claimed that the standard of proof was ambiguous, then she was required to file a motion for articulation. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP4.pdf

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the court's finding that he failed to rehabilitate violated his due process rights. The Appellate Court declined to review the father's due process claim because the father did not raise the claim at trial, nor did he file a motion for articulation or request review pursuant to *State v. Golding* or the plain error doctrine. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Coby C., 107 Conn. App. 395 (2008)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that it could not review the mother's claim that the trial court erred in terminating her parental rights by failing to consider a best interest dispositional factor, namely whether the child had emotional ties to his foster parent. The Appellate Court concluded that the claim was unreviewable because the record did not reveal the trial court's basis for the omission and the mother never filed a motion for articulation to rectify the trial court's omission. There were not exceptional circumstances warranting appellate review of a claim that was not raised or decided at the trial court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP257.pdf

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate because the mother complied with the specific steps. The mother argued that based on the DCF social worker's testimony that she complied with the specific steps, DCF is precluded from arguing otherwise because the testimony constituted an admission. The Appellate Court ruled that the mother failed to prove that the DCF social worker's testimony was a judicial admission. The mother claimed that the DCF social worker's testimony that the mother had complied with the specific steps was a judicial admission precluding DCF from arguing on appeal that the mother failed to comply with the specific steps. The Appellate Court, citing the differences between judicial admissions and an evidentiary admission, ruled that the DCF social worker's testimony could not be construed as an admission because the record was unclear as to whether the social worker was a "party" and the mother never sought an articulation on the issue.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that there was insufficient evidence that the mother's boyfriend physically and sexually abused the child. The Court held that the evidence demonstrated that the mother both allowed and denied the child's injuries that occurred in her care. The child had knowledge beyond his years of acts

of sexual and physical abuse. The mother further claimed that the trial court judgment fails to identify a specific injury to the child. However, the Court refused to address this claim because the mother did not file a motion for articulation.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that the parents "have not established all the prerequisites necessary in order to grant the [motion]," was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal basis for the court's decision.

MOTION TO BIFURCATE

In re Barbara J., 215 Conn. 31 (1990)
The trial court terminated the mother's parental rights by finding, in part, that she failed to rehabilitate. The Supreme Court affirmed. The mother claimed, in part, that the trial court failed to consider the six dispositional factors in making its failure to rehabilitate findings. Effectively overruling *In re Shavoughn K.,* the Appellate Court held that the trial court was not required to consider the six statutory dispositional factors in the adjudicatory phase and that a bifurcated hearing, while not required under the statute, was permissible. The statute requires that the trial court determine the factors related to adjudication and disposition separately. The trial court properly found the mother failed to rehabilitate.

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. The parents claimed, in part, that the trial court applied the wrong standard of proof. They claimed specifically that because the proceedings were not bifurcated, the trial court erred by applying a fair preponderance of the evidence standard to the neglect as well as the termination proceedings. After providing a detailed explanation of the elements of coterminous proceedings, the Court held that the trial court properly adjudicated the child neglected by more evidence than a fair preponderance of the evidence and found that, based on the child's serious physical injuries, the parents committed an act of commission or omission by clear and convincing evidence.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother claimed that the simultaneous hearing of the neglect and termination petitions (coterminous) as well as the failure to separate the adjudicatory and dispositional phases violated her due process because it impaired her ability to present a defense. The Court held the coterminous action was not violation of due process because the statute expressly permitted a consolidated hearing, it served to promote the best interest of the child, and the process did not eliminate procedural safeguards. Moreover, nothing in the statutory scheme or practice book rules mandated a bifurcated hearing.

In re Jennifer W., 75 Conn. App. 485 (2003)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court violated her due process right to fundamental fairness by not bifurcating the termination proceeding and holding a separate adjudicatory hearing. The Appellate Court held that the trial court did not violate the mother's due process rights because (1) the termination statute protects the mother's due process rights by requiring clear and convincing evidence, (2) the Practice Book rule § 35a-7(a) grants the trial court discretion to have a consolidated hearing, and (3) according to *In re Deana E.*, failure to bifurcate a termination proceeding does not violate due process. Thus, the mother's rights were adequately protected

under the statute and a separate hearing was not required.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap215.pdf

In re Deana E., 61 Conn. App. 197 (2000), cert. denied, 255 Conn. 941 (2001)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court violated his due process rights by denying his motion to bifurcate the termination proceedings. The Appellate Court held that the decision whether to bifurcate the termination proceeding rests solely within the discretion of the trial court. The Court rejected all three of the father's supporting arguments and held that the trial court did not abuse its discretion (1) in declining to apply the due process *Mathews* test in determining whether to deny his motion to bifurcate, (2) in disregarding the psychologist's testimony that the hearings should be bifurcated, and (3) in deciding not to bifurcate because a consolidated hearing does not create a structural defect whereby the court is unable to separate the best interest factors from the adjudicatory finding.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap126.pdf

In re Jose C., 11 Conn. App. 507 (1987)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial improperly denied her motion to bifurcate the termination proceeding because the evidence of the foster parent's willingness to adopt the child "tainted the perceptions of the court." The Appellate Court held that the trial court did not abuse its discretion by hearing all the evidence together because the trial court was able to distinguish properly between the adjudicatory and dispositional evidence. Moreover, the mother failed to demonstrate how the decision would have been different if the trial court granted her motion.

MOTION FOR CLARIFICATION

In re Haley B., 262 Conn. 406 (2003), reversed
The trial court denied the intervening grandmother's motion to transfer guardianship and ordered weekly visitation with the grandmother. Subsequently, DCF filed a motion for clarification of the trial court's visitation order. Responding to the motion for clarification, the trial court modified the visitation order to monthly visitation. The grandmother appealed. DCF filed a motion to dismiss the appeal as untimely. The Appellate Court granted the motion and dismissed the grandmother's appeal. The Supreme Court reversed. The grandmother claimed a new appeal period arose after the trial court modified the visitation order and accordingly her motion was timely. The Supreme Court held the Appellate Court erred in dismissing the grandmother's appeal as untimely because the trial court's alteration of the visitation order gave rise to a new appeal and thus the grandmother's appeal was timely filed. The Supreme Court ruled that although DCF's motion was entitled a "motion for clarification," the effect of the motion was to alter or modify the original judgment, not merely clarify it. In doing so, the Court looked at the substance of the relief sought as well as the practical effect of the trial court's ruling, not just at the form of the motion. The Court concluded that "the purpose of a clarification is to take a prior statement, decision or order and make it easier to understand. Motions for clarification, therefore, may be appropriate where there is an ambiguous term in a judgment or decision; but, not where the movant's request would cause a substantive change in the existing decision." Moreover, motions for clarification may be made at any time and are grounded in the trial court's equitable authority to protect the integrity of its judgments.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr29.pdf

MOTION TO EXPUNGE AND SEAL

In re Soncheray H., 42 Conn. App. 664 (1996)
The trial court terminated the mother's parental rights because she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to expunge and seal the children's trial brief because it contained facts not in evidence and it was untimely. The Appellate Court held that the trial court's decision was proper because the mother failed to demonstrate anywhere in the memorandum of decision or the record as a whole where the trial court relied on any of the facts not in evidence as contained in the children's trial brief.

MOTION IN LIMINE

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion in limine seeking to exclude evidence of his past criminal history. The trial court properly found the criminal history relevant evidence of the father's continuing course of conduct demonstrating that the father was not in a position to support an ongoing parent child relationship. The father incurred no substantial prejudice by admitting the evidence and there was no showing that the ruling was harmful and likely to affect the result of the trial. The Appellate Court also affirmed the trial court's judgment granting the TPR petition against the father on the grounds of abandonment and no ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in precluding the mother's therapist from testifying as an expert. At trial, the mother failed to disclose the therapist in a timely manner. The grandmother filed a motion in limine seeking to preclude the therapist from testifying as an expert based on the lack of required notice. The Appellate Court held that the claim was inadequate for review either under *Golding* review or an abuse of discretion standard because the mother never provided an offer of proof regarding the testimony the therapist would have given had she been permitted to testify. The Appellate Court concluded that it could only speculate as to what additional testimony the therapist would have provided if permitted to offer opinion testimony as an expert.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

MOTION TO MODIFY DISPOSITION

"If trial court, upon adjudicating a child uncared for, neglected or dependent, elects to continue custody with parent subject to order of protective supervision, court retains jurisdiction, and subsequent parental noncompliance with this order is ground for motion to modify court's disposition." *See, In re Stanley D., 45 Conn. App. 606, cert. denied, 243 Conn. 910 (1997).*

In re Diamond J., 121 Conn. App. 392, cert. denied, 297 Conn. 927 (2010)
The trial court granted DCF's motion to modify the child's disposition from protective supervision to commitment. The Appellate Court affirmed. The Appellate declined to review the mother's appellate claims because she failed to provide the Appellate Court with a signed transcript of the trial court's oral decision and also failed to file a motion for articulation. The Appellate Court concluded that the hearing transcript, without a motion for articulation, did not clearly identify the basis for the trial court's decision to modify the disposition and it was incumbent upon the mother as the appellant to provide the court with an adequate record for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP341.pdf

In re Stanley D., 45 Conn. App. 606, cert. denied, 243 Conn. 910 (1997)
The trial court granted DCF's motion to modify the disposition from protective supervision to commitment. The Appellate Court affirmed. The father claimed that the trial court improperly granted the motion to modify disposition. The Appellate Court held that if a parent fails to comply with the orders of protective supervision, the court can modify the disposition. The trial court had sufficient evidence to modify the disposition to commitment because the father and mother created an unhealthy environment for the child by engaging in domestic violence disputes, the father was arrested and charged with criminal misconduct, the father failed to cooperate with DCF and announced visits and the mother had left the home and disappeared for weeks.

In re Catrina L., 47 Conn. App. 64 (1997)
The trial court adjudicated the child neglected and ordered the child to remain with the mother under an order of protective supervision. DCF filed an ex parte motion for order of temporary custody and a motion to modify the disposition. The trial court denied the motion to modify and vacated the ex parte OTC. DCF appealed. During the pendency of the appeal, the trial court granted DCF's subsequent motion for an order of temporary custody filed and scheduled a hearing on a subsequent motion to modify the disposition. The Appellate Court dismissed DCF's appeal as moot as there was no practical relief that could be granted.

MOTION FOR NEW TRIAL

In re Nathan B., 116 Conn. App. 521 (2009), reversed
In an appeal from probate court, the trial court terminated the father's parental rights. During the trial, the judge made a number of improper statements about the father. At the conclusion of DCF's case, the father moved for a new trial on the basis that the judge was no longer impartial. The trial court denied the motion. The Appellate Court reversed. The father claimed that the judge should have disqualified himself and granted a new trial because the judge violated the principles of impartiality and fairness. The Appellate Court held that the trial court abused its discretion in denying the request for a new trial because the judge's comments implicitly questioned the father's credibility before he testified. A reasonable person would question the judge's impartiality. On the first day of trial, the court stated to the father, "Somebody who cared would not stick himself in jail and stay there so he couldn't see his child. Now, I don't want to get into it any further. Move on. [I'm] [s]ick of these people who come in and say, 'Oh, I really care. I haven't seen him in nine years, Judge, but I really care.' Check with your attorney see what he has done in the last nine years with his family and how he has worked. Check with anybody here. They tended to their families. Move on." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116ap420.pdf

In re Tremaine C., 117 Conn. App. 521, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the father's parental rights on the basis of abandonment. The Appellate Court affirmed. The father visited his child while incarcerated and then for a short time after being released. The father then discontinued contact with DCF and his son and faced violation of probation charges. Neither DCF nor the criminal justice system could find him. At the onset of the termination trial, the father was defaulted. After two days of trial, the father was reincarcerated and was present at trial. DCF moved to reopen the proceedings and the trial court provided the father transcripts, granted him a continuance to prepare and allowed him to recall witnesses. The father claimed that the trial court violated his constitutional due process rights to be present and confront witnesses by not sua sponte ordering a new trial when the father resurfaced. Pursuing *Golding* review of his unpreserved claim, the Appellate Court held that the father failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived him of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the father to be low because the father chose not to be present for the termination trial. He refused to remain in contact with DCF and received proper notice of the trial and chose not to be present while he was not incarcerated. Moreover, delaying the termination proceeding for a trial de novo would place unnecessary burden on DCF's interest in furthering permanency for the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP462.pdf

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly denied her motion for a new trial on the basis of newly discovered evidence, namely that the witness in the termination trial recanted her testimony in the criminal trial. The Appellate Court held that the trial court did not abuse its discretion in denying the motion for a new trial because while the newly discovered evidence of the witness' recantation tended to discredit the witness' testimony at

the termination trial, the evidence was not "new evidence" that they could not have discovered as a result of due diligence. The mother's criminal attorney discovered the evidence as a result of vigorous cross-examination and as such, the evidence could have been discovered by the mother in her termination trial. Furthermore, the trial court properly concluded that the mother failed to demonstrate that the alleged new evidence of the witness' perjury would have led to a different result in the termination proceeding. In doing so, the Court noted legal distinction between a petition for a new trial and a motion for a new trial.

In re Clifton B., 15 Conn. App. 367 (1988)
The trial court terminated the parents' parental rights. The parents filed a petition for a new trial. The trial court denied their petition. The Appellate Court dismissed the appeal because the parents did not file a proper petition for a new trial by instituting a new and separate civil action and hence the trial court was deprived of subject matter jurisdiction.

In re Bobby Jo S., 10 Conn. App. 36 (1987)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother lived out of state, failed to visit her child and was properly notified of the termination proceedings. The mother did not appear for the adjudicatory phase of the termination proceeding and was unrepresented by counsel. She appeared at the beginning of the dispositional phase and was appointed counsel. At the adjudicatory phase, given her absence, the mother was unrepresented by counsel. The trial court denied the mother's motion to set aside the adjudication and for a new trial claiming pursuant to Conn. Gen. Stat. § 46b-136 she was entitled to an attorney. The Appellate Court held that the trial court did not abuse its discretion by denying the motion to set aside and for a new trial because the statute and practice book provides that the trial court may appoint an attorney in the interests of justice and an attorney is not statutorily required when a parent fails to request an attorney or appear for the hearing after receiving adequate notice. Furthermore, the Appellate Court concluded that in light of *Lassiter,* due process does not require that an indigent parent will always be appointed an attorney.

In re Juvenile Appeal (84-1), 1 Conn. App. 298 (1984)
The mother claimed that she did not have a 'reasonable opportunity to appear.' The Appellate Court held that the trial court did not abuse its discretion in denying a new trial in parental termination proceedings because the mother had a reasonable opportunity to appear as she was notified of all the court dates and the court appointed an attorney to represent her. The Court also concluded that the mother failed to demonstrate that an adequate defense to the termination existed as required by statute Conn. Gen. Stat. § 52-270 because the mother's attempt to recover from her drug addiction did not constitute a valid defense.

MOTION TO REMOVE DOCUMENTS

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly denied her motion to remove documents attached to the coterminous petition. The Appellate Court held that the trial court properly denied the motion to remove documents. Pursuant to the relevant Practice Book rules, the documents, namely police reports and voluntary statements, attached to the petition were statutorily required as verified affirmations of fact and most of the documents were notarized.

MOTION TO REOPEN/OPEN JUDGMENT

"The court may grant a motion to open or set aside a judgment terminating parental rights pursuant to section 52-212 or 52-212a or pursuant to common law or may grant a petition for a new trial on the issue of the termination of parental rights, provided the court shall consider the best interest of the child, except that no such motion or petition may be granted if a final decree of adoption has been issued prior to the filing of any such motion or petition...." A common-law motion to open must be predicated on fraud, duress or mutual mistake. *See, In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'd, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if s/he is custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In this case, DCF claimed, in part, that the father's appeal is an improper collateral attack on the original neglect adjudication because the trial court denied the father's motion to open. The Supreme Court held that because the trial court's order regarding the motion to open was internally inconsistent, it was neither a final appealable judgment, nor was it an order appealable under *State v. Curcio*. Rather, it was an interlocutory order that the father was not required nor permitted to immediately appeal. Accordingly, the Court ruled that the father was allowed to appeal the trial court's inconsistent order denying his motion to open. The Court further held that the trial court improperly denied the father's motion to open because the record demonstrated that the father did not stand silent and wanted to contest the allegations that his children were neglected, regardless of whether he was a noncustodial parent.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. In doing so, the Court reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. Other alternatives exist to challenge the termination judgment, including a direct appeal, or a motion to open or a petition for a new trial, except when an adoption has been finalized. **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf

Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's untimely motion to open the TPR judgment, the Supreme Court held that pursuant to Conn. Gen. Stat. § 52-212a, the trial court has limited jurisdiction to open the judgment within four months of the judgment, unless there has been a waiver or consent of the court's jurisdiction. By filing a Motion to Amend the TPR petition, DCF waived its objection to the court's jurisdiction to reopen the judgment after the four month period. DCF's decision to amend the TPR petition to allege new grounds and rely on new facts not previously in evidence constituted acquiescence to the court's jurisdiction. Thus, the trial court did not abuse its discretion when it granted the mother's motion to open the judgment terminating her parental rights. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerated this holding. **Dissent:** Borden, Norcott, JJ.

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and denied the intervening grandmother's motion to transfer guardianship. The trial court also denied the grandmother's motion to open the termination judgment after the child's preadoptive placement failed. The Appellate Court affirmed. The grandmother claimed, in part, that the trial court improperly denied her motion to open. The Appellate Court held that the trial court did not abuse its discretion by denying the intervening grandmother's motion to open the termination of parental rights judgment after the child's preadoptive placement failed because there was no good cause demonstrated. The trial court properly reasoned that its function was not to decide with whom or where a child should reside following a termination of parental rights and "to permit judgments to be [opened] whenever the plans of the statutory parent cannot be achieved would lead to more uncertainty and impermanence."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Christopher G., 118 Conn. App. 569 (2009)
The trial court terminated the mother's parental rights on the basis of her consent and denied her Motion to Open or Set Aside the TPR judgment that was filed over a year after the consent. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion by denying the motion because the consent was not the result of mutual mistake. Although the parties may have anticipated an adoption by the mother's aunt and uncle, with an Open Adoption Agreement, the record reflects that the mother's consent was knowingly and voluntary, and that her consent was not dependent upon the aunt and uncle ultimately deciding to adopt the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP90.pdf

In re Samantha S., 120 Conn. App. 755, cert. granted, 297 Conn. 913 (2010), dismissed, 300 Conn. 586 (2011)
The trial court denied the father's Motion to Open the judgment terminating his parental rights on the basis of his consent finding that there was no mutual mistake. The Appellate Court affirmed. At the hearing, the father claimed mutual mistake on the basis that his consent was made prior to his knowledge that DCF would consider his petition for a declaratory ruling regarding whether DCF has a statutory obligation to pursue open adoption agreements. On appeal, the father claimed that the consent was invalid because he was not aware that the child's preadoptive family would adopt her within a short period of time. The Appellate Court held that the father's new claim was a fraud claim resurrected as a mutual mistake claim and

that the record was inadequate for review because the trial court did not address his latter claim. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR57.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP273.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that in light of her constitutional right to raise her child, the trial court erred in denying her motion to reopen the evidence to allow for the results of a yet-to-be-taken hair drug test. The Appellate Court held that the trial court did not abuse its discretion because the evidence demonstrated that the mother refused to take a prior hair test at least four times, and tested positive for marijuana in a urine screen. Moreover, allowing the mother further time to take a hair test after the close of evidence would only serve to delay the proceedings and delay the child's permanency because the results of a hair test would shed very little light on the mother's rehabilitation. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The procedural history in this case notes that the mother filed a Motion to Open the TPR judgment claiming that the trial court was bound to sua sponte suspend the TPR trial to pursue an Open Adoption Agreement after the foster mother testified that she was willing to adopt the child. The mother raised this claim on appeal under the plain error doctrine without appealing the assumed denial of the Motion to Open. The Appellate Court denied the mother's claim and affirmed the TPR judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Ilyssa G., 105 Conn. App. 41 (2007), cert. denied, 285 Conn. App. 41 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to open the default judgment to terminate his parental rights. Based on the father's own testimony, the trial court acted reasonably in concluding that the father did not present a good defense to the abandonment or no ongoing parent child relationship grounds. The father also failed to prove that he did not appear at the TPR trial because of fraud, mistake, accident or other reasonable cause. The father's testimony during the hearing supported, rather than countered, the grounds for termination. He admitted he had not seen his child in 8 years and that he only called her and visited DCF once. He further testified that he did not tell anyone that he moved. The trial court properly ruled that the father's or his attorney's alleged negligence is not grounds to set aside a default judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105ap63.pdf

In re Travis R., 80 Conn. App. 777 (2004), cert. denied, 268 Conn. 904 (2004)
The trial court terminated the mother's parental rights on the basis of her consent. The mother then moved to open the judgment claiming duress. The trial court denied the mother's motion to open. The Appellate Court affirmed. The mother claimed that the trial court erred in denying her motion to open the judgment based on consent because she was under duress. The Appellate Court held that the trial court did not abuse its discretion in denying the motion because the mother failed to prove that a wrongful act occurred to place her under duress. A party claiming duress must prove: (1) a wrongful act, or threat (2) that left the victim no reasonable alternative, and (3) to which the victim in fact acceded, and that (4) the resulting transaction was unfair to the victim. The issue is not whether the "victim" felt coerced, but rather whether the actual act of threat underlying the coercion was wrongful. Here, the mother testified that the social worker threatened her that if she did not consent then the children would be removed from their aunt and uncle

and separated. The social worker testified to the contrary. The Appellate Court further held that the trial court properly determined that denying the motion to open was in the children's best interest because they were thriving in the aunt and uncle's care for the last three years.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP80/80ap107.pdf

In re Salvatore P., 74 Conn. App. 23 (2002), cert. denied, 262 Conn. 934 (2003)
The trial court terminated the mother's parental rights in her absence after finding that she received notice by publication. More than four months later, the mother filed a motion to open the termination judgment. The trial court denied the motion to open. The Appellate Court affirmed. The mother claimed that: (1) the trial court, as the judge who also presided over the termination petition, should not have presided over the motion to open, and (2) she was unable to attend the termination hearing due to duress, and (3) service by publication was insufficient. The Appellate Court held that the trial court did not abuse its discretion in denying the motion to open because: (1) the mother never filed a motion to disqualify the trial judge before or during the motion to open, (2) the motion was filed after the fourth month and the mother presented no evidence regarding her alleged duress, and (3) while service by notice of publication is not preferred, in this case it was warranted because the mother was aware of the termination proceedings and refused to attend or let DCF know her whereabouts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap62.pdf

In re Christina V., 38 Conn. App. 214 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred by denying her motion to open alleging DCF was biased in its failure to offer her assistance to reunify and to consider the grandmother and aunt as placement resources. The Appellate Court did not abuse its discretion in denying the motion because the information underlying the mother's claims was available to the mother before the termination trial and at trial the mother offered no evidence of DCF's alleged bias. Moreover, the mother did not directly appeal the denial of the motion. Nonetheless, the evidence demonstrated that DCF offered reasonable efforts but the mother was not always compliant.

In re Juvenile Appeal (84-1), 1 Conn. App. 298 (1984)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion in denying the mother's motion to open the judgment based on default. Although the mother did not appear for the termination trial, the mother was not defaulted. Assuming arguendo that the mother was defaulted, the Appellate Court concluded that the mother failed to prove any of the statutory grounds for opening a default judgment pursuant to Conn. Gen. Stat. § 52-212. The mother was not able to present a good defense to the judgment or that she was prevented from appearing by mistake, accident or other reasonable cause. The mother failed to appear despite the fact that she received adequate notice of the proceedings, appeared at the first hearing and was represented by counsel at all times.

MOTION TO REVIEW

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
The trial court terminated the mother's parental rights. The mother sought to appeal and completed an application for waiver of fees and costs. The trial court denied her application on the alleged basis that the appeal was frivolous. The mother filed a motion to review with the Appellate Court. The Appellate Court granted the mother's motion for review and reversed the trial court's denial of her application. As a matter of first impression, the Appellate Court held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. Trial courts are not permitted to consider the merits of an indigent person's appeal and the only factors to be considered are whether the person has a right to appeal and whether the person is indigent. Based on the Practice Book rule at the time, the trial court may consider the proposed issues on appeal only in determining the extent to which fees or costs should be waived.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

MOTION TO STRIKE

"The purpose of a motion to strike is to challenge the legal sufficiency of the allegations of a complaint for failure to state a claim on which relief can be granted. The motion admits all facts that are well pleaded ... but does not admit legal conclusions or the truth or accuracy of opinions.... On a motion to strike, the trial court's inquiry is to ascertain whether the allegations in each count, if proven, would state a claim on which relief could be granted. A motion to strike is properly granted if the complaint alleges mere conclusions of law that are not supported by the facts alleged. [I]f facts provable in the complaint would support a cause of action, the motion to strike must be denied." (Internal citations and quotation marks omitted.) *See, In re Michael D., 58 Conn. App. 119 (2000).*

In re David W., 254 Conn. 676 (2000), reversing, 52 Conn. App. 576 (1999), reversed
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. The Appellate Court reversed the trial court's judgment. The Supreme Court reversed the Appellate Court's judgment. DCF claimed on appeal that the Appellate Court erred in reversing the trial court's judgment on the basis that the trial court erroneously denied the parents' motion to strike the court-ordered expert psychologist's testimony because DCF had ex parte communications with the expert and the expert agreed to testify on DCF's behalf. The Supreme Court reversed the judgment holding that the proper remedy for ex parte contact with a court-appointed expert witness was not to exclude the expert's testimony via a motion to strike pursuant to a per se exclusion rule, but rather to impeach the expert's credibility through cross-examination to affect the weight and credibility of the expert's testimony. The Court did not condone the ex parte communications and stated that they were improper. However, "[w]hen the neutrality of a court-appointed expert is questioned in parental termination proceedings, the trial court should allow the opposing party to explore the extent of any contacts, bias or prejudice through cross-examination of the expert. Further, the opposing party should be given the opportunity to have its own witnesses testify on its behalf. These steps eliminate the need for an absolute bar of the testimony." http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Xavier D., 113 Conn. App. 478 (2009)
The trial court granted the mother's motion to strike the termination of parental rights petition and dismissed the petition because of a clerical error. A different trial court set aside the dismissal and terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the judgment terminating her parental rights was barred by res judicata because the previous trial court dismissed the termination petition. Here, the basis for the motion to strike and dismissal was that DCF mistakenly checked off the box that alleged abuse instead of neglect. The Appellate Court held that the termination of parental rights judgment was not barred by res judicata because the dismissal was not based on the merits of the case, but rather on procedural grounds.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP113/113AP223.pdf

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his request to strike a sentence in

the DCF social study as inadmissible hearsay. The Appellate Court held that the trial court did not abuse its discretion in not striking the sentence because the alleged error was harmless. Without deciding if the information was inadmissible hearsay, the Court concluded that other properly admitted evidence contained similar information and as such the alleged error would not have affected the ultimate result of the trial. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Michael D., 58 Conn. App. 119 (2000), reversed
The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re James T., 9 Conn. App. 608 (1987), reversed
The trial court denied the petition to terminate the father's parental rights finding that DCF did not prove the no ongoing parent child relationship ground. The Appellate Court reversed. DCF and father appealed. The father claimed that the trial court erred in denying his request to strike the testimony of the independent psychiatrist because the DCF social worker had conversations with the psychiatrist without the court's permission. The Appellate Court held the claim lacked merit because the record showed that the court authorized the interview between the DCF social worker and the psychiatrist. Furthermore, the Appellate court reversed the trial court's conclusion denying the "no ongoing parent child relationship" ground because the trial court's decision was not legally correct nor factually supported because the trial court's conclusions were inconsistent with the facts found and the trial court misapplied the statutory criteria.

NEGLECT

"Under § 46b-129 (j), prior to awarding custody of the child to the department pursuant to an order of commitment, the trial court must both *find* and *adjudicate* the child on one of three grounds: uncared for, neglected or dependent. The grounds are distinct, each statutorily defined. See General Statutes § 46b-120 (7), (9) and (10), as amended. Adjudication on any of these grounds thus requires attendant findings, on the record, in support thereof." *See, In re Allison G., 276 Conn. 146 (2005).*

Neglect proceedings under . . . § 46b-129 are comprised of two parts, adjudication and disposition. . . . During the adjudicatory phase, the court determines if the child was neglected. Section [46b-120 (8)] provides that a child may be found neglected if the child is 'being denied proper care and attention, physically, educationally, emotionally or morally,' or is 'being permitted to live under conditions, circumstances, or associations injurious to the well-being of the child or youth . . . ." (Internal citations and quotation marks omitted.) *See, In re Joseph W., 305 Conn. 633 (2012)*

"Child neglect petition is sui generis and, unlike a complaint and answer in the usual civil case, does not lead to a judgment for or against the parties named. Adjudication of neglect relates to the status of the child and is not necessarily premised on parental fault; finding that the child is neglected is different from finding who is responsible for the child's condition of neglect. Although statute requires both parents to be named in the neglect petition, the adjudication of neglect is not a judgment that runs against the persons so named in the petition; it is not directed against them as parents, but, rather, is a finding that the children are neglected." (Internal citation and quotation marks omitted.) *See, In re David L., 54 Conn. App. 185 (1999).*

"The fair preponderance of the evidence standard of proof is the proper standard in neglect proceedings because any deprivation of rights is reviewable and nonpermanent and therefore "the private interests involved are relatively balanced between the safety of the child and the combined family integrity interests of parent and child." *See, In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984).*

In re Joseph W., 305 Conn. 633 (2012)

The trial court adjudicated the children neglected under the doctrine of predictive neglect and committed them to DCF. The Supreme Court, on transfer, reversed and remanded the case for a new trial. The father claimed that the trial court applied an improper standard of proof and it was inconsistent with the standard of proof for neglect as set forth in Conn. Gen. Stat. § 46b-120(8). The Supreme Court held that the trial court improperly applied a "potential risk of neglect" standard pursuant to the Appellate Court's holding in *In re Kamari C.L.*, 122 Conn. App. 825 (2011). Rejecting the father's claim that the standard of proof in predictive neglect actions should be "virtual certainty that harm to the child will occur," the Supreme Court, applying the principles of due process as set forth in *In re Juvenile Appeal (84-AB)*, concluded that the trial court must find that it is "more likely than not," that if a child remains in the current situation, the child would be denied proper care and attention or would be permitted to live under conditions injurious to the child's well-being according to Conn. Gen. Stat. § 46b-120(8). The Court further held that the finding must be made with respect to each parent contesting the neglect petition and who has expressed a willingness to

care for the child independently of the other parent.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR305/305CR76.pdf

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'd, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Tayler F., 296 Conn. 524 (2010), aff'ing, 111 Conn. App. 28 (2008)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. At the Appellate Court and Supreme Court, the mother primarily claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits. On appeal, the Supreme Court held, as a matter of first impression, that a child's out of court statement may be admissible under the residual hearsay exception if the child is "unavailable," and a child is "unavailable" if there is "competent evidence that the children will suffer psychological harm" by testifying. A finding that it is not in the children's best interest to testify is insufficient. Here, although the trial court applied the best interest of the child standard instead of the psychological harm standard, and the trial court's procedures did not follow the ones set forth in this decision, the Supreme Court found that the court-ordered expert's testimony met the burden of proof regarding the children's unavailability. The Court analyzed and applied *State v. Jarzbek,* which held that a child who is the victim of sexual abuse may testify via videotape outside the physical presence of the defendant, in certain circumstances, without violating the defendant's right to confrontation. Practice Book § 32a-4 was inapplicable because no party requested that the children testify. The Supreme Court further found that the admission of the children's hearsay statements did not violate the mother's right to confrontation or to due process. **Note:** this case was decided before the enactment of the "tender years" exception in the Code of Evidence, § 8-10. On appeal to the Appellate Court, the mother asserted multiple evidentiary claims unsuccessfully. The Appellate Court held that the trial court erred in admitting an

anonymous child abuse report as a business record and improperly allowed testimony regarding the credibility of the children. These errors were not reversible because the Court found them to be harmless. The Court further held that the DCF social worker affidavit containing hearsay was not impermissible hearsay because it was not admitted for the truth of the matter. The Court further declined to review multiple evidentiary claims because the mother failed to make specific objections to specific statements she deemed as hearsay within the challenged exhibits. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Allison G., 276 Conn. 146 (2005), reversed
The trial court adjudicated the child uncared for, but sua sponte dismissed the neglect allegation, and committed the child to DCF. DCF appealed. The Appellate Court dismissed the appeal finding that the issue was moot. The Supreme Court reversed the Appellate Court. The Supreme Court held that DCF was aggrieved by the trial court's decision to dismiss the neglect count and that the matter was not moot. DCF claimed that although it achieved its favored disposition, commitment, it was nonetheless aggrieved because there were prejudicial collateral consequences that could result from a failure to obtain a neglect adjudication and the case was not moot because the practical relief to be afforded was the neglect adjudication itself. The parents claimed that DCF was not aggrieved because it achieved the relief/disposition it requested and that the matter was moot. The Supreme Court held that DCF was aggrieved, in part, because a neglect adjudication had future ramifications in further hearings, including permanency plan hearings and termination of parental rights matters. This decision highlighted the overlap between aggrievement and mootness and further expounded in detail upon the legal construct of a neglect petition, including the legal significance of adjudications and dispositions as it relates to the child protection statutory scheme. The Supreme Court also determined the case was not moot because there were no subsequent proceedings that rendered the case moot and because practical relief was available by way of obtaining a full evidentiary hearing and a possible neglect adjudication.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

In re Devon B., 264 Conn. 572 (2003), reversed
The trial court adjudicated the child uncared for and committed her to DCF. The Supreme Court reversed. The mother claimed that the trial court improperly denied her motion to join the Department of Mental Retardation (DMR) as a necessary party in the neglect proceedings. The Supreme Court held that the trial court abused its discretion by not citing in DMR as a party because the mother was mentally retarded and "a party is deemed necessary if its presence is absolutely required to assure a fair and equitable trial." Given the mother's long standing involvement with DMR as a client, DMR's absence as a party would be improper. She was homeless and court ordered to complete specific steps such as obtain housing in order to be reunified with her child. While DCF is statutorily required to provide reunification efforts to assist the mother reunite with her child, it is not equipped to provide housing and/or other necessary services to the mentally retarded. **Dissent:** Sullivan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98e.pdf

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the

other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court improperly denied their motion to dismiss asserting that probate court had exclusive jurisdiction over the appointment of testamentary guardians pursuant to a valid will. The Supreme Court held that in light of the fact that a neglect petition was filed, the Superior Court for Juvenile Matters had exclusive jurisdiction to enter custody and guardianship orders and thus the court properly denied the motion to dismiss. The extreme and unusual circumstances of this case caused by the mother murdering the father and causing life-threatening injuries to the child vested the Superior Court with jurisdiction. The child was orphaned and in the hospital without any named custodian or guardian until DCF filed its OTC and neglect petition. The existence of a will does not deprive the court of its jurisdiction. It is the province of the Superior Court, not the Probate court, to determine the disposition of a neglected child. The Court further held that the trial court had jurisdiction to appoint DCF as the child's statutory parent and the court's authority was ancillary to the neglect proceedings.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. The parents claimed, in part, that the trial court applied the wrong standard of proof. They claimed specifically that because the proceedings were not bifurcated, the trial court erred by applying a fair preponderance of the evidence standard to the neglect as well as the termination proceedings. After providing a detailed explanation of the elements of coterminous proceedings, the Court held that the trial court properly adjudicated the child neglected by more evidence than a fair preponderance of the evidence and found that, based on the child's serious physical injuries, the parents committed an act of commission or omission by clear and convincing evidence.

In re Candace H., 259 Conn. 523 (2002), vacating 63 Conn. App. 493 (2001)
The trial court adjudicated the child neglected and denied the mother's visitation motion. The mother appealed. The Appellate Court affirmed, reversed and remanded. The mother then voluntarily consented to the termination of her parental rights. DCF moved to vacate the Appellate Court judgment. The Supreme Court dismissed the appeal and vacated the Appellate Court's judgment. The Supreme Court held that the mother's voluntary relinquishment of her parental rights rendered the appeal moot, and vacating the Appellate Court decision was appropriate as it was in the public's interest. The Supreme Court concluded that the appeal was moot and that it did not fit within the exception to the mootness doctrine of being capable of repetition yet evading review.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/259cr33.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap397.pdf

In re Juvenile Appeal (1983-4), 39 Conn. Supp. 490 (1983)(appellate session)
The trial court adjudicated the child neglected and committed her to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that the child was neglected. The Appellate Court held that the trial court properly found that the child was neglected because the mother was unable to protect her child from her violent and abusive boyfriend. Despite the child's fears of the boyfriend, the mother continued to expose the child to her boyfriend in violation of a court order. The child testified in camera that she did not like the mother's boyfriend because he hit her and that she

wanted to stay with her aunt because the boyfriend was always in her home.

In re Alba P., 135 Conn. App. 744 (2012)
The trial court adjudicated the children neglected and ordered a period of protective supervision. The mother appealed. The order of protective supervision expired and DCF filed a motion to dismiss claiming the appellate issues were moot. The Appellate Court dismissed the appeal. The mother asserted that her appellate claim that the trial court improperly found the children neglected based on a prior substantiation of neglect and based on her minor daughter's pregnancy was not moot because it fell within the collateral consequences exception to the mootness doctrine or the capable of repetition yet evading review exception. The Appellate Court held first that the collateral consequences exception was inapplicable. Here, the mother's children were previously adjudicated neglected several years ago. Thus, the mother failed to demonstrate that there was a reasonable possibility that the recent adjudication of neglect would result in harmful collateral consequences such as being exposed to a later termination of parental rights petition. Additionally, according to the Appellate Court, there were no collateral consequences related to the mother's ability to appeal administratively through DCF the neglect substantiation and placement on the child abuse registry because an adjudication of neglect relates to the child, and are not findings as to the mother. Regarding the mother's second claim, the Appellate Court held the foster mother's assertion that the capable of repetition yet evading review applies is without merit. The mother failed to cite any authority in support of her contention that in cases where there is no inadequacy of parenting, the dispositions are inherently time limited and there is a reasonable likelihood that the question presented in this case would arise again. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP368.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother appealed and the children filed their own brief. The older child was removed via an order of temporary custody ("OTC") and remained in foster care throughout the trial. The younger child was later removed via an OTC, but then returned to his mother and remained with his mother until the court's judgment adjudicating the child and committing him to DCF. The mother claimed that the trial court erred by finding that the children neglected and further claimed that the court erred by finding that the younger child predictively neglected when there was actual evidence showing the child was properly cared for in her care after the filing of the neglect petition and after the OTC was vacated. The Appellate Court held that the trial court properly found both children neglected and the younger child predictively neglected because the PB rule 35-7(a) limits the adjudication to facts predating the filing of the neglect petition. Accordingly, the trial court properly determined that any facts regarding the mother's proper parenting were post the adjudicatory date and irrelevant. The evidence supported the finding that the older child was neglected and the younger child was at risk of harm and predictively neglected because the mother was abusing substances while pregnant with the younger child, lacked stable housing and had untreated mental health issues. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The trial court adjudicated one child neglected as to the father, but not as to the mother and the trial court denied the termination of parental rights petitions as to the mother regarding all the children on the grounds that DCF did not prove that the mother failed to rehabilitate. The Appellate Court reversed. DCF claimed that the trial court erred in finding that the child neglected as to the father, but not neglected as to the mother. The Appellate Court held that the trial court's judgment of neglect was legally improper. Based on caselaw, the court concluded that if a child is adjudicated neglected, even if the actions of only one parent

created the neglectful conditions, it does not change the status of the child as neglected.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly relitigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing to the role of the state as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. The doctrine of collateral estoppel precludes the relitigation of a finding of neglect. Here, the Court ruled that the parents never appealed the neglect finding and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The father claimed that the trial court improperly determined that the child was neglected at the time the petition was filed because there was no evidence that the child actually had been harmed. The Appellate Court held that the trial court's decision was not clearly erroneous because the State has authority to act before harm befalls a child. Here, the father allegedly sexually abused his daughters over several years and the child's mother did not believe the allegations. Although the parties agreed to not allow the father unsupervised contact with the child, there were no formal court orders in place to prevent the father from returning to the home or having unsupervised contact with the child. Just because the parents accept and comply with DCF services does not mean that a child cannot be deemed neglected based on the doctrine of predictive neglect.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The mother claimed that the trial court improperly found that the child was neglected as of the date the neglect petition was filed. Specifically, she contended that on the day the petition was filed the child was not denied proper care and attention because he was safely in the care of his maternal grandparents. The Appellate Court held that evidence was sufficient to demonstrate that the child was neglected because the mother has psychiatric issues, refused to take her medication, was psychiatrically hospitalized right after giving birth and there was no court order preventing the mother from returning to the grandparents' home to regain custody of the child. Recognizing the State's responsibility to act before harm befalls a child, the Court further held that the fact that the child was in the care of the grandparents and that he was not harmed at the time of the filing of the neglect petition did not change the analysis of whether the child was neglected under the statute. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The trial court adjudicated the infant child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court abused its discretion in finding that the child neglected.

The Appellate Court held that the evidence demonstrated that the child was "denied proper care" and "was being permitted to live under conditions injurious to the child's well-being" because the mother was unable to protect the child from the father. The father was a paranoid schizophrenic who had not been taking his medication and in one incident, the mother discovered the father resting his hand on the baby's chest while the baby was naked on a wet towel. The father said that the baby needed to "air out." Although the Appellate Court acknowledged that no actual harm befell the child, the Court nonetheless upheld the trial court's findings because neither the mother nor the father understood or attempted to learn the extent of the risk that the father posed to the child when not medicated.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Claudia F., 93 Conn. App. 343 (2006)
The trial court adjudicated the children neglected and committed them to DCF. The mother appealed. During the pendency of the appeal the mother consented to a petition to terminate her parental rights. DCF moved to dismiss the appeal, arguing that the appeal of the neglect petition was moot. The Appellate Court dismissed the appeal. The mother claimed that her appeal was not moot because it fit within the collateral consequences exception because her appeal from the neglect adjudication was her only remedy to remove her name from the DCF Child Abuse Registry. Specifically, she contended that having her name on the registry was stigmatizing and her DCF record could ultimately enter the public domain. The Court found this exception inapplicable because the mother failed to appeal the underlying order of temporary custody that would have served as the basis for her name being on the registry.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP152.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the coterminous petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved by a fair preponderance of the evidence that the child was neglected despite the mother's claim that she never neglected the child because she never had custody of him as DCF removed him from her custody at birth. Based on the mother's drug addiction, the child's addiction to illegal drugs at birth, the mother's persistent failure to comply with services and the father's incarceration, the child was at risk of harm and therefore neglected.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the evidence was insufficient to prove neglect. The Appellate Court held that there was sufficient evidence to support the finding that the mother deliberately and nonaccidentally slammed the child's head against the floor which supported an adjudication of neglect and a termination of parental rights based on non-accidental or inadequately explained physical injury. The mother had made a written statement to the police that she had placed her hand on the child's head and pushed it against the floor. The medical testimony presented was that the resulting fracture of the skull caused the child to have impaired functioning of the brain, seizures and the potential for permanent brain injury or death. http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Michael D., 58 Conn. App. 119 (2000), reversed

The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. First, the parents claimed that the adjudicatory finding of failure to rehabilitate cannot serve as a ground of a coterminous petition and that the court should have adjudicated the children neglected in a separate proceeding from the TPR proceedings. As a result, they claim they were deprived of a meaningful opportunity to rehabilitate. The Court held that after numerous removals of the children, including prior adjudications of neglect, the parents had adequate notice and opportunity to rehabilitate after their children were returned to them. The Court held that the trial court properly granted the coterminous petitions on the basis of failure to rehabilitate because of the parents' ongoing substance abuse.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly applied the wrong standard of proof, a fair preponderance of the evidence, rather than clear and convincing evidence. The Appellate Court rejected the mother's assertion that the burden of proof should be higher and held that it is well settled that the burden of proof in neglect trials is a fair preponderance of the evidence. In this appeal arising from a neglect adjudication, the Court also held that: (1) the trial court properly precluded the mother from calling her child to testify, (2) the trial court properly allowed the DCF's non-disclosed expert to testify, and (3) any alleged error in admitting hearsay was harmless.

In re David L., 54 Conn. App. 185 (1999)
The trial court adjudicated the child neglected pursuant to the mother's nolo plea and committed the child to DCF. The noncustodial father did not claim the child was not neglected by the custodial mother and did not offer a dispositional plan for the child. The Appellate Court affirmed. The father claimed that the trial court erred by not allowing him to contest the neglect adjudication to prove that he did not neglect the child. The Appellate Court dismissed his claim and held his claim was moot because there was no practical relief that could be granted to the father for his requested remedy: a finding that he was not at fault for neglecting the child. The Court concluded that an adjudication of neglect relates to the status of the child and is not a finding of fault by the parents, in part because "a neglect petition is sui generis and, unlike a complaint and answer in the usual civil case, does not lead to a judgment for or against the parties named."

Based on the statutes and rules pertaining to neglect proceedings, the Court ruled that the father was not entitled to a remedy that determined each parent's blameworthiness for the child's neglect. Thus, given that the father did not contest that the child was neglected and did not contest the disposition, the father's claim was moot.

In re Elizabeth H., 40 Conn. App. 216 (1996)
The trial court adjudicated the child neglected, but had not proceeded to disposition. The pro se parents appealed the neglect finding. The children and DCF filed a motion to dismiss for lack of jurisdiction because the neglect adjudicatory finding was not a final judgment. The Appellate Court granted the motion to dismiss and held that although "it is difficult to devise a comprehensive definition of what constitutes a final judgment," under *Curcio*, the neglect determination was not final judgment for appeal because the adjudicatory finding alone did not end the neglect proceedings nor conclude the rights of the parties.

In re Emmanuel M., 35 Conn. App. 276, cert. denied, 231 Conn. 915 (1994)
In this coterminous action, the trial court adjudicated the child neglect and terminated the parents' parental rights. The Appellate Court affirmed. The parents claimed that there was insufficient evidence. The Appellate Court summarily held that the trial court's decision was amply supported by the evidence in light of the parents' conflicting and fluctuating explanations and the child's serious injuries, including a femur fracture, bruises, abrasions, a burn on his thigh, multiple scars over his entire body, a cigarette-sized burn on his wrist, blisters, strap marks, perforated right eardrum, scratches and candle wax in his left ear.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the midtrial amendment to the neglect petition alleging that the mother neglected the child by making false sexual abuse allegations deprived her of her due process rights.
The Appellate Court held that the trial court violated the mother's due process right to adequate notice by granting the motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

In re Kelly S., 29 Conn. App. 600 (1992), reversed
In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother claimed, in part, that the trial court improperly based its decision on probabilities rather than actual incidents of neglect. Although the child was removed from the mentally ill mother's care at birth from the hospital, the trial court could properly find the child neglected or uncared for. The Appellate Court held that actual incidents of neglect are not necessary for a trial court to find a child uncared for based on the child's specialized needs and the mother's mental deficiencies and inability to provide the necessary care for the child's special needs. Here, the mother suffered from a long history of mental illness and the child had significant developmental delays and a serious medical condition. Reversing the TPR part of the trial court's judgment, the Appellate Court held that the trial court could not find that the mother committed acts of commission or omission or that there was no ongoing parent child relationship.

In re Noel M., 23 Conn. App. 410 (1990)

The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that: (1) the evidence was insufficient to find neglect based on her eight year old child's inconsistencies about the stepfather sexually abusing her, and (2) the trial court violated Connecticut's statutory public policy when it failed to reunite the family after the stepfather's criminal acquittal on the charges of sexual abuse. First, the Appellate Court held that the trial court's judgment finding that the child to be neglected was not clearly erroneous because the mother took the child and returned to live with the stepfather after the child told the mother that the stepfather sexually abused her. The mother had actual knowledge of the child's claims and chose not to believe her child, claiming inconsistencies in the child's story. The evidence further demonstrated that the child's statements were generally consistent, and various witnesses, including the child, testified regarding the sexual abuse. Secondly, the Court held that "evidence of a judgment of acquittal in prior criminal case may not be used as proof in subsequent civil case that the act comprising crime was not committed" and accordingly ruled that the doctrine of collateral estoppel was inapplicable.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the evidence was insufficient to prove the child was neglected. The Appellate Court held that the trial court properly found that the child was neglected based on the evidence that included testimony from school personnel about unexplained bruises on the child, the absence of bruises when the child was removed from his mother's care, the boyfriend's past criminal conviction for child abuse involving the same type of infliction of abuse to his own child, and the child's own testimony, albeit contradictory, about how the boyfriend abused him by beating him, urinating on him and burning him with cigarettes.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother and the children appealed and made numerous claims. (1) They claimed that the trial court erroneously found the children neglected because the proceedings were based on fraud. Specifically, they asserted that DCF did not disclose the entire DCF record and as a result the mother was not able to prepare adequately for trial. The Appellate Court held that the only information excluded from the DCF record was the foster parent's address, which was not essential to the case. (2) They claimed that the evidence was insufficient to find the children neglected. The Appellate Court held that the evidence amply demonstrated that the children were subjected to their parents' domestic violence, the mother suffered from psychiatric issues and the children exhibited aggression and depression. (3) They further claimed that the trial court improperly included an allegation of uncared for. The Appellate Court found the trial court erred in finding that the child uncared for since the mother did not have an opportunity to defend against the allegation, but found the error harmless because the court also found the child neglected. (4) They further asserted that by consolidating the order of temporary custody with the neglect proceeding and allowing the children to remain in DCF's care until the neglect proceeding, there was a presumption that the children were neglected and the burden of proof shifted to the mother to prove that the children were not neglected. The Appellate Court held that the trial court need not render a decision on the OTC within ten days and that there was no presumption of neglect or improper burden shifting. Although there was no reversible error in this case, the Court noted however, that the procedure of consolidating the OTC and neglect, "although designed to avoid a repetition of testimony and to economize court time, is improper because the issue of the continuation of ex parte

temporary custody orders is not resolved in a timely fashion and can result in lengthy separations between parents and children."

NEXT FRIEND

It is well established that a child may bring a civil action only by a guardian or next friend, whose responsibility it is to ensure that the interests of the ward are well represented. When a guardian has been appointed to protect the interests of a child, the guardian is usually the proper person to bring an action on behalf of the child. There are, however, certain exceptional circumstances when a child may properly sue by next friend, notwithstanding the existence of such guardian, as when the guardian is absent, or is unwilling or unable to institute or prosecute the required action or appeal, and especially when, though declining to take such action himself, he does not forbid such proceeding, or when he is disqualified by interest hostile to that of the infant, or is for other reasons an improper or unsuitable person to prosecute such actions on behalf of the ward. Although generally a person who brings an action as next friend need not obtain prior authorization from the court to do so; the court must determine whether the person seeking to represent the child as next friend is a proper or suitable person to make a claim on behalf of the child. (Internal citations and quotation marks omitted.) *See, Orsi v. Senatore, 230 Conn. 459 (1994).*

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and struck the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

NINETY-SIX HOUR HOLD

Teresa T. v. Ragaglia, 272 Conn. 734 (2005)
The children sued the Commissioner of DCF in federal court alleging their constitutional rights were violated by DCF's failure to remove them from their abusive stepfather. After the district court dismissed the claim, the second circuit court of appeals, on interlocutory appeal, certified questions to the Connecticut Supreme Court: (1) whether Conn. Gen. Stat. § 17a-101g(c) required the Commissioner to remove the children via a 96 hour hold if probable cause existed to believe they were in imminent risk of physical harm, and (2) if the Commissioner authorized removal, whether the Commissioner's designated employees were required, or merely authorized, to remove the children. The Supreme Court held that Conn. Gen. Stat. § 17a-101g did not mandate that DCF remove a child upon determining that probable cause exists to believe that the children were at imminent risk of physical harm while living with their abusive stepfather. Despite the use of the word "shall," the statutory and regulatory scheme provided that the DCF investigator had discretion to pursue various alternative remedies, such as removing the abuser or placing the children with a relative. The Court also held that even if the Commissioner authorized removal under Conn. Gen. Stat. § 17a-101g(c), Conn. Agencies Regs. § 17a-101-13(b) allowed the designated employees discretion regarding whether to remove the children. The Court ruled that "administrative rules and regulations are given the force and effect of law." Furthermore, when a policy manual is inconsistent with a state statute or agency regulation, it does not govern the interpretation of the statute or regulation.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR272/272CR12.pdf

NO ONGOING PARENT-CHILD RELATIONSHIP

"Trial court must undertake a two-pronged analysis in determining whether there is no ongoing parent-child relationship, in proceeding to terminate parental rights: first, there must be a determination that no parent-child relationship exists, and second, court must look into future and determine whether it would be detrimental to child's best interest to allow time for such a relationship to develop. Feelings of child are of paramount importance in considering whether an ongoing parent-child relationship exists, in proceeding to terminate parental rights. Ultimate question for determining whether there is no ongoing parent-child relationship, as would support termination of parental rights, is whether child has no present memories or feelings for natural parent. Child's feelings for natural parent, which would support finding of ongoing parent-child relationship in proceeding to terminate parental rights, connotes feelings of a positive nature only." (Internal citations and quotation marks omitted.) *See, In re Jonathon G., 63 Conn. App. 516 (2001).*

"It is reasonable to read the language of 'no ongoing parent-child relationship' to con- template a situation in which, regardless of fault, a child either has never known his or her parents, so that no relationship has ever developed between them, or has definitively lost that relationship, so that despite its former existence it has now been completely displaced. An ongoing parent-child relationship is one that develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child'...." (Internal citations and quotation marks omitted.) *See, In re Kezia M., 33 Conn. App. 12 (1993).*

"The factors to be considered in deciding whether it would be in Savanna's best interest to permit further time for a relationship with her father to develop include (1) the length of stay with her foster parents, (2) the nature of her relationship with her foster parents, (3) the degree of contact maintained with the natural parent and (4) the nature of her relationship to her natural parent. In addition, the genetic bond shared by a biological parent and his or her child, although not determinative of the issue of the best interest of the child, is certainly a factor to consider." (Internal citations and quotation marks omitted.) *See, In re Savanna M., 55 Conn. App. 807 (1999).*

"It is the character of that relationship at the time of the filing of the termination petition that is relevant to the court's inquiry." (Internal citations and quotation marks omitted.) *See*, *In re Brea B., 75 Conn. App. 466 (2003).*
"The evidence regarding the nature of the parent's relationship with her child at the time of the termination hearing must be reviewed in the light of the circumstances under which visitation had been permitted. The fact that the child may have established a loving relationship with someone besides her mother does not prove the absence of a mother-daughter relationship. It is insufficient to prove that the child has developed emotional ties with another person." (Internal citations and quotation marks omitted.) *See, In re Jessica M., 217 Conn. 459 (1991).*

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court upheld that the trial court's denial of the coterminous termination of parental rights petition ("TPR") based on insufficient evidence of "no ongoing parent child relationship." The trial court

initially granted the TPR on this ground, but after granting the mother's motion to reopen the TPR judgment and a new trial, the trial court then denied the TPR. Although the young mother left the baby at the hospital and failed to acknowledge the child for four and half months, during the few visits with her child, the mother conducted herself in an appropriately maternal manner. When assessing the relationship between a parent and very young child, this finding must focus upon the positive feelings of the natural mother and not on the feelings of the infant. The mother made eager efforts to reestablish a relationship with the child. Looking into the future as this statutory ground requires, the trial court, relying on the psychologist's testimony regarding the mother and child's positive prognosis, could have reasonably concluded that DCF failed to prove this ground. **Dissent:** Borden, Norcott, JJ.

In re Valerie D., 223 Conn. 492 (1992), reversed
The trial court terminated the mother's rights by finding that she committed an act of commission or omission and there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court reversed the Appellate Court. The mother claimed that the trial court's decision was legally incorrect because the child had been in DCF's care and custody from birth until the adjudication of "no ongoing parent child" relationship three months later. The Supreme Court held that the trial court erred because the statutory scheme does not permit a finding of no ongoing parent child relationship when the state removed the child from her mother at birth and the "no present memories" test was inapplicable to the newborn infant. Rather the focus is the positive feelings of the natural parent.

In re Jessica M., 217 Conn. 459 (1991), reversed
The legal guardians filed a petition to terminate the mother's parental rights and the trial court granted the termination petition finding that there was no parent child relationship. On transfer, the Supreme Court reversed. The mother claimed that the trial court applied an improper standard in terminating her rights on this ground by finding that she was not the child's psychological parent and she did not provide day-to-day care for the child. Specifically, she argued that the trial court's interpretation of the statute placed noncustodial parents who regularly visit their child at risk of losing their parental rights simply through the passage of time, regardless of fault. The Supreme Court held that the trial court applied an improper legal standard and the evidence under the correct standard was insufficient. The Supreme Court held that the test is whether the child has any positive present memories of the mother. Here, the mother rehabilitated from her drug addiction, the mother regularly visited the child, although the guardians restricted the visitation, they shared an affectionate relationship, and the child positively recognized her as her mother. The Court further concluded that the nature of the visitation allowed the parent must be considered when determining whether there was a parent child relationship and the fact that the child was also bonded to her legal guardians did not prove there was no ongoing parent child relationship

In re Juvenile Appeal, 181 Conn. 638 (1980)
The trial court terminated the mother's parental rights on the ground of no ongoing parent child relationship. The Supreme Court affirmed. The mother claimed that the trial court erred in considering evidence regarding the child's preadoptive parents' availability and suitability in the adjudicatory phase. The Supreme Court held that in termination of parental rights proceedings courts must completely separate the issue of whether an adjudicatory ground is met from whether a proposed adoption is desirable. Here, the mother almost never saw her child in a 3 year period. However, the Court held that the trial court properly considered the child's relationship with his foster parents as relevant to the "no ongoing parent child relationship" ground and the finding that therein regarding whether allowing further time for the establishment of such parent-child relationship would be detrimental to the best interest of the child.

In re Juvenile Appeal, 177 Conn. 648 (1979), reversed
The trial court terminated the mother's parental rights on the ground of no ongoing parent child relationship. The Supreme Court reversed in part. The Supreme Court held that the trial court erroneously granted the TPR finding that there was no "meaningful" relationship between the mother and child when the statute clearly required proof that there was "no relationship". The Court noted that only when an adjudicatory ground of a termination of parental rights petition has been proven, may the court assess the suitability and circumstances of adoptive parents. Here, the fact that the child was bonded to the foster parents was insufficient to show that there was no ongoing parent child relationship when the child knew and loved her mother and enjoyed visiting with her. At most, the evidence revealed a relationship in a state of some disrepair.

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had both abandoned the child and that there was no ongoing parent-child relationship. There was no evidence that the father was prevented from maintaining a relationship with the child for any reason other than his own actions. In fact, the father had never seen the child, and the father admitted that he had no parent child relationship with the three-year old child. Moreover, because the father's release date was unknown and the child recognized his stepfather as his only father, allowing more time for the relationship to develop was not in the child's best interest.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that the father had no ongoing parent child relationship with the child. The child was nine years old at the time of the TPR trial, and the child had not seen the father since he was one. The child had no recollection or positive memories of him. The trial court properly found that the father has no interest in the child and allowing further time to develop a parent-child relationship is not in the child's best interest. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court's finding regarding the lack of a parent child relationship as the direct result of the child being in foster care was clearly erroneous. The Appellate Court held that the trial court's finding was clearly erroneous because based on its review of the entire record, any lack of parent child relationship was not DCF's fault. As part of a previous neglect adjudication, the father was found to have sexually abused his child and the mother failed to believe the claim, and these facts cannot be relitigated at a termination proceeding. The previous trial court also ceased visitation until the parents engaged in therapy. Neither parent appealed the visitation order. The father created the circumstances leading to the removal of his son from the family home and the termination of visitation by sexually assaulting the boy and failing to participate in a meaningful way in sexual abuse therapy. The mother could not be reunited with her child while she remained living with the father. The Appellate Court thus concluded that there was no evidence in the record to support the trial court's conclusion that the lack of an ongoing parent-child relationship was a direct result of the son being in foster care. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. Without any legal analysis, the Court held that based on the trial court's detailed memorandum of decision, the judgment was amply supported by the evidence. The facts of the case demonstrated that the mother beat the child before the child was placed in foster care, then sporadically visited the child, who had special needs, and that the mother had significant emotional problems that interfered with her ability to parent the child. At the time of the trial court's judgment, the child had been in DCF's care for 4 years, the child had tried to repress the memories of living with his mother, did not remember her name and the court found that reestablishing a relationship with the mother would not be in the child's best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

In re Ilyssa G., 105 Conn. App. 41 (2007), cert. denied, 285 Conn. App. 41 (2008)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion to open the default judgment to terminate his parental rights. Based on the father's own testimony, the trial court acted reasonably in concluding that the father did not present a good defense to the abandonment or no ongoing parent child relationship grounds. The father also failed to prove that he did not appear at the TPR trial because of fraud, mistake, accident or other reasonable cause. The father's testimony during the hearing supported, rather than countered, the grounds for termination. He admitted he had not seen his child in 8 years and that he only called her and visited DCF once. He further testified that he did not tell anyone that he moved. The trial court properly ruled that the father's or his attorney's alleged negligence is not grounds to set aside a default judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105ap63.pdf

In re Christian P., 98 Conn. App. 264 (2006), reversed
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court reversed and affirmed in part. The mother claimed that the evidence was insufficient to find no ongoing parent child relationship. The Appellate Court held that the trial court's judgment was not clearly erroneous because the record indicated that no parent child relationship existed, and that it would be detrimental to the children's best interest to allow time for such a relationship to develop. The record demonstrated that the children all had special needs and had been separated from the mother for four years. The children did not exhibit a reasonable amount of affection towards her and did not want to visit her and had not visited her in three years and the children's therapist testified that continuing contact with the mother would cause them distress and anxiety.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP9.pdf

In re Brea B., 75 Conn. App. 466 (2003)
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the child's positive relationship prior to the child's removal and the mother's assault on the child demonstrated that there was a positive parent child relationship. The Appellate Court held that the nature of the parent child relationship at the time of the filing of the petition is determinative and the trial court properly found that there was no parent child relationship. Here, the mother attacked her nine year old child with a hunting knife during a drug induced psychosis causing multiple stab wounds and hospitalization. As a result, the evidence demonstrated that the child was severely traumatized and the child's trauma was irreversible as the court found that the child

would never feel safe with her mother. Further, when discussing her mother, the child discussed her mother's past irrational rages, bizarre behavior and physical abuse towards her.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP75/75ap210.pdf

In re Amelia W., 62 Conn. App. 500 (2001)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly found there was no ongoing parent child relationship. The Appellate Court held that *In re Valerie G.* was inapplicable and that the father, not DCF, prevented the formation of a parent child relationship. The father had no relationship with the children prior to the children being committed to DCF, and his failure to comply with DCF services prevented the development of any relationship. Here, the children's only feelings toward the father were fear, apprehension and anger and they did not want to live or visit with him. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap250.pdf

In re Jonathon G., 63 Conn. App. 516 (2001)
The trial court terminated the father's parental rights by finding that there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that child had no present memories of his biological father as the father waited six years before acknowledging paternity. Furthermore, the child had only negative feelings of fathers based on the physical abuse he endured at the hands of the mother's boyfriends. Moreover, it was not in the child's best interest to allow more time to further the relationship because the child, who suffers from mental disorders as a result of his abusive childhood, did not know his father and was bonded to his grandparents who care for him. http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap401.pdf

In re Alexander C., 67 Conn. App. 417 (2001) aff'd, 262 Conn. 308 (2003), per curiam
The trial court terminated the father's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court, per curiam, affirmed the Appellate Court. The father claimed that the trial court applied an incorrect legal standard when it found there was no ongoing parent child relationship because the child had been in DCF's custody since birth, as in *In re Valerie G.* The Appellate Court held that the trial court did not err because this case is distinguishable from *In re Valerie G.* Although the child was in foster case since birth, the father's actions and inactions caused the lack of relationship. The father was incarcerated for sexually abusing the child's sibling and a protective order was in place. The father never inquired about the child, contacted the social workers, sought to modify the protective order, participated in any parenting classes or counseling while incarcerated and had no positive memories of the child or desire to develop a relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr19.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap105.pdf

In re Shane P., 58 Conn. App. 234 (2000)
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly found there was no ongoing parent child relationship because DCF failed to arrange visits while she was incarcerated and failed to consider the possibility of her early release from prison. The Appellate Court held that the evidence clearly supported the trial court's finding that there was no ongoing parent child relationship because although DCF failed to arrange visits for six months, the mother, not DCF caused the lack of relationship. When the mother was not in prison, she did not visit her son because she was using drugs.

The child was bonded to his foster parents and had no present memories or feelings for his mother and the trial court did not err in speculating regarding whether the mother would be released early.

In re Savanna M., 55 Conn. App. 807 (1999)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed that the trial court improperly found there was no ongoing parent child relationship. The Appellate Court held that the trial court's findings were supported by the record because the evidence demonstrated that the child had no positive memories of her father, but in fact harbored negative feelings toward him and the child had been in foster care for four years and was bonded to her foster parents.

In re John G., 56 Conn. App. 12 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, there was no ongoing parent child relationship, she abandoned the child and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly found there was no ongoing parent child relationship. The Appellate Court held that the record supported the trial court's finding because the psychologist testified that based on the mother's minimal visitation (16 times in 6 years), he did not observe a parent-child relationship between the mother, the child and the child did not have any positive memories or feelings for the mother and that further time should not be permitted for the mother to establish a relationship with child.

In re Tabitha T., 51 Conn. App. 595 (1999)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, no ongoing parent child relationship, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found that there was no ongoing parent child relationship. The Appellate Court held that the feelings of the child are of "paramount importance" and the psychologist testified that while the children showed concern for their mother, they did not have a normal parent child relationship and never wanted to return to their mother's care.

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly relied on facts and opinions not in evidence by referring to a textbook in its memorandum of decision. The trial court cited "Beyond the Best Interests of the Child" in determining that the child needed permanency. The Appellate Court held that the trial court did not abuse its discretion in citing the text because it did not treat the text as evidence.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights by finding that the father abandoned the child, committed acts of commission or omission, there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that there was no clear and convincing evidence of "no ongoing parent child relationship." The Appellate Court held that although the father had some contact with the child, albeit very little, the record supported the trial court's finding because the father never provided continuing day to day care, never intended to do so, the child was indifferent and hostile toward the father, and the child, who had been in the same foster home for

five years, was bonded to the foster parents and had no emotional ties to the father.

In re Kelly S., 29 Conn. App. 600 (1992), reversed
In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother, who was mentally ill, claimed that the trial court erred because there the "no ongoing parent child relationship" ground was inapplicable where the child was never in her custody. The child was removed from her mother at the hospital right after birth. The Appellate Court agreed and held that the lack of an ongoing parent child relationship is the direct result of the child being in foster care from birth as the Supreme Court held in *In re Valerie D.* The Appellate Court further held, however, that this evidence is sufficient to affirm the trial court's neglect/uncared for adjudication.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment, failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the evidence failed to demonstrate that no ongoing parent child relationship existed. The Appellate Court held that the trial court's judgment was amply supported by the record because the psychologist testified that the children had no positive memories of their mother and acknowledged their foster mother as their mother. Due the mother's reincarceration and continued poor prognosis for rehabilitation, allowing more time to establish a relationship with their mother was not in the children's best interest.

In re Megan M., 24 Conn. App. 338 (1991)
The trial court terminated the mother's parental rights finding that there was no parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly determined there was not ongoing parent child relationship. The Appellate Court held that ample evidence supported the trial court's finding because although the mother complied with all the court orders and DCF provided reasonable efforts by way of visitation and counseling, the child was in foster care for a number of years and now only harbored negative feelings for her mother. The evidence demonstrated that the child did not want to visit or be reunited with her mother and was strongly bonded to her foster parents.

In re Sarah M., 19 Conn. App. 371 (1989), reversed
The trial court denied the petition to terminate the parents' parental rights. DCF appealed. The Appellate Court reversed in part and remanded. DCF claimed that the trial court's findings are inconsistent with its findings that DCF did not prove that the parents failed to rehabilitate. DCF further claimed that the trial court erred in stating that DCF did not allege that no ongoing parent child relationship existed. The Appellate Court held that the evidence supported the trial court's finding that the parents rehabilitated, but that the trial court erred in determining that the "no ongoing" ground was not claimed because DCF had filed a motion to amend that ground. The Appellate Court thus found error and remanded the case for a hearing on that claim. Regarding the rehabilitation claim, the Appellate Court held that the trial court's determination was factually supported and legally correct. The trial court properly found that despite the parent's inconsistent visitation with their child who suffered from an emotional disturbance and was placed in a residential program for at least another year, the parents had sufficiently changed their circumstances to be able to resume a proper parenting role for their child in the foreseeable future. The trial court also

properly concluded that the fact that both parents needed further counseling did not mean they had not sufficiently rehabilitated.

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship with her special needs child. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that there was no ongoing parent child relationship was clearly erroneous. The evidence demonstrated that the mother maintained contact with her daughter, the child recognized her as the natural mother, and is happy to see her. The child, therefore, does have present memories and feelings for her mother and the suitability of the foster parents as possible adoptive parents is not relevant to this ground.

In re James T., 9 Conn. App. 608 (1987), reversed
The trial court denied the petition to terminate the father's parental rights finding that DCF did not prove the no ongoing parent child relationship ground. The Appellate Court reversed. DCF and father appealed. The trial court found that DCF proved that no ongoing parent child relationship existed because the child had no present memories of the father, but that more time should be allowed to reestablish the parent child relationship. DCF claimed that the trial court's conclusions were inconsistent with the facts found and that the trial court misapplied the statutory criteria. The Appellate Court held that the trial court's decision was not legally correct or factually supported. The trial court found that the record clearly showed that it would not be in the child's best interest to sever the relationship the child had with his foster parents, that the father could not meet the child's needs, but then stated that to not allow more time to further a parent child relationship when the prior relationship may have been "largely destroyed" by the state would violate the "natural rights" of parents in their child. The Appellate Court concluded that the trial court erroneously substituted its own "natural rights of parents" theory to determine whether it was in the child's best interest to allow more time to establish a parent child relationship.

In re Rayna M., 13 Conn. App. 23 (1987), reversed
The trial court denied the termination of the father's parental rights based on his consent because the consent was executed seven months prior to filing of the termination petition. The trial court also denied the termination of parental rights petition as to the mother finding that she did not abandon her child, that she did not fail to rehabilitate and that there was an ongoing parent child relationship. The Appellate Court reversed. DCF claimed that the trial court improperly applied the wrong legal standard. The Appellate Court held that the trial court erroneously applied the standard that "no parent child relationship" instead of "no positive parent child relationship" existed. The ultimate question is whether the child has no present memories or feelings *for* the natural parent. Here, the trial court denied this ground because it found that the children were affectionate towards their mother, but showed anger at her for running off with truck drivers. The court also found that both girls had strong feelings towards their mother, although these feelings may be negative.

In re Juvenile Appeal (85-3), 3 Conn. App. 194 (1985)
The trial court terminated the mother's parental rights. The mother claimed that the trial court erred by failing to apply a presumption of parental fitness. While the parent child relationship is constitutionally protected, the Appellate Court held that the presumption of parental fitness, based on the genetic connection between the parent and the child, was not recognized in Connecticut in custody cases or

termination of parental rights cases.

In re Juvenile Appeal (84-6), 2 Conn. App. 705 (1984) (seminal)
The trial court terminated the father's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The incarcerated father claimed that the trial court erred in finding a no ongoing parent child relationship because although the children have present negative memories and feelings for the father, this is proof of his ongoing parental relationship with his children. The father stabbed his daughter and wife to death in the home and the oldest child witnessed it. The children do not want to see him or talk to him and have suffered tremendously as a result of the father's terrorizing crime. For the first time, the Appellate Court held that, based on the rules of statutory construction, the phrase "feelings for the natural parent" refers to feelings of a positive nature. This language does not encompass the extreme, psychologically corrosive and destructive feelings which are evident in this situation. Thus, in the absence of any positive feelings for their father, the trial court properly determined there was no ongoing parent child relationship.

In re Juvenile Appeal (84-3), 1 Conn. App. 463, cert. denied, 193 Conn. 802 (1984), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that there was no ongoing parent child relationship was clearly erroneous. Specifically, the Appellate Court held that there was insufficient evidence from which the trial court could find that it would be detrimental to the child's best interests to allow further time for the development of a parent-child relationship. Although there was evidence regarding the child's relationship with the foster parents and their willingness to adopt, this fact alone is insufficient to determine that it would be detrimental to the child's best interest to allow more time for a parent child relationship to develop.

OFFER OF PROOF

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in precluding the mother's therapist from testifying as an expert. At trial, the mother failed to disclose the therapist in a timely manner. The grandmother filed a motion in limine seeking to preclude the therapist from testifying as an expert based on the lack of required notice. The Appellate Court held that the claim was inadequate for review either under *Golding* review or an abuse of discretion standard because the mother never provided an offer of proof regarding the testimony the therapist would have given had she been permitted to testify. The Appellate Court concluded that it could only speculate as to what additional testimony the therapist would have provided if permitted to offer opinion testimony as an expert.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

ORDER OF TEMPORARY CUSTODY

"Pursuant to General Statutes § 46b-129 (b), the court may issue an order ex parte vesting in some suitable agency or person the child's or youth's temporary care and custody if it appears, on the basis of the petition and supporting affidavits, that there is reasonable cause to believe that (1) the child or youth is suffering from serious physical illness or serious physical injury or is in immediate physical danger from the child's or youth's surroundings, and (2) that as a result of said conditions, the child's or youth's safety is endangered and immediate removal from such surroundings is necessary to ensure the child's or youth's safety...." At a subsequent hearing on an order of temporary custody, the proper standard of proof ... is the normal civil standard of a fair preponderance of the evidence." (Internal citations and quotation marks omitted.) *See, In re Kelsey M., 120 Conn. App. 537 (2010).*

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors that occurred at the time the order of temporary custody (OTC) was granted three years earlier. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. Applying the *Curcio* test to determine whether a ruling is a final judgment, the Court concluded an OTC so concluded the rights of the parties that further proceedings could not affect them because an OTC decision interferes substantially with the right to family integrity. The Court reasoned that by holding that an OTC is a final judgment and a collateral attack is impermissible, the Court is protecting the best interests of the child as well as the parent-child relationship and the important legal interests of children in family stability in either the biological or foster family.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983)
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard. The statute was constitutional because when read together with another temporary custody statute containing the requirement that "serious physical illness or serious physical injury" or "immediate physical danger", the State must prove that the child is "at risk of harm" to justify removal. The statute is justified by a compelling state interest to protect children and is narrowly drawn to express that legitimate state interest. The Supreme Court further held that due process requires the burden of proof to be on the State and the standard of proof to be a 'fair preponderance of the evidence,' and that the trial court erred by applying the 'probable cause' standard. Moreover, the trial court erroneously granted the order of temporary custody when no immediate risk of danger to the children was

shown. The trial court's conclusion that the children were "presumptively neglected" impermissibly shifted to the defendant the burden of proof to show that the children were not neglected, and was, therefore, error. In this case, the Court found that with nothing before it but subjective suspicion, the court improperly granted temporary custody to DCF and "[t]he reason for the custody order then no longer existed. It was then incumbent on [DCF] to reunite the family. In this situation, the state cannot constitutionally 'sit back and wait' for the parent to institute judicial proceedings. It 'cannot ... [adopt] for itself an attitude of "if you don't like it, sue." **Concurring:** Peters, Parskey, Grillo, Shea, JJ.

In re Iliana M., 134 Conn. App. 382 (2012)
The trial court denied the parents' motion to dismiss the order of temporary custody ("OTC") finding that it had subject matter jurisdiction pursuant to the UCCJEA, Conn. Gen. Stat. §§ 46b-115k(a)(3) and 46b-121(a). The Appellate Court affirmed. The child was born in Massachusetts and DCF invoked a 96 hour hold and brought the child to Connecticut where it filed a motion for order of temporary custody. The parents filed a motion to dismiss. The trial court granted the motion to dismiss finding that the home state under the UCCJEA was Connecticut, but that pursuant to 46b-121(a), the child was not "within the state." The same day of the trial court's ruling, DCF then invoked a second 96 hour hold and filed a second OTC. The parents filed a second motion to dismiss and the trial court denied the second motion to dismiss finding that the court now had jurisdiction because the child was "within the state." The parents claimed that: 1) the trial court lacked subject matter jurisdiction under the UCCJEA, 2) DCF's conduct was inequitable, and 3) the mother was denied her due process right to have an evidentiary hearing in Massachusetts. First, the Appellate Court held that based on the trial court's factual findings that the parents were residents of Connecticut, the trial court properly found under the UCCJEA that the Connecticut court had subject matter jurisdiction to make the initial child custody determination. Both the child and the parents had a "significant connection with this state". Notably, at the time of the child's birth, the parents gave Connecticut addresses to the Massachusetts hospital. Although Massachusetts could have made the initial child custody order, the Court ruled it did not have priority over a Connecticut court. Secondly, the Appellate Court held that the doctrine of unclean hands does not apply. "To seek equity, one must do equity, and they [the parents] have not." Thirdly, the Appellate Court found the mother's due process rights were protected by holding an evidentiary hearing in Connecticut and there was no legal basis to support her claim that her due process rights required a hearing in a Massachusetts court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP267.pdf

In re Chronesca D., 126 Conn. App. 493 (2011), reversed
DCF filed a motion for order of temporary custody (OTC). The trial court granted temporary custody of the child to the paternal aunt. The Appellate Court reversed. The father claimed that the OTC was improper because the trial court found that the child was not in immediate physical danger. The Appellate Court held that the trial court erred in granting the paternal aunt temporary custody of the child until "an appropriate court determines that she should be placed safely elsewhere" after it vacated the ex parte OTC finding that the child was not in immediate danger. According to our Supreme Court's decision in *In re Juvenile Appeal (83–CD),* the law requires a finding of immediate physical danger as a prerequisite to the trial court granting an OTC of a child to someone other than the child's parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP215.pdf

In re Paul O., 125 Conn. App. 212 (2010)
The trial court granted DCF an order of temporary custody of the child. The Appellate Court affirmed. The mother claimed that the evidence was insufficient because she exercised sound judgment and that her

mental health status as well as the state of her apartment was either irrelevant or unfounded. The Appellate Court held that there was substantial evidence to support the trial court's determination that the child would be in immediate physical danger if returned to the mother's custody because the evidence demonstrated that the mother lacked appropriate judgment, suffered from mental health issues and kept her apartment in an unsanitary and unsafe manner. The mother demonstrated impaired judgment by placing the 7 month old baby on the doctor's examining table while turning her back towards him, refusing to take off a bracelet covered with spikes that the doctor reported posing a risk to the baby's safety, and giving the baby a glass ring the size of a quarter that posed a choking hazard.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap75.pdf

In re Kelsey M., 120 Conn. App. 537 (2010)
The trial court sustained the order of temporary custody ("OTC") placing the children in the temporary custody of DCF. The Appellate Court affirmed. The mother claimed that there was not sufficient evidence demonstrating that the children were in imminent danger and that the trial court improperly applied the predictive neglect doctrine. The Appellate Court held that the trial court's decision was amply supported by the record because the evidence demonstrated that the mother called a crisis hotline while she was alone with the children and intoxicated, asking how she could kill herself. She had a long history of mental health issues, was suicidal and made threats to harm herself or others, reported that there were guns in the house and refused help when the police arrived. The children were hiding and crying, and the father later insisted that the mother be discharged from the psychiatric hospital and denied that the mother had problems. The Appellate Court further held that the trial court did not decide whether there was predictive neglect, but whether the children were in imminent danger.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP253.pdf

In re Forrest B., 109 Conn. App. 772 (2008)
The trial court sustained the order of temporary custody ("OTC"), placing the children in DCF's custody. The mother appealed. During the pendency of the appeal, the trial court subsequently adjudicated the children neglected and committed them to DCF. DCF filed a motion to dismiss the appeal as moot. The Appellate Court dismissed the case as moot because there was no practical relief that could be afforded to the mother, as the children were committed and cannot be returned to her care, and the matter was not "capable of repetition, yet evading review." The mother offered no evidence demonstrating that OTCs evade review and *In re Carl O.* already held that an OTC ruling is rendered moot after a neglect adjudication and disposition. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP445.pdf

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the trial court granted DCF's motion for summary judgment finding that DCF and the social workers were statutorily immune from suit by the parents and their children claiming infliction of emotional distress after DCF removed the children from the home for 5 days via a 96 hour hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease. The Appellate Court affirmed. The Appellate Court upheld the finding that DCF and its social workers were statutorily immune because the parents failed to show that they acted wantonly, recklessly and maliciously even though DCF removed the children without any direct evidence of abuse and precluded any testing regarding blood disorders.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The trial court denied the mother's motion to dismiss the order of temporary custody (OTC) and also sustained the order of temporary custody. The Appellate Court affirmed. The mother first claimed that the trial court improperly denied her motion to dismiss the OTC because a prior trial court previously vacated the OTC. The mother also claimed that the trial court lacked jurisdiction to preside over the OTC because the OTC hearing was not held within ten days as statutorily required. Third, the mother claimed that the evidence was insufficient to sustain the OTC. Here, one judge vacated the OTC. The second judge vacated the first judge's ruling vacating the OTC and in effect revived the previous OTC. First, the Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judge to modify the previous order. "[A] judge is not bound to follow the decisions of another judge made at an earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... [O]ne judge may, in a proper case, vacate, modify, or depart from an interlocutory order or ruling of another judge in the same case, upon a question of law." Second, the Appellate Court held that the ten day hearing requirement in Conn. Gen. Stat. § 46b-129(d)(4) was directory not mandatory because the word "shall" does not invariably create a mandatory duty and the statute does not invalidate a hearing not held within that timeframe. Thirdly, the Appellate Court held that sufficient evidence supported the trial court's judgment because the child tested positive for marijuana at birth, the mother and father engaged in domestic violence, the mother was convicted of assaulting the father and later violated her probation. Further, the mother showed little interaction with the child. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re Kaurice B., 83 Conn. App. 519 (2004)
The trial court granted DCF's motion for an order of temporary custody of the child. The Appellate Court affirmed. The stepmother claimed that there was insufficient evidence that the child was in immediate physical danger if returned to her. The Appellate Court held that there was ample evidence to support the trial court's finding. The evidence demonstrated that the stepmother and father had physically abused the child and her sister on numerous occasions by hitting her in the face and with a belt. The children reported that the father also drove with the children in the car while he was intoxicated. Moreover, the child disclosed that she was having a sexual relationship with a minor male relative with the parents' knowledge. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap359.pdf

In re Catrina L., 47 Conn. App. 64 (1997)
The trial court adjudicated the child neglected and ordered the child to remain with the mother under an order of protective supervision. DCF filed an ex parte motion for order of temporary custody and a motion to modify the disposition. The trial court denied the motion to modify and vacated the ex parte OTC. DCF appealed. During the pendency of the appeal, the trial court granted DCF's subsequent motion for an order of temporary custody filed and scheduled a hearing on a subsequent motion to modify the disposition. The Appellate Court dismissed DCF's appeal as moot as there was no practical relief that could be granted.

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court erred in granting the order of temporary custody. The Appellate Court held their claim academic and therefore moot because the child was subsequently adjudicated uncared for and committed to DCF a year after the order of temporary custody was granted. The parents never appealed the order of temporary custody at the time the order was entered.

In re Juvenile Appeal (1983-5), 39 Conn. Supp. 514 (Appellate Session 1983)
The trial court consolidated the order of temporary custody with the neglect petition and adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother and children appealed. They claimed that the trial court violated her right to due process by failing to render a timely decision within ten days on the order of temporary custody. They further asserted that by consolidating the order of temporary custody with the neglect proceeding and allowing the children to remain in DCF's care until the neglect proceeding, there was a presumption that the children were neglected and the burden of proof shifted to the mother to prove that the children were not neglected. The Appellate Court held that the trial court need not render a decision on the OTC within ten days and that there was no presumption of neglect or improper burden shifting. Although there was no reversible error in this case, the Court noted however, that the procedure of consolidating the OTC and neglect, "although designed to avoid a repetition of testimony and to economize court time, is improper because the issue of the continuation of ex parte temporary custody orders is not resolved in a timely fashion and can result in lengthy separations between parents and children."

PARENS PATRIAE

"In a neglect proceeding, the commissioner of children and families acts not to vindicate her personal rights but, acting for the state as parens patriae, to ensure, first and foremost, the child's safety and, second, a permanent placement of the child as expeditiously as possible." (Internal citations and quotation marks omitted.) *See, In re Stephen M., 109 Conn. App. 644 (2008).*

"Parents have a constitutionally protected right to raise and care for their own children.... This right is not free from intervention by the state, however, when the continuing parens patriae interest of the state in the well-being of children is deemed by law to supersede parental interests. In furtherance of the state's parens patriae interest, the legislature has enacted a comprehensive statutory scheme; see General Statutes § 46b-120 et seq.; to protect children who have been adjudicated neglected due to either the conscious acts or omissions of a parent or the personal limitations of a parent. The case on appeal demonstrates how that statutory scheme permits the state to intervene to protect the well-being of a child, to assist troubled parents who are receptive to services and to preserve the family." (Internal citations and quotation marks omitted.) *See, In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008).*

In re Jonathan M., 255 Conn. 208 (2001)
The Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. The Supreme Court applied the *Mathews* balancing factors and weighed the father's right to family integrity with the State's parens patriae interest and the risk that the procedures used would lead to erroneous decisions and concluded that due process does not warrant the right to file a habeas petition. The State's parens patriae interest to expedite termination proceedings, provide permanent homes for children, and finalize adoptions weighs against allowing habeas petitions because habeas petitions may be filed at any time. Allowing habeas petitions to attack termination judgments would necessarily "suspend adoption proceedings and infuse uncertainty therein." The Court further reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly relitigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing to the role of the state as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. The doctrine of collateral estoppel precludes the relitigation of a finding of neglect. Here, the Court ruled that the parents never appealed the neglect finding, and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have

been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition. "In a neglect proceeding, [DCF] acts not to vindicate her personal rights but, acting for the state as parens patriae, to ensure, first and foremost, the child's safety and, second, a permanent placement of the child as expeditiously as possible."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008)
The trial court adjudicated the child neglected under the doctrine of predictive neglect. The Appellate Court affirmed. The parents claimed that the trial court improperly determined that the child was neglected as a matter of law because a finding of predictive neglect requires (1) a serious prior history of neglectful or abusive parenting of one or more children or (2) a serious inability or unwillingness of the parents to accept, cooperate with or benefit from services necessary to help them care for their child. Recognizing the family's right to family integrity, but relying in part on the statutory scheme designed to allow the State to further its parens patriae interests, the Appellate Court held that the trial court's finding that the child was neglected under the doctrine of predictive neglect was proper because the state has a responsibility to avoid harm to the well-being of a child, not to repair it after a tragedy has occurred. The Court rejected the parents' argument that predictive neglect requires a prior history as untenable because then no first-born child could ever be adjudicated neglected under the doctrine of predictive neglect as presumably the parents would have no history of prior abuse. Secondly, whether a parent complies or doesn't comply with services is not determinative of predictive neglect. The parents further claimed that the trial court improperly relied on an erroneous factual finding regarding whether the father picked up the mattress that the mother was lying on, causing her to fall. The Appellate Court held that the alleged error was harmless in light of the other sufficient evidence demonstrating the child was predictively neglected. Here, the Appellate Court concluded that the trial court properly adjudicated the child neglected under the doctrine of predictive neglect because at the child's birth the mother reported having thoughts of harming herself and the child. The father also suffered from suicidal thoughts and would benefit from medical treatment. The couple's martial conflict also contributed to the mother's obsessive thoughts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP95.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
The trial court sustained an order of temporary custody ("OTC") for an infant born to an eleven year old minor mother. The minor mother was in DCF's care under an OTC. In doing so, the trial court ruled that the mother to the minor mother (the grandmother to the infant), did not have standing as the minor mother's legal guardian to contest the OTC regarding the infant because the trial court appointed the minor mother a guardian ad litem ("GAL") as well as an attorney. The grandmother appealed. The Appellate Court affirmed. The grandmother claimed she had standing to contest the OTC on her minor daughter's behalf as her legal parent and legal guardian. In this case of first impression, the Appellate Court held the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother. Specifically, between a GAL and a natural guardian, the Court ruled that a presumption exists that the court-appointed GAL is the proper person to speak for the child for the purposes of the court action, unless the GAL cannot properly fulfill the GAL role and another is better suited. The grandmother failed to show that the GAL could not properly represent the child's best interest and here the grandmother was not better suited since she allowed her eleven year old child to be sexually assaulted by a seventy five year old man as well as agreed to her child being in DCF custody. In reaching this holding, the Court recognized the general proposition that guardianship includes the responsibility to safeguard a child's best interest, the parent's

constitutional right to family integrity as well as the State's interest to act as parens patriae to protect the child, and further stated that the right to family integrity is not absolute. "From a child's perspective, family integrity consists of nurturance and protection. It is not conceptual; rather it is practical and tangible, moment by moment." The Court also analyzed the role of a GAL verses a child's attorney. The GAL is charged with protecting the child's best interest as well the child's legal rights in the process and the GAL should refrain from acting as a second attorney for the child. "Just as it is not normally the province of the attorney to testify, it is not the province of the GAL to file briefs with the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. As a preliminary issue, the Court held that the mother had standing to bring the due process claim because the denial of the continuance interfered with her rights as a parent. In doing so, the Court set forth the intersection between the mother's right to family integrity, the state's parens patriae interests and the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father claimed that the termination of parental rights decision violated his due process rights because the state failed to demonstrate a compelling state interest in terminating his parental rights when the State could have granted guardianship of the child to the maternal grandparents so that the child could be with his extended biological family. The Appellate Court held that the unpreserved claim failed under *Golding* because the father failed to prove the third prong of *Golding,* that a constitutional violation clearly existed and deprived him of a fair trial. The Appellate Court concluded that the State's compelling interest is the "continuing parens patriae interest ... in the well-being of children.... It is indisputable that protecting the physical and psychological well-being of children is a compelling, as well as legitimate, state interest. A democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens...." The Court further relied on the evidence that removing the child from his foster family to whom he is bonded would be detrimental to his well-being. The child would lose his sense of permanency and the grandparents would likely reunite the child with his mother upon her release from prison. "Forcing a child back into a potentially unhealthy and far less supportive atmosphere merely for the sake of having the child live in the same dwelling as relatives does not provide a constitutionally required alternative for Shane's family placement."

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents claimed that because the expert testimony failed to establish a cause of the child's sexual abuse, namely whether the father or the boyfriend sexually abused the child, the trial court's findings violated the State's public policy. The Appellate Court held that despite the failure of the physician and the psychologist to formulate opinions as the cause of the child's sexual abuse, the expert testimony clearly established that sexual abuse had occurred. Based on the totality of the evidence, including the child's statements to her neighbor and foster mother that the father had inappropriately touched her, sufficient evidence supported the trial court's

findings. The record demonstrated that DCF provided extensive services to the family over many years to help the family and the trial court's findings were consistent with the public policy. "The primary concern of [DCF] is the safety of [the child]. Family integrity can be the goal of [DCF] only when such a reunion will not endanger the safety of the child. Where *appropriate,* the agency can and must take unilateral action *either* to reunite families *or* to terminate parental rights as expeditiously as possible to free neglected children for placement and adoption in stable family settings."

PARENT

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'd, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that neither probate court nor the Commissioner of public health had authority to delete a biological parent's name from the child's birth certificate when there was no allegation that the information contained therein was inaccurate. **Dissent and Concurring:** MacDonald, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re Emoni W., 129 Conn. App. 727, cert. granted, 302 Conn. 917 (2011)
After DCF removed the children from their mother, the trial court granted DCF an order of temporary custody. The children's father was noncustodial and lived out of state. He maintained a relationship with the children and at the OTC moved for custody. The trial court ruled that an interstate study was required before the children could be placed with their noncustodial out-of-state father. The father and the children appealed. During the pendency of the appeal, the interstate study was completed and recommended placement with the father. The trial court then placed the children with the father. The Appellate Court

held that it lacked subjected matter jurisdiction to address the father and children's claim that the interstate compact does not apply to out-of-state parents because it was moot. All the parties agreed the claim was moot, but was reviewable under the "capable of repetition yet evading review" exception. The Appellate Court held that the case was moot and the "capable of repetition yet evading review" exception did not apply. Although the Court acknowledged the importance of this issue and that interstate studies can delay reunification of noncustodial parents and children, the Court stated that because the issue was moot, it would be improperly rendering an advisory opinion if it were to decide the issue. **Dissent:** Bishop, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP493E.pdf

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father was the biological father to one child and in the prior neglect proceedings the trial court found him to be the psychological parent of the child's sibling. The father claimed that he had standing to contest the termination petitions for both children. The Appellate Court held that the father, even though recognized as the psychological parent, has no standing to appeal the termination of parental rights decision for the child biologically unrelated to him. The termination statute does not include psychological parent, but rather defines "parent" to be a "natural or adoptive parent." Whether the father pursued custody of the unrelated child had nothing to do with whether the unrelated child's parents' rights were terminated. Therefore, the Appellate Court lacked subject matter jurisdiction over the father's appeal pertaining to the unrelated child.

In re David L., 54 Conn. App. 185 (1999)
The trial court adjudicated the child neglected pursuant to the mother's nolo plea and committed the child to DCF. The noncustodial father did not claim the child was not neglected by the custodial mother and did not offer a dispositional plan for the child. The Appellate Court affirmed. The father claimed that the trial court erred by not allowing him to contest the neglect adjudication to prove that he did not neglect the child. The Appellate Court dismissed his claim and held his claim was moot because there was no practical relief that could be granted to the father for his requested remedy: a finding that he was not at fault for neglecting the child. The Court concluded that an adjudication of neglect relates to the status of the child and is not a finding of fault by the parents, in part because "a neglect petition is sui generis and, unlike a complaint and answer in the usual civil case, does not lead to a judgment for or against the parties named." Based on the statutes and rules pertaining to neglect proceedings, the Court ruled that the father was not entitled to a remedy that determined each parent's blameworthiness for the child's neglect. The Court recognized that a parent is a legally necessary party in child neglect proceeding and has a right to participate in the proceedings, but given that the father did not contest that the child was neglected and did not contest the disposition, the father's claim was moot.

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct

an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Emoni W. et al., 305 Conn. 723 (2012)

After the DCF was granted an Order of Temporary Custody, the noncustodial father, who lived in Pennsylvania, appeared in court and sought to take custody of the children. DCF objected, contending that it had to proceed according to the Interstate Compact on the Placement of Children and have the father's home evaluated for fitness by a local child welfare agency, pursuant to Conn. Gen. Stat. § 17a-175. The trial court agreed, prompting an appeal by the father and the children. The children were placed with the father after an interstate placement study while the appeals were pending, and the Appellate Court ruled that the matter was moot and not capable of repetition but evading review. The Supreme Court reversed, finding that the only disputed prong of the mootness exception, whether the challenged action was sufficiently limited in duration so as to evade review, did apply. Father had challenged application of the ICPC to him as a matter of statutory construction and as a violation of his substantive due process right to parent his children. The Court ruled that while the statutory argument would not evade review, in cases where the noncustodial parent ultimately obtained custody through the ICPC, that parent would suffer an interruption in his right to parent his children that constituted a substantive due process violation. Since parents who were found unfit through the ICPC could not raise such a challenge, the Court reasoned, the constitutional issue would potentially never be resolved. The Court went on to rule that § 17a-175 is not applicable to noncustodial parents, based on a reading of the plain language of the statute, but that a noncustodial parent "must appear at the preliminary hearing concerning the placement of the child, answer questions and agree to reasonable conditions on the placement of the child with the parent. Moreover, when there is evidence before the court that an out-of-state noncustodial parent is unfit, the parties agree that the court should not place a child with the parent without ordering an investigation into the parent's fitness. They disagree only about whether the petitioner can conduct that investigation or, instead, the analogous agency in the receiving state must conduct it pursuant to § 17a-175." Justics McLachlan, with Zarella joining, dissented, reasoning (1) that the noncustodial parent could refuse the ICPC home study and bring a declaratory judgment action in which he raised the constitutional argument; and (2) that a noncustodial parent who was denied custody by the receiving state could, in fact, challenge the determination as a violation of his substantive due process right.

PARTY

"Necessary parties ... are those [p]ersons having an interest in the controversy, and who ought to be made parties, in order that the court may act on that rule which requires it to decide on, and finally determine the entire controversy, and do complete justice, by adjusting all the rights involved in it.... [B]ut if their interests are separable from those of the parties before the court, so that the court can proceed to a decree, and do complete and final justice, without affecting other persons not before the court, the latter are not indispensable parties. A party is deemed necessary if its presence is absolutely required in order to assure a fair and equitable trial...." (Internal citations and quotation marks omitted.) *See, In re Devon B., 264 Conn. 572 (2003).*

"We think each party to a litigation has the undoubted right to be present at the trial. An occasion may arise where, to prevent a similarity of statements by different witnesses, the court may exclude any witness, including a party to the litigation, from the court room, but this is a power to be sparingly exercised and only upon the clearest grounds so far as the party is concerned. Thus, while there is authority for the court to exclude a party-witness during the course of a trial, this is a power to be sparingly exercised and only upon clearest grounds so far as the party is concerned. In many cases the cross-examining attorney cannot anticipate, no matter how thorough his preparation, the developments in the examination of a witness. He cannot know all that his client knows. Often it is essential for the proper presentation of the case to have the client at hand ready to prompt the cross-examiner and to respond to his inquiries. The object of the trial is the ascertainment of the truth. The presence of a party to the litigation who is conversant with the facts which the witness is to relate, not infrequently produces upon him a moral effect and serves as a deterrent to an untruthful statement." (Internal citations and quotation marks omitted.) *See, In re Christopher A., 22 Conn. App. 656 (1990).*

In re Devon B., 264 Conn. 572 (2003), reversed
The trial court adjudicated the child uncared for and committed her to DCF. The Supreme Court reversed. The mother claimed that the trial court improperly denied her motion to join the Department of Mental Retardation (DMR) as a necessary party in the neglect proceedings. The Supreme Court held that the trial court abused its discretion by not citing in DMR as a party because the mother was mentally retarded and "a party is deemed necessary if its presence is absolutely required to assure a fair and equitable trial." Given the mother's long standing involvement with DMR as a client, DMR's absence as a party would be improper. She was homeless and court ordered to complete specific steps such as obtain housing in order to be reunified with her child. While DCF is statutorily required to provide reunification efforts to assist the mother reunite with her child, it is not equipped to provide housing and/or other necessary services to the mentally retarded. **Dissent:** Sullivan, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR264/264cr98e.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the

mother and the children appealed. The Supreme Court, on transfer, affirmed. The Supreme Court held, for the first time, that children have standing to appeal a trial court's judgment terminating their parent's parental rights. The Supreme Court concluded that the rights of the children here are inextricably intertwined with those of their parent and "both the [parents] and the children have a mutual interest in the perseveration of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship." **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the child. The mother and child both appealed. The Appellate Court affirmed. The Appellate Court noted that at the time, Connecticut courts had not decided whether a child could appeal from a termination of parental rights judgment. The Court declined to decide the issue of whether a child was a party to the termination proceeding because the child and the mother both claimed on appeal that the trial court erred in finding that a termination was in the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Christopher A., 22 Conn. App. 656 (1990), reversed
The trial court denied the termination of parental rights petition. DCF appealed. The Appellate Court reversed. DCF claimed that the trial court erred in not permitting the DCF social worker to be present during the trial. The Appellate Court held that the trial court abused its discretion in excluding the social worker from the courtroom because the social worker was DCF's designated representative and a party to the case. In light of the fact that the trial court allowed other party-witnesses to be present, the trial court erred in ruling that DCF's representative must be someone who was not a witness. The DCF social worker was essential to DCF's case, as she had first-hand knowledge of the facts and her absence from the courtroom harmed DCF's presentation of its case.

PATERNITY

In re Shaiesha O., 93 Conn. App. 42 (2006), reversed
The trial court terminated the father's parental rights, finding in part, that DCF made reasonable efforts to reunify. The Appellate Court reversed. The father claimed that the trial court erred in finding that DCF made reasonable efforts to reunify him with his child. The Appellate Court held that there was inadequate support for the trial court's finding that DCF made reasonable efforts or that the father was unwilling or unable to benefit from such efforts. Prior to the filing of the termination petition, the DCF social worker contacted the father three months after the mother named his as the possible biological father. Three months later, the father was determined to be the biological father via a paternity test. DCF, however, filed a TPR one week before learning he was the child's biological father. The Appellate Court concluded that DCF failed completely, in its responsibility, to make any efforts, let alone reasonable efforts, because it did nothing on behalf of the father to foster a relationship between the father and the child prior to filing a termination petition because his paternity was not established.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP103.pdf

In re Terrance C., 58 Conn. App. 389 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove abandonment because he was not given any assistance, a service agreement or specific steps (aka "expectations"). The Appellate Court held that the trial court properly found that the father never acknowledged paternity until 3 years after the child was born, only asked to visit his child once since his birth and while he sent him some cards, he failed to show overall concern for the child. While the father's incarceration impacts his ability to provide all the general obligations of parenthood, incarceration is not an excuse not to take advantages of available resources to demonstrate concern for one's child.

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the trial court improperly denied her request for a paternity test. The Appellate Court held that the trial court did not abuse its discretion in denying the mother's request for a

paternity test because the mother was estopped from requesting a paternity test of the child's father. The mother made a prior claim in the divorce proceedings that her former husband was the child's father requiring the father to pay child support. Nonetheless, the Appellate Court reversed the judgment holding that the trial court violated the mother's due process right to adequate notice by granting DCF's motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

PERMANENCY PLANNING

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court denied the father's motion for contempt against DCF and motion for revocation and granted DCF's motion to transfer guardianship as well as approved DCF's permanency plan. The Appellate Court affirmed. The father claimed that the trial court abused its discretion in denying the motion for contempt against DCF for failing to refer him to *any* services and to develop a permanency plan as required by the court ordered specific steps. Distinguishing *In re Leah S.*, the Appellate Court held that the orders were clear and unambiguous. The Court held, however, that the trial court properly denied the motion for contempt because the record demonstrated that DCF did refer the father to some services, but the father was too busy to participate in them. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's judgment approving the permanency plan of a termination of the mother's parental rights and a transfer of guardianship to the paternal grandmother was supported by the evidence. Even though the paternal grandmother did not testify, the evidence was sufficient because the child suffered when she was in the mother's custody and because the mother was hostile towards DCF, she refused to cooperate with DCF. The child was thriving in her paternal grandmother's home, and she said she wants to live there "forever and ever."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Javon R., 85 Conn. App. 765 (2004)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found DCF provided reasonable efforts. In a prior permanency plan hearing, previous to the filing of the termination petition, the trial court found that continuing efforts to reunify were no longer appropriate. The Appellate Court held that the trial court did not err because the permanency plan finding was an immediately appealable final judgment. The mother failed to appeal the finding at the time and thus could not raise the claim to collaterally attack the termination judgment. Furthermore, although the trial court did not have to make the reasonable efforts finding again, the trial court nonetheless stated in its decision that it found by clear and convincing evidence that DCF provided reasonable efforts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap2.pdf

In re Drew R., 47 Conn. App. 124 (1997)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The out-of-state father claimed that the trial court improperly shifted the burden of permanency planning from DCF to him and that the evidence was insufficient to prove abandonment. Without any analysis, the Appellate Court held that the father's claim regarding burden shifting was baseless and without merit. The Appellate Court further held that the trial court properly found that the father did not provide financial support and his contact with the child was sporadic. The father failed to write or call often. The father's minimum interest by requesting custody (but then changing his mind), submitting to interstate studies and phoning DCF did not preclude a finding of abandonment.

In re Wayne A. II, 25 Conn. App. 536 (1991)
The father consented to the TPR on the basis of a signed stipulation that DCF would provide him with post TPR contact with his son and that DCF would endeavor to find an adoptive home that would allow post-adoption contact. After finding an adoptive home, DCF moved to have the permanency plan approved. After the contested hearing, the trial court approved the permanency plan of adoption and denied the father's motion to enforce the stipulation and instructed the father to deal with DCF extra judicially. The Appellate Court held that the trial court (1) did not violate the father's due process right to participate in the hearing, (2) did not deny the father his right to confrontation by not allowing him to call cumulative witnesses, and (3) did not err in approving the permanency plan by finding that DCF made reasonable efforts to find an adoptive home that would agree to post-adoption contact with the incarcerated father.

PLEA

In re Joseph W., Jr., 301 Conn. 245 (2011)
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

PLEADINGS

In re Darlene C., 247 Conn. 1 (1998)
The trial court, sua sponte, enjoined the Commissioner of DCF and her nonlawyer designees from drafting, signing and filing termination of parental rights petitions on the basis that it constitutes an unauthorized practice of law. On transfer, the Supreme Court reversed the judgment. The Supreme Court held that the trial court improperly enjoined the Commissioner and her designees because both the statutes and practice book rules authorized the social workers to file petitions in court and, therefore, such activities did not constitute the unauthorized practice of law. **Concurring:** Borden, J., Berdon, J.

In re Christian P., 98 Conn. App. 264 (2006), reversed
The trial court terminated the mother's parental rights finding that there was no ongoing parent child relationship. The Appellate Court reversed and affirmed in part. The mother claimed that with respect to one of the three children, the trial court violated her due process rights to notice by terminating her parental rights when DCF failed to allege in the termination petition itself the 'no ongoing parent children relationship' ground. The Appellate Court agreed and reversed the judgment with respect to that child. The Appellate Court held that "in accordance with the mandates of due process, it is axiomatic that parties whose rights are to be affected are entitled to notice" and the termination of parental rights on this ground was improper because the mother lacked notice of the allegations.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP9.pdf

In re Michael D., 58 Conn. App. 119 (2000)
The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re Savanna M., 55 Conn. App. 807 (1999)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed that the trial court improperly denied his motion to dismiss because DCF did not adequately plead that it made reasonable efforts to reunify when it failed to check off the appropriate box on the face of the termination petition. The Appellate Court held that the trial court properly denied the motion because the father had adequate notice of the grounds against him based on the paragraphs contained in the

petition outlining the claims against him and the court's finding on the record at a prior hearing that reasonable efforts were no longer appropriate.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment. The Appellate Court affirmed. The mother claimed that: (1) the court lacked subject matter jurisdiction to consider the claim because DCF did not check off the abandonment box on the TPR petition, and (2) she lacked notice of the claim depriving her of her right to due process. Because the accompanying TPR summary of facts adequately pled abandonment, the mother had sufficient notice of the abandonment claim against her and was not deprived of her due process rights. The court was also not deprived of subject matter jurisdiction.

PRACTICE BOOK

"The interpretive construction of the rules of practice is to be governed by the same principles as those regulating statutory interpretation." *See, In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'd, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Nelmarie O., 97 Conn. App. 624 (2006)
The trial court terminated the mother's parental rights by finding that she committed an act of commission or omission. The Appellate Court affirmed. The mother claimed that the trial court improperly considered evidence gathered after the filing of the petition. The Appellate Court held that Practice Book § 35a-7(a) provides that the trial court is limited to "evidence of events preceding the filing of the petition" and this clearly means that the limitation applies to *events* preceding the filing of the petition, not the *evidence* preceding the filing of the petition. The Appellate Court also held that the trial court's decision finding that the mother committed an act of commission or omission was amply supported by the evidence because the mother failed to provide for the emotional well-being of her children by abusing her stepchild in their presence and ordering them to participate in the abuse.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP470.pdf

In re Samantha C., 268 Conn. 614 (2004)
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. In interpreting this practice book rule, the Court ruled that the while the Superior Court may adopt rules to regulate court procedures, the rules cannot "abridge, enlarge or modify any substantive right" created by the legislature. Because the trial court failed to advise and explain the parents' choice regarding testifying and the possibility of an adverse inference, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
The trial court terminated the mother's parental rights. The mother sought to appeal and completed an application for waiver of fees and costs. The trial court denied her application on the alleged basis that the appeal was frivolous. The mother filed a motion to review with the Appellate Court. The Appellate Court granted the mother's motion for review and reversed the trial court's denial of her application. As a matter of first impression, the Appellate Court held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. Trial courts are not permitted to consider the merits of an indigent person's appeal and the only factors to be considered are whether the person has a right to appeal and whether the person is indigent. Based on the Practice Book rule at the time, the trial court may consider the proposed issues on appeal only in determining the extent to which fees or costs should be waived. In so holding, the Appellate Court applied plenary review and the rules of statutory construction to interpret the Practice Book rules as they relate to our statutes, including an indigent parent's statutory right to counsel in termination cases. "It is axiomatic that the separate provisions of the rules of practice should be read to be in harmony with one another."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

In re Brandon W., 56 Conn. App, 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred by failing to exclude expert testimony because DCF failed to disclose its expert witnesses prior to trial. The Appellate Court held that the trial court did not err in allowing the testimony because P.B. § 13-4(4) pertaining to the disclosure of expert witnesses in civil trials, does not apply to juvenile proceedings. The rule precludes the expert from testifying if prior notice is not given. The Court concluded that the judges, the promulgators of the rules, could have explicitly stated that the rule applies to juvenile matters, but they did not.

PREDICTIVE NEGLECT

"Our statutes clearly and explicitly recognize the state's authority to act before harm occurs to protect children whose health and welfare may be adversely affected and not just children whose welfare has been affected. General Statutes § 17a-101(a) provides: The public policy of this state is: To protect children whose health and welfare *may* be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parent- al capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of *suspected* child abuse, investigation of such reports by a social agency, and provision of services, where needed, to such child and family." (Emphasis added.) The doctrine of predictive neglect is grounded in the state's responsibility to avoid harm to the well-being of a child, not to repair it after a tragedy has occurred. (Internal citations and quotation marks omitted). *See*, *In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008).*

"In neglect proceedings involving the doctrine of predictive neglect, the petitioner is required to meet this standard with respect to *each parent* who has contested the neglect petition and who has expressed a desire, or at least a willingness, to care for the child independently of the other parent. The trial court must determine, on the basis of evidence of events preceding the filing of the neglect petitions whether, for both children, it was more likely than not that, if the child had remained in the care of either the mother or the father, or of both parents, the child would have been "denied proper care and attention, physically, educationally, emotionally or morally"; General Statutes (Rev. to 2011) § 46b-120 (8) (B); or would have been "permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth . . . .General Statutes (Rev. to 2011) § 46b-120 (8) (C)." (Internal citations and quotation marks omitted.) *See, In re Joseph W., 305 Conn. 633 (2012).*

In re Joseph W., 305 Conn. 633 (2012)

The trial court adjudicated the children neglected under the doctrine of predictive neglect and committed them to DCF. The Supreme Court, on transfer, reversed and remanded the case for a new trial. The father claimed that the trial court applied an improper standard of proof and it was inconsistent with the standard of proof for neglect as set forth in Conn. Gen. Stat. § 46b-120(8). The Supreme Court held that the trial court improperly applied a "potential risk of neglect" standard pursuant to the Appellate Court's holding in *In re Kamari C.L.*, 122 Conn. App. 825 (2011). Rejecting the father's claim that the standard of proof in predictive neglect actions should be "virtual certainty that harm to the child will occur," the Supreme Court, applying the principles of due process as set forth in *In re Juvenile Appeal (84-AB)*, concluded that the trial court must find that it is "more likely than not," that if a child remains in the current situation, the child would be denied proper care and attention or would be permitted to live under conditions injurious to the child's well-being according to Conn. Gen. Stat. § 46b-120(8). The Court further held that the finding must be made with respect to each parent contesting the neglect petition and who has expressed a willingness to care for the child independently of the other parent.

http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR305/305CR76.pdf

In re Ja-Lyn R., 132 Conn. App. 314 (2011)
The trial court adjudicated the infant child neglected and committed him to DCF. The Appellate Court affirmed. The mother claimed that there was insufficient evidence to find the child neglected. Although DCF removed the child from his mother at birth, the Appellate Court held that the evidence supported the trial court's finding that the child was neglected under the doctrine of predictive neglect. The evidence demonstrated that the mother had a prior history with DCF, her oldest child was already in DCF's custody, had unresolved anger management issues, including being arrested for risk of injury regarding her older child, failed to complete substance abuse or mental health treatment, tested positive for marijuana at the time of the baby's birth, and was involved in repeated domestic violence episodes with the now incarcerated father. The State has the authority to act to protect to the child before harm occurs.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP75.pdf

In re Kamari C.L., 122 Conn. App. 815, cert. denied, 298 Conn. 927 (2010)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother appealed and the children filed their own brief. The older child was removed via an order of temporary custody ("OTC") and remained in foster care throughout the trial. The younger child was later removed via an OTC, but then returned to his mother and remained with his mother until the court's judgment adjudicating the child and committing him to DCF. The mother claimed that the trial court erred by finding that the children neglected and further claimed that the court erred by finding that the younger child predictively neglected when there was actual evidence showing the child was properly cared for in her care after the filing of the neglect petition and after the OTC was vacated. The Appellate Court held that the trial court properly found the child predictively neglected because the PB rule 35-7(a) limits the adjudication to facts predating the filing of the neglect petition. Accordingly, the trial court properly determined that any facts regarding the mother's proper parenting were post the adjudicatory date and irrelevant. The evidence supported the finding that the older child was neglected and the younger child was at risk of harm and predictively neglected because the mother was abusing substances, lacked stable housing and had untreated mental health issues.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP122/122ap459.pdf

In re Kelsey M., 120 Conn. App. 537 (2010)
The trial court sustained the order of temporary custody ("OTC") placing the children in the temporary custody of DCF. The Appellate Court affirmed. The mother claimed that there was not sufficient evidence demonstrating that the children were in imminent danger and that the trial court improperly applied the predictive neglect doctrine. The Appellate Court held that the trial court's decision was amply supported by the record because the evidence demonstrated that the mother called a crisis hotline while she was alone with the children and intoxicated, asking how she could kill herself. She had a long history of mental health issues, was suicidal and made threats to harm herself or others, reported that there were guns in the house and refused help when the police arrived. The children were hiding and crying, and the father later insisted that the mother be discharged from the psychiatric hospital and denied that the mother had problems. The Appellate Court further held that the trial court did not decide whether there was predictive neglect, but whether the children were in imminent danger.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP253.pdf

In re Anthony A., 106 Conn. App. 389 (2008)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The mother claimed that the trial court improperly found that the child was neglected as of the date the neglect petition was filed. Specifically, she contended that on the day the petition was filed the child was not denied proper care and attention because he was safely in the care of his maternal grandparents. The Appellate Court held that evidence was sufficient to demonstrate that the child was neglected because the mother has psychiatric issues, refused to take her medication, was psychiatrically hospitalized right after giving birth and there was no court order preventing the mother from returning to the grandparents' home to regain custody of the child. Recognizing the State's responsibility to act before harm befalls a child, the Court further held that the fact that the child was in the care of the grandparents and that he was not harmed at the time of the filing of the neglect petition did not change the analysis of whether the child was neglected under the statute. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP106/106AP165.pdf

In re Francisco R., 111 Conn. App. 529 (2008)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The father claimed that the trial court improperly determined that the child was neglected at the time the petition was filed because there was no evidence that the child actually had been harmed. The Appellate Court held that the trial court's decision was not clearly erroneous because the State has authority to act before harm befalls a child. Here, the father allegedly sexually abused his daughters over several years and the child's mother did not believe the allegations. Although the parties agreed to not allow the father unsupervised contact with the child, there were no formal court orders in place to prevent the father from returning to the home or having unsupervised contact with the child. Just because the parents accept and comply with DCF services does not mean that a child cannot be deemed neglected based on the doctrine of predictive neglect.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP67.pdf

In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008)
The trial court adjudicated the child neglected under the doctrine of predictive neglect. The Appellate Court affirmed. The parents claimed that the trial court improperly determined that the child was neglected as a matter of law because a finding of predictive neglect requires (1) a serious prior history of neglectful or abusive parenting of one or more children or (2) a serious inability or unwillingness of the parents to accept, cooperate with or benefit from services necessary to help them care for their child. Recognizing the family's right to family integrity, but relying in part on the statutory scheme designed to allow the State to further its parens patriae interests, the Appellate Court held that the trial court's finding that the child was neglected under the doctrine of predictive neglect was proper because the state has a responsibility to avoid harm to the well-being of a child, not to repair it after a tragedy has occurred. The Court rejected the parents' argument that predictive neglect requires a prior history as untenable because then no first-born child could ever be adjudicated neglected under the doctrine of predictive neglect as presumably the parents would have no history of prior abuse. Secondly, whether a parent complies or doesn't comply with services is not determinative of predictive neglect. The parents further claimed that the trial court improperly relied on an erroneous factual finding regarding whether the father picked up the mattress that the mother was lying on causing her to fall. The Appellate Court held that the alleged error was harmless in light of the other sufficient evidence demonstrating the child was predictively neglected. Here, the Appellate Court concluded that the trial court properly adjudicated the child neglected under the doctrine of predictive neglect because at the child's birth the mother reported having thoughts of harming herself and the child. The father also suffered from suicidal thoughts and would benefit from medical treatment. The couple's martial conflict also contributed to the mother's obsessive thoughts.

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP95.pdf

In re Michael D., 58 Conn. App. 119 (2000), reversed
The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re Joseph W., Jr., et al., 305 Conn. 633 (2012)
Supreme Court remands for new neglect proceedings and clarifies the standard of proof for predictive neglect adjudications: Contrary to the Appellate Court's ruling in In re Kamari C.-L., 122 Conn. App. 815 (2010), a predictive neglect finding requires the petitioner to prove, by a preponderance of the evidence, that a child is more likely than not to be denied proper care and attention or allowed to live under conditions injurious. "The petitioner is required to meet this standard with respect to *each parent* who has contested the neglect petition and who has expressed a desire, or at least a willingness, to care for the child independently of the other parent. . . . If the parents have indicated that they intend to care for the child jointly, however, or if the trial court discredits a parent's claim that he or she intends to care for the child independently, the trial court may treat the parents as a single unit in determining whether the petitioner has met its burden of proving predictive neglect." The Court also held that the Americans with Disabilities Act did not provide an affirmative defense nor require special protections in neglect proceedings.

PRESUMPTIONS

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that, according to the holding in *Roth v. Weston*, Conn. Gen. Stat. §17a-112(j) is facially unconstitutional or unconstitutional as applied under the due process clause. The Court explained that *Roth* limited third party visitation orders when such orders where contrary to the desires of a fit parent. The underlying presumption in *Roth* is that a fit parent makes decisions in the best interest of the child. In termination of parental rights cases, there is no such underlying presumption. Where there are allegations that a parent is unfit, then the state may intrude upon the right to family integrity. The mother cited no authority for her claim that she should be allowed to raise her child without interference and that a parent who has been shown to be unfit, by clear and convincing evidence, is entitled to a presumption that she acted in the child's best interest. The Supreme Court found the mother's proposition to be implausible and rejected her constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court erred in granting custody to the foster parents over them when the trial court did not find them unfit. The Supreme Court held, as a matter of first impression, "that a presumption exists favoring a testamentary guardian named under and it is rebuttable by demonstrating, by a fair preponderance of the evidence, that it would be detrimental to the child to permit the testamentary guardian to serve as such. [The Court concluded] further that detriment may be shown, not just by demonstrating unfitness of the testamentary guardian, but by demonstrating considerations that would be damaging, injurious or harmful to the child. [O]nce the presumption is rebutted, the best interests of the child remains as the determinative factor." Here, the trial court properly applied a rebuttable presumption and found that the child was bonded to the foster parents and moving him would not be in his best interests.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Shyina B., 58 Conn. App. 159 (2000)
The trial court granted the maternal aunt and uncle the right to intervene and adjudicated the child neglected. The trial court then transferred guardianship to the maternal aunt and uncle instead of allowing the child to remain with her foster family. The Appellate Court affirmed. DCF claimed that the trial court improperly applied the best interest standard by imposing a legal presumption of placing the child with relatives. The Appellate Court held that the trial court did not improperly apply a presumption in favor of the maternal relatives, but rather properly applied the best interest standard and in doing so weighed the respective alternatives.

In re Michael D., 58 Conn. App. 119 (2000), reversed
The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re Juvenile Appeal (85-3), 3 Conn. App. 194 (1985)
The trial court terminated the mother's parental rights. The mother claimed that the trial court erred by failing to apply a presumption of parental fitness. While the parent child relationship is constitutionally protected, the Appellate Court held that the presumption of parental fitness, based on the genetic connection between the parent and the child, was not recognized in Connecticut in custody cases or termination of parental rights cases.

PRIMA FACIE EVIDENCE

"Standard for determining whether plaintiff has made out a prima facie case sufficient to withstand motion for judgment of dismissal in bench trial is whether the plaintiff put forth sufficient evidence that, if believed, would establish a prima facie case, not whether the trier of fact believes it. The court to grant motion for judgment of dismissal in bench trial, court must be of the opinion that plaintiff has failed to make out a prima facie case. In testing the sufficiency of the evidence, the court compares the evidence with the allegations of the [petition].... In order to establish a prima facie case, the proponent must submit evidence which, if credited, is sufficient to establish the fact or facts which it is adduced to prove." (Internal citation and quotation marks omitted.) *See, In re Devon W., 124 Conn. App. 631 (2010).*

"[T]he evidence offered by the plaintiff is to be taken as true and interpreted in the light most favorable to [the plaintiff], and every reasonable inference is to be drawn in [the plaintiff's] favor." (Internal citation and quotation marks omitted.) *See, In re Nasia B., 98 Conn. App. 319 (2006).*

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to dismiss the termination petition for DCF's failure to make a prima facie case by erroneously drawing inference in favor of DCF. The Appellate Court held that DCF established a prima facie case of failure to rehabilitate by showing that the mother's ongoing mental health issues continue to cast doubt regarding whether she could properly care for her children and the trial court is permitted to draw inferences.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the trial court improperly granted the parents' oral motion to dismiss the petition when it failed to view the evidence in the light most favorable to the nonmoving party. The Appellate Court held that the trial court applied the incorrect legal standard when it granted the motion to dismiss for failure to make out a prima facie case by weighing the evidence and the credibility of DCF's case in chief. The Appellate Court further concluded that DCF did present a prima facie case that grounds for the termination of parental rights existed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Cheyenne A., 59 Conn. App. 151 (2000)
The trial court terminated the parents' parental rights on the acts of commission or omission ground. The Appellate Court affirmed. The parents claimed that the trial court erred in finding that a prima facie showing of unexplained injuries was sufficient to prove acts of commission or omission to terminate the

parents' rights. The Appellate Court held that the trial court's decision was not clearly erroneous because there was clear and convincing evidence that the infant suffered serious, life threatening physical injuries, and seventeen rib fractures, occurring at different times. The injuries were unexplained at the time of the child's removal and then the parents later claimed that the injuries happened while in the grandmother's care. The Court further held that although the evidence presented was largely circumstantial, such evidence is sufficient to meet a "clear and convincing" burden of proof because circumstantial evidence is adequate to prove criminal charges requiring proof "beyond a reasonable doubt." The trial court, as a criminal jury, may draw reasonable and logical inference from proven facts as long as they do not resort to speculation and conjecture.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. The parents claimed, in part, that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that the parents "have not established all the prerequisites necessary in order to grant the [motion]", was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal basis for the court's decision.

PRIOR PENDING ACTION DOCTRINE

"The prior pending action doctrine does not truly implicate subject matter jurisdiction .... It may not, therefore, as is true in the case of classic subject matter jurisdiction, always be raised at any time. We have explicated the prior pending action doctrine as follows: The pendency of a prior suit of the same character, between the same parties, brought to obtain the same end or object, is, at common law, good cause for abatement. It is so, because there cannot be any reason or necessity for bringing the second, and, therefore, it must be oppressive and vexatious. This is a rule of justice and equity, generally applicable, and always, where the two suits are virtually alike, and in the same jurisdiction .... The rule forbidding the second action is not, however, one of unbending rigor, nor of universal application, nor a principle of absolute law.... We must examine the pleadings to ascertain whether the actions are virtually alike." (Internal citations and quotation marks omitted.) *See, In re Jessica M., 71 Conn. App. 417 (2002).*

In re Jessica M., 71 Conn. App. 417 (2002)

The probate court terminated the mother's parental rights on the basis of her consent. The Commissioner of DSS appealed to the superior court. The superior court denied the termination of parental rights petition. The mother appealed. The Appellate Court affirmed. The mother claimed that the court lacked subject matter jurisdiction because there was another prior pending action. The Appellate Court declined to review this claim because the mother failed to submit the pleadings from the allegedly ancillary proceedings to compare with the mother's case, and thus the record was inadequate to review. The Court further held that even if the mother had properly preserved for appellate review her claim, the mother's claim was fatally flawed because none of the elements of the doctrine applied to the facts of this case given the other probate proceedings involving different parties sought different relief. The Appellate Court further concluded that the trial court properly considered the mother's financial condition as a factor in determining the children's best interest and the evidence supported the trial court's conclusion denying the termination. The evidence demonstrated that the children still wanted a relationship with their mother and the mother's petition to terminate her parental rights was motivated by her desire to avoid child support obligations. Thus, the termination was not in the children's best interests. "Rather than allowing the petitioner to pull off a sham on the court and to divest herself of her responsibilities to her children, which would directly undermine our law, the court determined, on the basis of the entire record, that the petitioner had failed to meet her burden of proving that termination of her parental rights was in the children's best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

PRO SE LITIGANTS

"Although it is appellant's responsibility to provide an adequate record for review, it is the Appellate Court's policy to give leeway to pro se litigants regarding their adherence to the rules of the Appellate Court. The Appellate Court will address the merits of a pro se parent's claims, despite the failure to cite any case law or any portions of the record to support the contention that the trial court improperly terminated his/her parental rights." (Internal citations and quotation marks omitted.) *See, In re Brittany J., 100 Conn. App. 329 (2007).*

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed. The pro se father claimed that the trial court violated his statutory right to counsel pursuant to Conn. Gen. Stat. § 45a-717(b) because the trial court did not advise the pro se father of his right to counsel at the start of the termination of parental rights trial. The Appellate Court held that based on the record, the trial court properly advised the pro se father of his right to counsel when he first appeared without counsel after being served with the petitions (at the plea date). Insofar as the pro se father claims he has a constitutional right to counsel, the Appellate Court also ruled, in a footnote, that according to *State v. Anonymous*, the pro se father does not have a constitutional right to counsel in termination of parental right cases. The Appellate Court further held that, based on review of the transcripts, the pro se father waived his statutory right to counsel on numerous occasions despite the withdrawing attorney's request for substitute counsel as well as the court strongly advising against pro se representation and warning that it was in the father's best interest to accept counsel. Although the father claimed on appeal that he reinvoked his statutory right to counsel on the first day of the termination of parental rights trial, the Appellate Court further held that the trial court did not abuse its discretion in denying a second motion for continuance so that the pro se father could have court-appointed counsel after previously waiving his right to counsel and knowingly and voluntarily choosing to represent himself.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

Albright-Lazzari v. Commissioner of Children and Families, 120 Conn. App. 376, cert. denied, 297 Conn. 908, cert. denied, 131 S.Ct. 516 (2010)
In an administrative appeal, the trial court dismissed the parents' pro se appeal of DCF's substantiation against the mother for emotional neglect and the decision to place her name on the child abuse registry. The Appellate Court affirmed. The Appellate Court upheld the trial court's dismissal of the mother's husband's appeal for lack of subject matter jurisdiction because the husband was not aggrieved by his wife's name being on the registry, even though her name was hyphenated to include his own last name. The Appellate Court further held that "substantial evidence" existed to support DCF's substantiation that the mother's emotional neglect of the children when she refused to believe the doctor's opinion that her child was not sexually abused and in front of her child she insisted that the doctor perform invasive procedures on her child and acted bizarrely. The Court noted that the parents were pro se and that the Court carefully considered the entire record and arguments in light of their pro se position.
http://jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP225.pdf

In re Dylan C., 126 Conn. App. 71 (2011)
The trial court terminated the mother's parental rights on the ground that she failed to rehabilitate. The Appellate Court affirmed. On appeal, the pro se mother claimed that the trial court lacked sufficient evidence. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence that the mother failed to rehabilitate. The Court defined "clear and convincing" proof and held that the evidence demonstrated that while the mother made some progress regarding understanding the effects of domestic violence, the mother still exposed her children to domestic violence by living with a roommate who was in a domestic violence relationship. Moreover, the psychologist opined that the mother could not parent safely and would not be able to do so in a reasonably foreseeable time. Moreover, the child had been in foster care his entire life and he was then two and a half years old.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP165.pdf

In re Emile L., 126 Conn. App. 283 (2011)
The trial court terminated the pro se parent's parental rights finding that they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. In this consolidated appeal, the father claimed that he completed most of the programs DCF required and that DCF "wanted him to do the impossible" at the risk of losing his employment. The Appellate Court held that the record amply supported the trial court's finding that he failed to rehabilitate because the father failed to complete the programs, continued to abuse drugs and alcohol and engage in an "unrelenting pattern" of domestic violence. The mother also claimed that she "completed all the programs" and that DCF failed to take into account her back injury as a mitigating factor. The Appellate Court held that the record amply supported the trial court's finding that she failed to rehabilitate because the mother failed to complete substance abuse treatment, failed to attend drug screens, but tested positive when she did attend and had a significant history of being the victim of, and engaging in, domestic violence with the father and she had refused treatment regarding her maladaptive behavior. The Appellate Court further declined to review the parents' claim that the trial court should have transferred guardianship of the child to the grandmother because they did not file a motion to transfer guardianship until after the close of evidence and did not raise this at any time before the trial court. Thus, the record was inadequate for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP126/126AP199.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. The Appellate Court summarily held the DCF provided reasonable efforts, the mother failed to rehabilitate, a termination was in the best interest of the child and the trial court did not abuse its discretion in denying the motion to transfer guardianship. The evidence demonstrated that the mother failed to attend or to complete numerous treatment and counseling programs offered to her regarding ongoing domestic violence between her and the child's father. She was also unable to make progress in improving her parenting skills and failed to obtain stable housing and employment. The child was bonded to his foster parents, whom he saw as his psychological parents and with whom he lived for two years. The foster parents wanted to adopt the child and the psychologist opined that it would not be in Anthony's best interest for him to move out of his current foster home to the home of another relative. The Appellate Court noted that "[to] the extent that the respondent attempts to raise new evidence on appeal, we cannot afford it consideration. To do so would transform an appellate court into a second trial court, and this we

cannot allow." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court's decision to deny their motion for revocation was clearly erroneous. The Appellate Court held that the decision was not clearly erroneous because the pro se parents did not offer any evidence in support of their claim. The Appellate Court concluded that argument is not evidence and arguments of a pro se litigant are not proof. The parents also made numerous claims regarding visitation. (1) The parents claimed that the trial court improperly issued the ex parte interim order without affording them a hearing, and the Appellate Court held that the appeal of interim ex parte visitation orders were rendered moot by subsequent visitation orders. (2) They claimed that the trial court improperly transferred the visitation motions to the child protection session and the Appellate Court held this claim not reviewable because the transfer decision was not a final judgment. (3) They claimed that the trial court's ex parte order ceasing visits was an abuse of discretion, and the Appellate Court held that the trial court did not abuse its discretion because it acted in the best interest of the children. (4) They claimed that the trial court abused its discretion by denying their motion to hold DCF in contempt for failing to comply with court-order visitation. The Appellate Court held DCF did not willfully violate a court order because the record demonstrated that of three contested visits, two were cancelled by the parents and the third one was missed due to miscommunications between the parties. (5) They claimed that the trial court improperly ceded the visitation schedule to DCF and that the visitation statute, Conn. Gen. Stat. § 17a-10a was unconstitutional. The Court declined to analyze the constitutionality of the statute and the Court did not fault the trial court for invoking Conn. Gen. Stat. § 17a-10a "in an effort to bring all the resources of the department into play to set a course in the best interests of the children." DCF also claimed on appeal that the trial court improperly ordered unsupervised visitation in violation of its due process rights. For the same reasons as above, DCF's visitation claims were also rendered moot.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Brittany J., 100 Conn. App. 329 (2007)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interest. The Appellate Court affirmed. The Appellate Court decided to give leeway to the pro se parent regarding the rules of Appellate procedure and decided to address the merits of the pro se mother's claims, despite the failure to cite any caselaw or any portions of the record to support the contention that the trial court improperly terminated her parental rights. The Appellate Court held the evidence supported the trial court's determination that she failed to rehabilitate because the mother had untreated mental health issues and refused to take her psychotropic medication until the eve of trial, even though DCF offered a plethora of services and the children had been in foster care for more than two years. Although there was a strong bond between the mother and her children, the mother exercised poor judgment with regard to her children and would continue to do so in the future. The evidence also supported that a termination was in the children's best interest. The children's desire to return home to live with their mother was ambivalent at best and the children required permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP100/100AP219.pdf

In re Ashley S., 61 Conn. App. 658 (2001)
The trial court terminated the pro se mother's parental rights finding that the mother failed to rehabilitate and a termination was in the children's best interest. The Appellate Court affirmed. The mother listed

thirty six issues on appeal. The Appellate Court noted that it gives great latitude to pro se litigants so that justice may be done, but the Court will not entirely disregard the rules of practice.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap194.pdf

PROBATE

A. Generally, Jurisdiction

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court improperly denied their motion to dismiss asserting that probate court had exclusive jurisdiction over the appointment of testamentary guardians pursuant to a valid will. The Supreme Court held that in light of the fact that a neglect petition was filed, the Superior Court for Juvenile Matters had exclusive jurisdiction to enter custody and guardianship orders and thus the court properly denied the motion to dismiss. The extreme and unusual circumstances of this case caused by the mother murdering the father and causing life-threatening injuries to the child vested the Superior Court with jurisdiction. The child was orphaned and in the hospital without any named custodian or guardian until DCF filed its OTC and neglect petition. The existence of a will does not deprive the court of its jurisdiction. It is the province of the Superior Court, not the Probate court, to determine the disposition of a neglected child. http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that neither probate court nor the Commissioner of public health had authority to delete a biological parent's name from the child's birth certificate when there was no allegation that the information contained therein was inaccurate. **Dissent and Concurring:** MacDonald, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re Adoption of Baby Z., 247 Conn. 474 (1999), reversed
The Adoption Board of Review denied a same sex couple's application for waiver of the statutory parent requirement so that the partner of the biological mother of the child could adopt the child. The board then denied the application for adoption. In their probate appeal, the Superior Court dismissed the same sex couple's probate appeal because the board's decision to deny the couple's waiver application to permit the partner to adopt the child was not an order from probate, but rather an administrative decision. The Supreme Court affirmed the decision holding that the board's decision was not a probate decree pursuant to Conn. Gen. Stat. §45a-186(a), but it was a final decision of a "contested case" by an "agency" under the UAPA. The Supreme Court further held that the board lacked jurisdiction to waive the statutory requirements of a waiver adoption application. The Court concluded that the Probate Court lacks jurisdiction to terminate parental rights and appoint a statutory parent as part of a statutory parent adoption proceeding. Consequently, the Probate Court does not have authority to transform an unauthorized

adoption application into a statutory parent adoption application after the adoption proceeding has been instituted. Ultimately, the Court's decision resulted in the denial of the joint petition of a lesbian couple to adopt the biological child of one of the women. This case discusses the jurisdiction of probate courts. **Dissent:** Berdon, J. **Note:** Public Act 00-228, effectively overruled In re Adoption of Baby Z. and permits second parent adoption.

In re Juvenile Appeal (85-BC), 195 Conn. 344 (1985), reversed
The children were adjudicated neglected and committed to DCF. Guardianship was then transferred to the grandmother. The mother moved to "revoke the children's commitment" to the grandmother. DCF moved to re-commit the children back to DCF. The trial court dismissed the mother's petition because the "extension of commitment" expired and custody reverted to the mother. Both DCF and the grandmother appealed. The Appellate Court held that the trial court erred in dismissing the petition because "extensions of commitment" do not apply to cases where guardianship was transferred to a third party. The Court further ruled that Conn. Gen. Stat. § 46b-129 confers exclusive jurisdiction to the Superior Court to enter custody and guardianship orders where the custody order arose from a prior finding of neglect. Moreover, an order vesting custody or guardianship of the children to their grandmother is an order subject to modification by the court based on the best interests of the children. Reversing the court order entitles the mother to a judicial hearing for the mother to prove that no cause for "commitment" exists so that guardianship can be transferred back to her.

B. Termination of Parental Rights, Probate Case and/or Appeal

In re Brian T., 134 Conn. App. 1 (2012)
The trial court, on an appeal from probate court, terminated the father's parental rights finding abandonment, failure to rehabilitate, and that the termination was in the best interest of the child. The Appellate Court affirmed the TPR judgment although the Appellate Court held that the trial court's finding of abandonment as an adjudicatory ground was clearly erroneous. First, the Appellate Court held that the abandonment finding was infected by clear error because the trial court erroneously found that the father denied paternity for the first five years of the child's life and that the father was incarcerated for the first seven years of the child's life. Both of these findings of fact were incorrect. The Appellate Court nonetheless held that the trial courts conclusions regarding the remaining grounds were supported by the record and not clearly erroneous. The father claimed that the trial court's failure to rehabilitate finding was based solely on the father's incarceration. The trial court properly found that during the first eight years of the child's life the father failed to assume a responsible position in the life of his child by not contributing to his child's care or making himself available as a resource. His extensive criminal history and poor judgment during most of the child's life does not encourage a belief that he is ready to assume a responsible position in the child's life. Regarding best interests, the father claimed that the trial court improperly considered the best interests of the child before reaching a conclusion whether the statutory adjudicatory grounds were proven. The Appellate Court held that although the memorandum of decision includes best interest findings preceding adjudicatory findings, the order clearly sets forth the four adjudicatory grounds and then makes an express finding by clear and convincing evidence regarding the best interests of the child. The memorandum of decision and the trial court's order must be read in conjunction. **Concurring:** Lavine, J.; Robinson, J. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP232.pdf

In re Jessica M., 71 Conn. App. 417 (2002)
The probate court terminated the mother's parental rights on the basis of her consent. The Commissioner of DSS appealed to the superior court. The superior court denied the termination of parental rights petition. The mother appealed. The Appellate Court affirmed. The mother claimed that DSS did not have standing to intervene in the termination proceeding and that the trial court improperly based its decision to deny the termination based solely on the mother's financial status. The Appellate Court held that DSS had standing in the termination case because the Commissioner of DSS constituted an aggrieved person since the probate court order affected DSS' right to reimbursement of assistance payments that were made to the mother. The Appellate Court concluded that the trial court properly considered the mother's financial condition as a factor in determining the children's best interest and the evidence supported the trial court's conclusion denying the termination. The evidence demonstrated that the children still wanted a relationship with their mother and the mother's petition to terminate her parental rights was motivated by her desire to avoid child support obligations. "Rather than allowing the petitioner to pull off a sham on the court and to divest herself of her responsibilities to her children, which would directly undermine our law, the court determined, on the basis of the entire record, that the petitioner had failed to meet her burden of proving that termination of her parental rights was in the children's best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

In re Lori Beth D., 21 Conn. App. 226 (1990)
The probate court transferred the mother's petition to terminate the father's parental rights to the Superior Court. The Superior Court terminated the father's rights by finding that he abandoned his child. The Appellate Court affirmed. The father claimed that the probate court improperly transferred the case without holding a hearing. The Appellate Court held that the probate court properly acted within its discretion to not hold a hearing on the mother's transfer notice when the father was properly notified and did not file an objection to the motion.

In re Jason D., 13 Conn. App. 626 (1988)
The parents filed a petition in probate court to terminate their parental rights to their adoptive son. The son was committed to DCF. The case was transferred to Superior Court. DCF filed a motion to dismiss the termination petition because the child was committed to DCF and the 14 year old son did not consent to the termination. The parents appealed. The Appellate Court affirmed. The Appellate Court held that the motion to dismiss was properly granted because the statute requires that a child over 12 must consent to the termination of parental rights petition filed in probate court. Here, the child did not join the petition, and thus the court lacked jurisdiction. The Court further held that given this express legislative requirement, the child cannot be deemed to either have waived his consent or be estopped from denying his consent on the basis of his behavior.

In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000)
On appeal from probate court, the trial court denied the grandmother's petition to terminate the mother's parental rights and granted the grandmother guardianship. The Appellate Court affirmed. The grandmother claimed that the trial court improperly relied on the guardian of the child's estate's opinion regarding the best interest of the child. The guardian of the child's estate testified and submitted a letter advocating against terminating the mother's parental rights. The Appellate Court held that the submission of the letter was not improper and distinguished *Ireland v. Ireland* by reasoning that in this case the guardian of the estate was not the child's attorney--a role that is limited to submitting argument through briefs and questioning witnesses.

C. Removal of Parent as Guardian

In re Helen B., 50 Conn. App. 818 (1998)
The superior court for juvenile matters, upon transfer from probate court, granted the aunt's petition to remove the father as the child's legal guardian based on the acts of commission or omission ground. The Appellate Court affirmed. The father claimed that the trial court improperly found this ground because the evidence regarding the father's conduct did not adversely affect the child. The Appellate Court held that the father's lifestyle, marred with illegal conduct, including selling drugs, engaging in domestic violence and sexually abusing the child's half-sister, denied the child the proper care necessary for her well-being and that it was in the child's best interest to terminate the father's parental rights. The father also claimed that the trial court improperly admitted evidence of the father's arrest for drug and weapon possession because it did not result in a conviction. The Appellate court held that the trial court properly considered the evidence because a police officer with first-hand knowledge testified regarding the father's conduct as impeachment of the father's testimony and the evidence was relevant to the statutory criteria requiring removal of a parent based on parental habits or misconduct.

In re Michael A., 47 Conn. App. 105 (1997)
In a transfer from probate court, the trial court first granted the father's motion for temporary custody to vest in the grandmother. The trial court later granted the father's petition to remove the mother as the child's guardian and to grant sole guardianship and custody to the father. The Appellate Court affirmed. The mother claimed that the trial court improperly applied the best interest standard and that the evidence did not meet the clear and convincing standard of proof. The Appellate Court held that there was clear and convincing evidence that the mother denied the child the care, guidance and control necessary for his well-being and that removal of the mother was in the child's best interests.

In re Bruce R., 234 Conn. 194 (1995), aff'ing, 34 Conn. App. 176 (1994), reversed trial court
The father petitioned the court to terminate his own parental rights via consent. On transfer from probate court to the Superior Court, the Superior Court terminated the father's parental rights. The mother appealed. The Appellate Court reversed the trial court holding that the trial court failed to consider the financial status of the parents in determining whether it was in the best interest of the children to terminate the father's parental rights. The father appealed. The Supreme Court affirmed the Appellate Court. The father claimed that the relevant statute does not require the court to consider the financial condition of the parents in determining whether a termination is in the best interest of the children. Upholding state and federal public policy regarding child support, the Supreme Court held that the legislative scheme requires the court in consensual termination of petition proceedings to find that: (1) the consent is voluntarily and knowingly, and (2) that the termination would be in the child's best interest. Although the parents' financial condition is not dispositive, when the termination of parental rights is contested, the court must consider the financial condition in determining the child's best interest. "It would be anathema for our law to allow parents to terminate voluntarily their parental rights "solely for the purpose of evading or relieving [themselves] of responsibility to pay child support. [S]imply put, no parent may blithely walk away from his or her parental responsibilities."

D. Reinstatement of Parent as Guardian

"General Statutes § 45a-611 (a) and (b) provide that, in order to reinstate the parent as guardian, the court must find that the factors that resulted in the removal of the parent have been resolved satisfactorily and that it is in the best interests of the children to do so." *See, In re Brian W., 124 Conn. App. 787 (2010).*

In re Brian W., 124 Conn. App. 787 (2010)
In this appeal from probate court, the trial court granted the mother's petition to reinstate guardianship back to her. The pro se grandparents appealed. The Appellate Court affirmed. The grandparents claimed that the trial court improperly found that: (1) the mother resolved the factors that resulted in her prior removal as guardian, and (2) that transferring custody to the petitioner was in the best interests of the children. The Appellate Court held there was ample evidence to support the trial court's determination that the mother resolved the factors that caused her to be removed as the children's guardian and that transferring guardianship back to her was in the children's best interest. The evidence demonstrated that the mother and children shared a strong bond, she maintained stable housing and employment and various professionals testified regarding the children's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP46.pdf

In re Michelle G., 52 Conn. App. 187 (1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

PROTECTIVE ORDER

In re Brianna B., 66 Conn. App. 695 (2001)
The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held the foster mother in contempt. The Appellate Court affirmed. The former foster mother claimed that the nondisclosure order violated her constitutional First Amendment rights to free speech. Recognizing the "the presumption of confidentiality of juvenile records, the Appellate Court held that the trial court properly limited the foster mother's First Amendment rights to disclose confidential information obtained during the course of the habeas proceedings. The court's order was narrowly tailored because it did not restrict her from speaking freely about information of which she had prior knowledge and it allowed her permission to speak with the child advocate or her legislative representative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

PROTECTIVE SUPERVISION

"If trial court, upon adjudicating a child uncared for, neglected or dependent, elects to continue custody with parent subject to order of protective supervision, court retains jurisdiction, and subsequent parental noncompliance with this order is ground for motion to modify court's disposition." *See, In re Stanley D., 45 Conn. App. 606, cert. denied, 243 Conn. 910 (1997).*

In re Stanley D., 45 Conn. App. 606, cert. denied, 243 Conn. 910 (1997)
The trial court granted DCF's motion to modify the disposition from protective supervision to commitment. The Appellate Court affirmed. The father claimed that the trial court improperly granted the motion to modify disposition. The Appellate Court held that if a parent fails to comply with the orders of protective supervision, the court can modify the disposition. The trial court had sufficient evidence to modify the disposition to commitment because the father and mother created an unhealthy environment for the child by engaging in domestic violence disputes, the father was arrested and charged with criminal misconduct, the father failed to cooperate with DCF and announced visits, and the mother had left the home and disappeared for weeks.

REACTIVE ATTACHMENT DISORDER

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court erred in granting the foster parents custody solely on the basis of the bond the child developed with the foster parents even though the bond was allowed to develop due to DCF's improper conduct. The Supreme Court held that the trial court did not abuse its discretion in concluding that it was in the child's best interest to grant custody to the foster parents based on the bond and how removal would harm the child. The court relied on the psychologist's testimony that the child would be at risk of reactive attachment disorder if removed from the foster parents. The decision defines the disorder. The best interest determination was properly based on a number of additional factors including the ability of the foster parents to maintain sibling and extended family ties, the foster parents' views against corporal punishment and their amenability towards tradition therapy. On the contrary, the named testamentary guardians did not have a connection to the child's biological extended family, supported corporal punishment and favored religious intervention over therapy. DCF's alleged improper conduct did not compel appointing the named testamentary guardians as the child's legal guardians.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Karl J., 110 Conn. App. 22 (2008)
The trial court denied the mother's motion to reinstate guardianship and granted the father's motion to transfer guardianship to the aunt. The mother appealed. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion, determining that it was not in the child's best interests to reinstate the mother's guardianship. The child suffered from reactive attachment disorder and had been living with the aunt and making progress developmentally. The child was bonded to the aunt and wanted to remain there. Although the trial court found "cause for the original commitment" no longer existed, the denial of the mother's motion was in the best interests of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP458.pdf

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding termination was in the child's best interest because the evidence demonstrated that the child suffered from failure to thrive and reactive attachment disorder as a result of the care, or lack thereof, the child received from her parents. Failure to thrive is a condition of low body weight due to inadequate care and insufficient calorie intake that can have an adverse effect on brain development. Reactive attachment disorder is a limitation in a child's ability to attach to and interact with the adults around her. The disorder results from disturbed caretaking. The father lacked an understanding of the child's medical and psychiatric condition, and during testimony he was unable to name her special

needs or her treating physicians. Moreover, the psychiatrist testified that the child should be adopted by her foster mother because the child's prognosis for overcoming her reactive attachment disorder was guarded, and once a child with an attachment disorder forms an attachment, it should not be disturbed. While the child was attached to her foster mother, it does not mean that she will be able to attach to another person.

REASONABLE EFFORTS

Under § 17a-112 (j), in order to terminate an individual's parental rights on the basis of failure to achieve personal rehabilitation, the department must demonstrate that it made reasonable efforts to reunify the child with the parent, or prove that the parent will not benefit from such reunification efforts. In order to terminate parental rights under § 17a-112 (j), the department is required to prove, by clear and convincing evidence, that it has made reasonable efforts . . . to reunify the child with the parent, unless the court finds . . . that the parent is unable or unwilling to benefit from reunification . . . . [Section 17a-112] imposes on the department the duty, inter alia, to make reasonable efforts to reunite the child or children with the parents. The word reasonable is the linchpin on which the department's efforts in a particular set of circumstances are to be adjudged, using the clear and convincing standard of proof. Neither the word reasonable nor the word efforts is, however, defined by our legislature or by the federal act from which the requirement was drawn. . . . [R]easonable efforts means doing everything reasonable, not everything possible. . . . The trial court's determination of this issue will not be overturned on appeal unless, in light of all of the evidence in the record, it is clearly erroneous. . . . A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made.'' (Internal citations and quotation marks omitted.) *See, In re Christopher L., 135 Conn. Ap. 232 (2012).*

"Reasonableness is an objective standard, and whether reasonable efforts have been made by Department of Children and Families to reunite the child with the parents depends on the careful consideration of the circumstances of each termination of parental rights case." *See, In re Hector L., 53 Conn. App. 359 (1999*).

"The department must prove *either* that it has made reasonable efforts to reunify *or, alternatively*, that the parent is unwilling or unable to benefit from reunification efforts. *Section 17a-112 (j)* clearly provides that the department is not required to prove both circumstances. Rather, either showing is sufficient to satisfy this statutory element." (Emphasis in original.) (internal citations and quotations omitted.*)* *See, In re Christopher C., 134 Conn. App. 464 (2012)*

In re Melody L., 290 Conn. 131 (2009)

The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The mother claimed that the trial court erred in finding that DCF made reasonable efforts to reunify because DCF never provided the family with joint or family therapy. The Court held that DCF offered the mother numerous services and programs throughout the years and that the evidence demonstrated that DCF offered at least some family therapy when appropriate. The Court further concluded that even if additional family therapy were necessary, it would not have rendered the trial court's decision clearly erroneous, since "reasonable efforts means doing everything reasonable, not everything possible."

Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was 'unwilling or unable' to reunify, she committed an act of commission or omission and that a termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment. At the Appellate Court, the mother only appealed the trial court's finding that the mother was 'unable or unwilling' to benefit from reunification efforts, and did not also appeal the trial court's finding that DCF made reasonable efforts to reunify. First, the Supreme Court held that the statute, Conn. Gen. Stat. § 17a-112(j)(1), is clear and unambiguous; DCF is required to prove *either* that it had made reasonable efforts to reunify or, alternatively, that a parent was 'unwilling or unable to benefit' from reunification efforts, and in a termination proceeding, DCF is not required to prove both circumstances. Thus, to the extent that the Appellate Court's decision holds that DCF must make reasonable efforts to reunify before a trial court can find that a parent is 'unwilling or unable', the Appellate Court is mistaken. Secondly, the Supreme Court held that the Appellate Court erred in holding that the trial court's finding that the mother was 'unwilling or unable' was clearly erroneous. To the contrary, the trial court's findings were amply supported by the record. The five week old infant suffered life threatening injuries stemming from abuse and the evidence indicated that the father caused the injuries. The evidence also demonstrated that the father abused the mother, the mother observed the father treat the infant poorly, and the father abused cocaine. Yet, after the infant nearly died, the mother exhibited poor judgment by secretly maintaining a relationship with the man she believed had nearly killed her baby and who continued to abuse her demonstrating the mother' inability to benefit from reunification services.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial. However, the Supreme Court held that DCF did make reasonable efforts to reunify over the years that the child was committed to DCF. DCF offered the parents reunification services, family counseling, parenting classes, psychological evaluations, home visits and supervised visitation, and case management services. Moreover, DCF made two reunification attempts and despite the court's characterization that the second attempt was "prematurely aborted" by DCF, in light of the plethora of services tailored to the parents, DCF's efforts were reasonable.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights. The Supreme Court held that based on the legislature's intent in enacting the statutory amendment imposing the

requirement of reasonable reunification efforts, the statutory amendment did not apply retroactively. The Supreme Court further ruled that the Adoption Assistance and Child Welfare Act had no bearing on the Court's holding because it is an appropriations act that establishes guidelines for states to receive federal funding for foster care and does not apply to individual actions or judicial findings. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's untimely motion to open the TPR judgment, the Supreme Court noted that DCF's efforts to locate the mother prior to filing the TPR were minimal and do not demonstrate reasonable efforts. The Court further noted that notice by publication is not the preferred method for ensuring a parent's participation in a constitutionally protected TPR proceeding. **Dissent:** Borden, Norcott, JJ.

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. They claimed that the court failed to require DCF to provide 'supportive services' to reunite the family. The Supreme Court held that DCF was not required to provide the services because the child could not be safely returned to his parents.

In re Christopher L., 135 Conn. App. 232 (2012)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, and the mother failed to rehabilitate. The Appellate Court affirmed. The mother first claimed that she was denied notice of DCF's reasonable efforts claim because DCF failed to check the box on the TPR petition alleging it made reasonable efforts to reunify. The Appellate Court declined to review the mother's claim because the mother's claim was not adequately preserved. The mother never filed an objection to DCF's motion for technical correction and the issue was not raised at trial. The mother also claimed that DCF failed to provide reasonable efforts alleging that DCF failed to offer the mother services to address the significant losses in her life and their impact on her alcohol abuse. The Appellate Court held that even if the evidence showed the mother might have benefitted from additional services, the trial court's findings would not be clearly erroneous. The trial court's findings were amply supported by the record because DCF offered the mother a number of services to assist her with alcohol abuse problem and reunification with her child. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP329.pdf

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights finding that DCF provided reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that DCF did not offer the father any specific services to help the father understand the detrimental nature of his relationship with the mother and was not provided sufficient notice that ending his relationship with the mother was a condition precedent to reunification with his child. The Appellate Court held that DCF provided reasonable effort to reunify the father with his child, but that the father was unable to benefit from these efforts. Specifically, DCF offered the father mental health and parenting counseling, substance abuse education to understand the mother's addiction, and domestic violence counseling. Moreover, the father continued to miss visits with his child and unilaterally stopped visiting the child for six months.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Christopher C., 134 Conn. App. 464 (2012)
The trial court terminated the pro se father's parental rights finding that DCF made reasonable efforts and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the evidence did not support the trial court's finding that DCF made reasonable efforts. However, the trial court also found that the father was unable or unwilling to benefit from reunification efforts. Because the statute requires DCF to prove either it made reasonable efforts *or* the father was unable or unwilling, the Appellate Court declined to review the father's moot claim due to the father's failure to challenge the court's finding that he was unable to benefit from reunification efforts. Reviewing the father's reasonable effort claim would be improper because the Appellate Court cannot afford the father any practical relief.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP287.pdf

In re Christopher C., 134 Conn. App. 473 (2012)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously found DCF made reasonable efforts and that she was unwilling to benefit from reunification efforts. The mother specifically claimed that DCF did not offer her assistance in ending her abusive relationship with the child's father and failed to engage the mother in mental health counseling. The record supports the trial court's findings because both the specific steps and the DCF social worker informed the mother of the need to engage in counseling and the mother ignored DCF's constant requests to assist the mother. Moreover, the mother consistently missed visits with her children and went three months without visiting at all.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP288.pdf

In re Valerie G., 132 Conn. App. 652 (2011)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and denied the intervening grandmother's motion to transfer guardianship. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly found that DCF made reasonable efforts because DCF filed a termination too soon and given the mother's significant cognitive and psychological deficits, DCF was required to provide her actual assistance to obtain housing and employment, not merely provide her with access to services. The Appellate Court held that given the plethora of services offered to the mother both in New York and in Connecticut, the evidence supported the trial court's finding that DCF made reasonable efforts. The Appellate Court further concluded that DCF was not obligated to act as a conservator and that the trial court was permitted to draw an adverse inference from the mother's failure to comply with the specific step that she comply with mental health treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP132/132AP114.pdf

In re Anvahnay S., 128 Conn. App. 186 (2011)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and he failed to rehabilitate. The Appellate Court affirmed. The incarcerated father claimed that DCF did not provide him services while he was incarcerated so that he could rehabilitate, failed to communicate with him and failed to provide visits. The Appellate Court held that DCF's efforts were reasonable although DCF did not contact the incarcerated father directly until six months after having learned of his reincarceration. While the father was on escape status, incarcerated or in a half-way house, he failed to contact DCF. "We cannot fault the department for not being able to deliver services to the [father] when he failed to inform [DCF] of his whereabouts...." DCF further informed the father to take advantage of services while in

prison. Moreover, the trial court properly found that DCF reasonably relied on the grandparents to provide visitation to the father based on their willingness to do so. The father did not identify how the period "without direct contact was unreasonable where the inevitable restraint imposed by his incarceration restricted the [DCF's] ability to do little more than provide visits with [the child]."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP349.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that DCF failed to provide her with housing assistance and individual counseling services. The Appellate Court held that the trial court's findings were supported by the record because the mother continued to reside with her father, whose house everyone agreed was inappropriate, and used her money to try and fix it up instead of obtaining separate housing. Moreover, the evidence demonstrated that while the mother self-referred to individual therapy, her failure to continue in treatment was not the fault of DCF.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Luciano B., 129 Conn. App. 449 (2011)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify, they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. In this consolidated appeal, the father claimed that DCF's efforts were unreasonable for numerous reasons, including that DCF failed to offer increased visitation, failed to communicate with the father while he was incarcerated, and failed to provide adequate case management services while he was incarcerated. The Appellate Court held that once a month visitation while the father was incarcerated was reasonable and that DCF effectively communicated to the father the need to complete domestic violence services, but the father failed to do so. Further, DCF offered what services it could while the father was incarcerated. Although visitation was the main service offered the incarcerated father, DCF also communicated with prison counselors. Prison counselors informed DCF that the father's inability to participate in counseling services while incarcerated was the direct result of an altercation he had with another inmate. The mother claimed that the trial court erred in finding that DCF made reasonable efforts to reunify because the trial court erroneously found that the mother was involuntarily discharged from her inpatient substance abuse program when she actually left voluntarily. She also claimed DCF did not offer her parenting classes. The Appellate Court held that given the mother's lengthy and serious substance abuse problem and her quitting various treatment programs, whether the mother was discharged or voluntarily left the program had no bearing on the issue of whether DCF made reasonable efforts. The Court also held that the evidence supported the finding that DCF provided the mother parenting classes.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP448.pdf

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly found that DCF provided reasonable efforts to reunify. The Appellate Court held that DCF's failure to provide the mother with a specific type of recommended parenting program and an ADHD evaluation in a timely matter after being recommended by the court-ordered psychologist does not mean that the court's finding was clearly erroneous. The record revealed that DCF provided the mother with an alternative parenting program when

the one recommended had a long waiting list. Furthermore, the mother's "clumsy" relationship with DCF and lack of engagement in the rehabilitation process contributed to the delay in performing the evaluation. The Court further held that the trial court did not improperly shift the burden of proof from DCF to the mother in its decision and did not improperly change the basis of its memorandum of decision nor substitute its original decision in its articulation. **Dissent:** Robinson, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in finding that the mother was unable to benefit from reunification efforts. The trial court also found, however, that DCF made reasonable efforts to reunify. The Appellate Court declined to review this claim concluding it to be moot. To prevail on this issue, the mother was required to prove that there was not clear and convincing evidence of (1) the department's reasonable efforts to locate and reunify her with the children *and* (2) her inability or unwillingness to benefit from reunification efforts. Both findings must be appealed in order for the claim to be reviewed. By only challenging one ground, there was no practical relief that could be afforded her.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify. The Appellate Court held that the trial court's finding that DCF made reasonable efforts was supported by clear and convincing evidence because DCF offered a multitude of services to provide assistance for the mother's mental health and parenting issues. DCF also provided reunification services. Although the mother asserted a temporary lapse in one of the many services provided, the Court concluded that a "brief lapse in a single service does not render the department's services unreasonable."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Keyashia C., 120 Conn. App. 452, cert. denied, 297 Conn. 909 (2010)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that DCF's efforts were neither timely nor appropriate. The Appellate Court held the evidence supported the trial court's findings because DCF offered the mother numerous services, including supervised visitation in her home, group parenting education, one-on-one parenting education, substance abuse screening, anger management counseling, psychological evaluations, individual therapy, couples therapy, domestic violence counseling, and supportive housing assistance. The record did not reveal any significant delays or inadequacies in the reunification services offered to the mother.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP242.pdf

In re Jaiden S., 120 Conn. App. 795, cert. denied, 297 Conn. 923 (2010)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and he failed to rehabilitate. The Appellate Court affirmed. The father claimed DCF failed to provide

reasonable efforts for a period of six months and that the trial court erroneously found that the father was unable or unwilling to benefit from services. The Appellate Court held that the evidence supported both findings because during that six month period, the father was living in another state contesting his paternity of the child. Nonetheless, DCF provided reunification efforts, including referrals for case management services, substance abuse evaluation, parenting education, referral to a DOVE program for domestic violence issues and individual counseling. Moreover, the fact that the father failed to report to DCF that he was a registered sex offender and was later arrested for failing to register as a sex offender was sufficient to support the trial court's finding that the father was unable or unwilling to benefit from further reunification efforts. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP264.pdf

In re Albert M., 124 Conn. App. 561, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly found DCF made reasonable efforts and he failed to rehabilitate because DCF never informed the father that he would lose his parental rights if he did not separate from the mother. The mother had a myriad of mental health issues that clearly interfered with her ability to parent. The Appellate Court held that the evidence supported both findings because the father had actual knowledge of the requirement that he separate from the mother despite DCF's failure to put that requirement in concrete terms. The Appellate Court found it significant that the father did not testify that he did not know that separation from the mother would help him reunify with his son. Rather, the father testified that the social worker told him he would have a better chance of regaining custody if he left the mother. The parents had a "highly conflicted codependent relationship" and the father was "unable to separate from her." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP22.pdf

In re Summer S., 124 Conn. App. 540 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly determined that DCF provided reasonable efforts because it failed to teach him the skills necessary to parent his child. The Appellate Court held that the trial court's decision was supported by ample evidence. The evidence demonstrated that the father was unable to separate from the mother and, although the father attempted to comply with some of the reunification efforts, he declined services that would have increased his ability "to forge his own individual relationship with [the child]." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP19.pdf

In re Katia M., 124 Conn. App. 650, cert. denied, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that the father was unable or unwilling to benefit from reunification efforts, DCF provided reasonable efforts, and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly determined (1) that he was unwilling or unable to reunify solely because of his incarceration and (2) that DCF provided reasonable efforts. The father was incarcerated for the child's entire life (four years), and had not seen the child since she was an infant, as he was incarcerated out of state. The Appellate Court held that the trial court's findings were supported by the record because while incarcerated the father failed to comply with the specific steps by failing to keep DCF aware of his whereabouts and frequent out-of-state prison transfers. Further, although the father participated in substance abuse treatment and parenting classes, he did so three years into his incarceration and right before trial. Thus, the findings were not predicated solely on the basis of his incarceration. "Although we agree that incarceration alone is not a sufficient basis to terminate

parental rights; incarceration nonetheless may prove an obstacle to reunification due to the parent's unavailability, which is the case here." The trial court also properly found that DCF's efforts were reasonable in light of its limitation to provide services to an incarcerated father. DCF provided visitation to the father while he was incarcerated in Connecticut and made efforts to contact him by phone and in writing. DCF also investigated relatives as possible resources.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP33.pdf

In re Chevol G., 125 Conn. App. 618 (2010)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts, the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed trial court erred in finding that DCF made reasonable efforts. The Appellate Court held that the trial court's decision was amply supported by the evidence because DCF offered case management services, transportation, including medical cabs, supervised visitation, substance abuse evaluation, individual counseling referrals, domestic violence and anger management counseling referrals, as well as services for the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap120.pdf

In re Sole S., 119 Conn. App. 187 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that a prior order finding reunification efforts were no longer available was erroneous. The Appellate Court held the issue was whether DCF provided reasonable efforts and the record supports the find that DCF did make such efforts. The father was previously reunified with his child, but then the father was reincarcerated. DCF continued to offer the father parenting classes, anger management classes, substance abuse counseling, supervised visitation, and assistance securing housing.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP133.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court, affirming the trial court's decision to terminate the father's parental rights, held that the trial court did not have to find that DCF made reasonable efforts to locate the father or reunify him with child prior to finding an adjudicatory ground of the TPR. Interpreting the language of Conn. Gen. Stat. § 17a-112(j), the Court held that the statute permits the trial court to determine at the TPR trial that such reasonable efforts are not required. Based in part on the father's clear abandonment of the child and his incarceration for sexually abusing the child's half-sister, the trial court properly found at trial that such efforts were not required. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously found DCF made reasonable efforts and that the trial court applied an incorrect standard of proof. The Appellate Court held that the record was replete with evidence that DCF met its burden. The mother conceded that DCF offered the mother an array of services, including substance abuse treatment, therapy, both individual and group, drug testing, visitation, both supervised and unsupervised, parenting education, a psychological evaluation, in-home reunification services, housing assistance and transportation. This concession belied her claim. The Appellate Court further held that the trial court correctly applied the 'clear and convincing' evidence standard of proof because it was the only standard stated in the memorandum of

decision and it was referred to repeatedly. If the mother claimed that the standard of proof was ambiguous, then she was required to file a motion for articulation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP4.pdf

In re Christopher B., 117 Conn. App. 773 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and the mother failed to rehabilitate. The Appellate Court affirmed. The mother made two claims. (1) The mother claimed that the trial court erroneously relied on evidence of DCF's reunification efforts pertaining to a prior case involving the child's siblings three years earlier, rather than assessing DCF's efforts arising from the present action. She asserted that the prior information may be informative, but should not be dispositive of either the reasonable efforts finding or the failure to rehabilitate finding. The Appellate Court disagreed and held that the trial court did not abuse its discretion in considering evidence of DCF's involvement with the mother and child before the most recent petition. The trial court did consider present DCF efforts, including a referral to individual counseling. The Court concluded that the trial court should consider *all* potentially relevant evidence, no matter the time to which it relates and because the parent-child relationship is at issue, all relevant facts and family history should be considered to obtain a historical perspective of the mother's child caring and parenting abilities. (2) The mother also claimed that the court improperly determined DCF made reasonable efforts. The Appellate Court held that the record supported the trial court's determination because it found DCF provided the mother with numerous services over an eight year period, including custom designed parenting service, counseling, psychological evaluation, visitation and other personal efforts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP19.pdf

In re Gabrielle M., 118 Conn. App. 374 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the children's the best interests. The Appellate Court affirmed. The mother claimed that the reasonable efforts finding was erroneous because DCF unilaterally suspended her visitation with her children and it interfered with reunification. The Appellate Court held the record demonstrated otherwise because after suspending visitation because the mother failed to engage in mental health counseling, DCF again referred the mother to a supervised visitation program. The program required a letter from the mother's therapist, but the mother was not engaged in any counseling. Despite multiple psychiatric hospitalizations, the mother continued to deny that she was delusional or psychotic and needed treatment. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP64.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. The Appellate Court summarily held the DCF provided reasonable efforts. The mother continued to engage in domestic violence with the father of the child despite DCF providing the mother with numerous services including, domestic violence counseling, parenting aid services, parenting classes, psychological evaluations, anger management, educational and vocational assistance. Nevertheless, the mother failed to attend or complete the programs and services and failed to obtain stable housing and employment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)

The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly found that DCF made reasonable efforts to reunify and that he failed to rehabilitate. The Appellate Court held that DCF made reasonable efforts based on DCF's extensive services offered to the father and its actual attempt to reunify by placing the child with the father until her subsequent removal following a domestic violence episode in her presence. DCF offered ongoing visitation despite reports that visitation was detrimental to the child. Rejecting his claim that DCF failed to offer him domestic violence services as a victim, the Court concluded from the record that he was a perpetrator not a victim. The child's attorney's assertion that the"[t]he department worked with [the respondent] for nineteen months, well beyond the suggested time frame spelled out in the Adoption and Safe Families Act" underscored the Court's holding. **Dissent:** McLachlan, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. In denying the termination petitions, the trial court found that DCF failed to prove that it made reasonable efforts. First, DCF claimed that in the termination proceeding, the trial court improperly relitigated the previous underlying finding made by another trial court that continuing efforts to reunify the children with their father was inappropriate. The Appellate Court held that the trial court erred in reconsidering whether DCF made reasonable efforts to reunify the child with the father because this finding was already made pursuant to Conn. Gen. Stat. § 17a-112(j) in a previous permanency plan hearing. Secondly, DCF claimed that the trial court improperly determined that it failed to provider reasonable efforts to the mother. The Appellate Court held that the trial court's improper conclusion that relitigated the basis for the previous neglect adjudication, namely, "the alleged sexual abuse by the father appears to have been a pretext to remove the children" served as a basis for the rest of its determinations regarding the termination petition. Regarding its reasonable efforts finding, the Appellate Court held that the trial court improperly concluded that DCF did not make reasonable efforts because it failed to assess DCF's efforts in the context of the basis for the prior neglect adjudication, that is that the father sexually abused his son and the mother's need for services because she failed to believe it happened.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Trevon G., 109 Conn. App. 782 (2008)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The mother claimed that DCF failed to provide her with necessary mental health treatment, including a mental health diagnosis, treatment goals or specific therapeutic recommendations. The Appellate Court held that the trial court's judgment finding that DCF reunification efforts were reasonable was amply supported by the evidence. DCF provided the family with a reunification program with unsupervised visitation and was working toward returning the children when the mother was arrested for narcotic charges. Over a period of at least four years, the mother maintained neither stable housing, a continuous income, nor secure living conditions.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP448.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify, the parents failed to rehabilitate and that a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable reunification efforts because it failed to refer the mother to sexual abuse victim services. The Appellate Court held that the trial court's finding was not clearly erroneous because despite DCF's failure, DCF referred the parents to many programs and the parents failed to attend substance abuse and mental health treatment regularly.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the child. The mother and child both appealed. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF provided reasonable efforts and that she was unable or unwilling to benefit from reunification services because DCF allegedly failed to offer her individual counseling, inpatient substance abuse treatment and transportation to outpatient treatment. The Appellate Court held that the trial court's decision was supported by clear and convincing evidence because the mother needed to complete the relapse prevention program before she could attend individual therapy, but the mother was discharged from the relapse program due to her failure to submit to drug screening. The record showed that DCF gave the mother a list of 62 inpatient substance abuse programs, but she did not contact any of them and that the mother's visitation with her child was inconsistent. The trial court also properly found she was unable or unwilling to benefit from reunification efforts because the evidence demonstrated that the mother never acknowledged the substance abuse issues, she continued to test positive for illegal substances and was incarcerated at the time of trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Anna Lee M., 104 Conn. App. 121 (2007), cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable efforts to reunify by failing to provide an alternative supervised visitation setting after the visitation provider discontinued the visits. The visitation program terminated her visits because they could not keep the children safe from the mother's verbally aggressive behavior and her failure to follow the visitation rules. The record demonstrated that at DCF's request, the visitation center resumed visitation once a month, but the mother's inappropriate conduct continued and the visits were again terminated. Further, there was no alternative supervised visitation center that could provide a higher level of supervision and care.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Shaiesha O., 93 Conn. App. 42 (2006), reversed
The trial court terminated the father's parental rights, finding in part, that DCF made reasonable efforts to reunify. The Appellate Court reversed. The father claimed that the trial court erred in finding that DCF made reasonable efforts to reunify him with his child. The Appellate Court held that there was inadequate support for the trial court's finding that DCF made reasonable efforts or that the father was unwilling or unable to benefit from such efforts. Prior to the filing of the termination petition, the DCF social worker contacted the father three months after the mother named his as the possible biological father. Three months later, the father was determined to be the biological father via a paternity test. DCF, however, filed

a TPR one week before learning he was the child's biological father. The Appellate Court concluded that DCF failed completely, in its responsibility, to make any efforts, let alone reasonable efforts, because it did nothing on behalf of the father to foster a relationship between the father and the child prior to filing a termination petition because his paternity was not established.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP103.pdf

In re Brianna C., 98 Conn. App. 797 (2006)
The trial court adjudicated the infant child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court abused its discretion in finding that the DCF made reasonable efforts to prevent the child's removal from her home. The Appellate Court held that the evidence was sufficient for the trial court to have found that while DCF did not do everything it reasonably could have done to prevent removal, DCF did provide reasonable efforts. DCF referred the mother to domestic violence services, the child to a cognitive assessment, and the father to parenting classes.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98ap73.pdf

In re Krystal J., 88 Conn. App. 311 (2005)
The trial court denied the mother's motion to revoke commitment. The Appellate Court affirmed. The mother claimed that the trial court improperly determined that cause for commitment still existed and that DCF provided reasonable efforts to reunify. The Appellate Court held that the evidence supported the trial court's determination that DCF provided reasonable efforts to reunify and that reunification efforts were no longer appropriate given the mother's "rock-like determination to refuse services." The mother refused to engage in individual therapy, a psychiatric examination, visitation services that allowed visitation to take place in the community or in her home and an interstate study that would allow an assessment of her out-of-state-home. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP88/88AP229.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The parents claimed that DCF reunification efforts were inadequate because in light of their cognitive limitations, the DCF service providers failed to provide them with simple assistance like a calendar and the service providers were too critical of the parents' cluttered house. The Appellate Court held that the trial court's decision was supported by clear and convincing evidence and that the trial court was not required to find that the parents' disagreement with the DCF service providers justified their resistance to parenting services.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the evidence was insufficient because DCF never coordinated services with the Department of Mental Retardation. The Appellate Court held that DCF provided a plethora of services and the trial court's finding was not clearly erroneous. Although a social study stated that the father had a conservator and the psychological evaluation noted that the father was functioning in the mild mental retardation range, the record as a whole did not demonstrate that the father was mentally

retarded. The father failed to show what services DMR could offer him. The Court distinguished *In re Devon B.* on the basis that DMR had never before provided services to the father.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that DCF made reasonable efforts to reunify the father with his child despite the father's claim that DCF did not contact him in prison until seven months after the child was placed in DCF custody. The record is clear that the DCF provided the father visits at the prison and communicated regularly with his mother. Moreover, after the father's release, DCF offered substance abuse evaluations and parenting classes, but he did not attend.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Jonathan C., 86 Conn. App. 169 (2004)
The trial court terminated the mother's parental rights finding that she was unable or unwilling to benefit from reunification efforts and that DCF made reasonable efforts. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she was 'unable or unwilling' and that DCF made reasonable efforts. The Appellate Court held that the trial court's determinations were amply supported by the record. The evidence demonstrated that the mother repeatedly failed to comply with and participate in the numerous services that DCF referred her to. Additionally, DCF scheduled monthly meetings with all service providers involved regarding how best to address the family's needs, but the mother approached the meetings with apathy and a lack of cooperation. Moreover, the mother consistently lacked housing. DCF also offered the mother therapy and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap37.pdf

In re Destiny D., 86 Conn. App. 77, cert. denied, 272 Conn. 911 (2004)
The trial court terminated the mother's parental rights finding, in part, that DCF made reasonable efforts to reunify. The mother claimed that the trial court improperly found that DCF made reasonable efforts. The Appellate Court held that there was sufficient evidence to support the trial court's determination because DCF provided visitation, substance abuse and mental health treatment, as well as evaluations and counseling for the children. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap28.pdf

In re Javon R., 85 Conn. App. 765 (2004)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found DCF provided reasonable efforts. In a prior permanency plan hearing, previous to the filing of the termination petition, the trial court found that continuing efforts to reunify were no longer appropriate. The Appellate Court held that the trial court did not err because the permanency plan finding was an immediately appealable final judgment. The mother failed to appeal the finding at the time and thus could not raise the claim to collaterally attack the termination judgment. Furthermore, although the trial court did not have to make the reasonable efforts finding again, the trial court nonetheless stated in its decision that it found by clear and convincing evidence that DCF provided reasonable efforts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap2.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify,

the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother asserted three claims. (1) The mother claimed that the trial court improperly determined that DCF made reasonable efforts to reunify because it failed to provide the mother with a recommended psychiatric evaluation. The Appellate Court held that in light of the entire record, including DCF's efforts and the mother's conduct, DCF's lapse in providing a psychiatric evaluation to the mother did not render DCF's reunification efforts unreasonable. (2) The mother further claimed that the trial court erred in finding that the mother was unable or unwilling to benefit from reunification services without the benefit of expert testimony. The Appellate Court held that the expert testimony was not required to evaluate the mother's history of noncompliance with DCF and her failure to rehabilitate over a five year period. (3) The mother claimed that DCF's cessation of visits precluded a finding that it made reasonable efforts. The Appellate Court held that DCF's decision was not unreasonable in light of the relevant circumstances, including the mother's failure to visit the children for nine months, failure to sign releases and failure to comply with the specific steps.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Victoria B., 79 Conn. App. 245 (2003)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court did not find that DCF made reasonable efforts. The Appellate Court, explaining the difference between the "reasonable efforts" finding in Conn. Gen. Stat. § 17a-112(j) in the adjudicatory phase and the "reasonable efforts" factor in Conn. Gen. Stat. § 17a-112(k) in the best interest phase, held that the trial court properly found DCF made reasonable efforts. The Appellate Court ruled that the trial court properly concluded that the finding that "DCF made reasonable efforts and continuing efforts were no longer appropriate" was made in a prior proceeding and the trial court was not required to make another finding. The Appellate Court further noted that the prior finding made during an extension of commitment hearing was an immediately appealable final judgment, and the issue of reunification therefore cannot be raised as a collateral attack on a judgment terminating parental rights. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP79/79ap501.pdf

In re Vincent B., 73 Conn. App. 637 (2002), reversed
The trial court terminated the father's parental rights and found that DCF made reasonable efforts to reunify. The Appellate Court reversed. The Appellate Court held that the evidence did not support the trial court's finding that DCF made reasonable efforts to reunify because DCF conceded that it only offered the father visitation with the child because any other reasonable efforts were "exhausted" due to the father's prior involvement with DCF services that resulted in his parental rights being terminated regarding two of his other children. The Appellate Court concluded that DCF's efforts were not reasonable because at the time the child was removed, the father was in an inpatient substance abuse treatment facility for his alcoholism. Reasonable efforts were warranted because the father subsequently successfully completed the program, voluntarily completed programs for depression and anger management and regularly visited the child and demonstrated appropriate interactions with him. Thus, the father's history of not availing himself of services and his prior termination of parental rights, together with DCF filing of this petition to terminate his parental rights did not relieve the DCF of its continuing duty to make reasonable efforts. At minimum, DCF should have engaged the father, apprised him of what steps he had to take to achieve rehabilitation and given him feedback on his progress in reaching that goal. For many of the same reasons, the Appellate Court also held that the evidence does not support the trial court's finding that the father was either unable or unwilling to benefit from reunification efforts. The fact that the father's alleged plan was to reunite with

the mother of the child whose rights had been terminated did not obviate the need for DCF to provide reasonable efforts. DCF's reasonable efforts should have helped the father devise an appropriate plan. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP73/73ap33.pdf

In re Ebony H., 68 Conn. App. 342 (2002)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable efforts to reunify because DCF responded inadequately to her request for housing assistance. The Appellate Court found DCF's response to mother's request for housing shameful and unacceptable because the social worker only made one phone call to a local community agency with no follow up. Nonetheless, the evidence overwhelming supported the trial court's finding that DCF made reasonable efforts because it provided her with numerous services including substance abuse treatment, anger management and visitation. The trial court properly discounted DCF's lapse in services in light of the evidence as a whole. http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap203.pdf

In re Sheila J., 62 Conn. App. 470 (2001)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found DCF provided reasonable efforts. The Appellate Court held that the trial court's finding was legally correct and factually supported because DCF offered the mother numerous reasonable efforts to reunify, including, visitation, domestic violence counseling, parenting classes and substance abuse treatment. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap233.pdf

In re Amelia W., 62 Conn. App. 500 (2001)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly found that DCF made reasonable efforts. The Appellate Court dismissed this claim as moot because the father did not also challenge the trial court's finding that he was unwilling or unable to benefit from reunification services. The statute requires DCF to prove that it made reasonable efforts *unless* the court finds that parent is unable or unwilling. Thus, even if the father were to prevail in his reasonable efforts claim, the unchallenged "unable or unwilling" finding met the statutory requirement. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap250.pdf

In re Dorrell R., 64 Conn. App. 455 (2001)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify her with her child because DCF failed to provide reasonable efforts after the mother agreed to consent and that reunification was no longer appropriate. The mother agreed to consent based on her belief that the maternal uncle would adopt the child, but the maternal uncle abandoned the child. The Appellate Court held that the trial court's judgment was correct because DCF provided the mother with reasonable efforts to reunify for 3 years before her agreement and then following the unsuccessful adoption attempt, the mother failed to comply with an additional substance abuse service. http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap500.pdf

In re William R., 65 Conn. App. 538 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, she failed

to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the reasonable efforts finding was erroneous because DCF never provided family counseling or individual counseling for the children, nor did DCF provide a residential placement for the mother where she could reside with the children. The Appellate Court held that the mother never asked for a residential placement where the children could be placed with her and the record amply demonstrated that DCF referred the mother to numerous programs, including counseling, evaluations and substance abuse treatment that were ineffective as a result of the mother's substance abuse relapses.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap556.pdf

In re Gary B., 66 Conn. App. 286 (2001)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify the children with him and that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court erred by not requiring DCF to prove it made reasonable efforts based on a prior finding that continuing reunification efforts were no longer appropriate. The Appellate Court held that based on Conn. Gen. Stat. § 17a-110 and caselaw, the trial court did not err in relying on the prior finding.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap598.pdf

In re Amneris P., 66 Conn. App. 377 (2001)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify the children with her and that the mother failed to rehabilitate. The Appellate Court affirmed. The Appellate Court held that the trial court properly concluded that DCF provided reasonable efforts to reunify by offering services related to domestic violence, parenting, substance abuse, and visitation. Further, DCF's efforts were hampered by the mother's passivity and cognitive limitations and her delay in making progress towards rehabilitation. http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap604.pdf

In re Kachainy C., 67 Conn App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate that was rendered at the extension of commitment hearing. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in concluding that the trial court, in a termination proceeding, may rely on a previous finding that reasonable efforts to reunify were no longer appropriate that was made at an extension of commitment hearing. DCF claimed this issue was moot. The Appellate Court concluded the issue was not moot because if the mother prevailed on her claim, the Court could offer her practical relief by reversing the trial court judgment. The Appellate Court nonetheless held that the mother's claim lacked merit because the statute clearly permitted a court to find that DCF made reasonable efforts to reunify by relying on a previous finding that continuing efforts were no longer appropriate. The mother further claimed that the previous determination made at the extension hearing was improper because it was not supported by clear and convincing evidence. The Appellate Court declined to address this claim because it was an improperly collateral attack on an immediately appealable final judgment. An extension of commitment decision was a final judgment and the mother never appealed the previous determination. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents

made two claims. First, the parents claim that DCF failed to provide reasonable efforts to reunify after the final removal of the children from their care. The Appellate Court held that while DCF decided not to pursue reunification after providing over a decade of referrals and services to the family, the record demonstrated that DCF nonetheless provided reasonable efforts. "[T]he disinclination of the department to pursue reunification does not eradicate all of the department's prior efforts to keep the respondents' family intact." Secondly, the parents claimed that the trial court improperly shifted the burden of proof to them. The Court held that the court did not improperly shift the burden to reunify the family to the parents even though the court stated that "it was the parents' duty to rehabilitate so that reunion could occur." Finding that DCF made reasonable efforts to reunify, DCF's disinclination to offer more services after the children's third removal was not improper. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Amber B., 56 Conn. App. 776 (2000)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed, in part, that the trial court improperly shifted the burden of proof to him when it allowed DCF to show that it provided reunification services to the family in general and not to the father individually. The Appellate Court held that the trial court did not improperly shift the burden of proof to him because although the father was not the primary caretaker of the children, he was not denied access to the services offered to the family as a whole and DCF offered numerous services to him individually. The father further claimed that DCF did not provide reasonable efforts to reunify him, but only to the mother. The Appellate Court held that DCF did everything it reasonably could to reunify the father with his child it was the father's conduct that led to the failure of those efforts. The father had no intention or ability to be the child's full-time caretaker and yet DCF offered him parenting classes, visitation, and substance abuse and mental health counseling.

In re Terrance C., 58 Conn. App. 389 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the trial court improperly determined that DCF made reasonable efforts. The Appellate Court held that even though DCF did not need to prove it made reasonable efforts because the trial court found in a prior proceeding that continuing efforts to reunify were no longer appropriate, the trial court properly found that DCF nonetheless made reasonable efforts. The Court concluded that considering the father's lack of interest in his child, DCF made reasonable reunification efforts because DCF contacted the father about his child to no avail and also contacted the prison about the father's paternity options. Here, the father never acknowledged paternity until 3 years after the child was born, only asked to visit his child once since his birth and while he sent him some cards, he failed to show overall concern for the child. While the father's incarceration impacts his ability to provide all the general obligations of parenthood, incarceration is not an excuse not to take advantages of available resources to demonstrate concern for one's child.

In re Mariah S., 61 Conn. App. 248 (2000), cert. denied, 255 Conn. 934 (2001)
The trial court terminated the teenage mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The mother claimed that the reasonable efforts finding was improper. The Appellate Court held that the court's reasonable efforts finding was supported by the evidence because the record showed that DCF offered the mother transportation to visit the child in the foster home, individual therapy, psychological evaluations, and a teen mentor program. Despite the mother's contention that the expectations were more suited to an adult mother, the Court held that the trial

court properly found that the teen parent's failure to take advantage of the opportunities to help her develop parenting skills and to bond with her child were the result of the teen mother's oppositionality. While the mother asserted that as a child herself she should have been placed with her child in the same foster home, the court found that the mother demonstrated poor judgment and caretaking skills during the few months when she did have custody of her child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap112.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court violated her due process rights because she did not receive adequate notice of what she needed to do to reunify with her child. Sidestepping the due process analysis, the Court ruled that the evidence showed that the mother did not fully comply with DCF offered services. The trial court's conclusion that DCF made reasonable efforts was not clearly erroneous.

In re Steven N., 57 Conn. App. 629 (2000)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF did not prevent the mother from maintaining a relationship with the children when DCF terminated the mother's visits with her children and that DCF provided reasonable efforts. The Appellate Court held that the trial court properly found that the mother's lack of a relationship with the children was due to the mother's psychiatric issues and her inability to recognize and overcome her mental health issues, as well as her inability to learn how to parent the children safely. DCF terminated the visits because the mother was not in treatment for her mental health issues and the visitation was affecting the children negatively, given the mother's behaviors and the lack of parental bond. Further, the Appellate Court held that the evidence demonstrated that DCF provided reasonable efforts by offering the mother family preservation, counseling and parenting classes, visitation and transportation assistance. The mother began, but never finished the programs.

In re Amanda A., 58 Conn. App. 451 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify. The Appellate Court affirmed. The mother claimed that DCF did not present clear and convincing evidence that it provided reasonable efforts and that DCF's conduct was cruel and outrageous to allow her to have custody of her children for many years and then periodically remove the children without offering her any mental health services to assist with her psychotic episodes with hallucinations. The Appellate Court held that the record amply supported the trial court's findings that DCF provided reasonable efforts because DCF provided numerous in home reunification services and assisted the mother in building a support team to address both her mental health and drug issues. DCF also provided therapeutic visitation with the children, but the mother failed to attend any visitation for ten months.

In re Tabitha T., 51 Conn. App. 595 (1999)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, no ongoing parent child relationship, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court failed to find reasonable efforts were offered. The Appellate Court held that based on the trial court's decision and articulation, the record demonstrated that the court properly found DCF made reasonable efforts to

reunify by offering the mother psychiatric hospitalization, individual counseling, parenting classes, visitation and transportation as well as visitation.

In re Hector L., 53 Conn. App. 359 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed, in part, that DCF failed to provide reasonable efforts to reunify him while he was incarcerated because it could have done more. The Appellate Court held that DCF provided reasonable efforts because it provided him visitation and the father failed to identify what additional services DCF could have provided. Moreover, the father failed to participate in the services offered by the Department of Correction.

In re Antony B., 54 Conn. App. 463 (1999)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that because she suffered from a schizo-affective disorder, DCF was obligated to provide her with additional reunification services than those offered to parents not suffering from this disorder. The Appellate Court held that the record demonstrates that DCF made reasonable efforts to reunify because it considered her mental condition when offering reasonable reunification services. The mother refused to comply with most of the services that DCF offered to help the mother treat her mental condition. While DCF is legally required to make reasonable efforts, "[i]t is axiomatic that the law does not require a useless and futile act."

In re Natalia G., 54 Conn. App. 800 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court erred in finding that DCF made reasonable efforts because he was young and drug dependent and he was not offered appropriate and meaningful assistance. The Appellate Court held that DCF made reasonable efforts by referring him to psychological evaluations, substance abuse treatment and offering him visitation. The father failed to comply with any of the services and he was unable to identify the methods he believes DCF should have used to provide appropriate programs when he continued to use drugs, did not inform DCF of his whereabouts or participate in any services.

In re Charles A., 55 Conn. App. 293 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify based on the trial court's numerous findings regarding DCF's failure to recognize the mother as victim of domestic violence and that DCF failed to protect her as the children's mother. The Appellate Court held that the trial court's findings regarding DCF's shortcomings pertaining to the mother as a battered woman did not undermine its findings that DCF provided reasonable efforts in compliance with the Adoption and Safe Families Act. The court's conclusion was amply supported by its findings that the mother was unable to protect her children, that she refused offered counseling and in home services.

In re Savanna M., 55 Conn. App. 807 (1999)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, he failed to rehabilitate and there was no ongoing parent child relationship. The Appellate Court affirmed. The father claimed that the trial court reasonable efforts finding was erroneous. The Appellate Court held the

finding was supported by the record because the father approved of the reunification of the child with the mother during the first three years and the father did not offer himself as a resource until after the termination proceedings. Moreover, the father's incarceration, lack of personal initiative, mental condition and substance abuse rendered him unable to have visitation with the child or to benefit from reunification.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court's decision violated her right to family integrity and due process. She claimed that the state prevented reunification by ordering a full protective order and therefore was precluded from terminating her parental rights because the state created the conditions supporting the TPR. The Appellate Court held that the mother created the conditions requiring the protective order by failing to believe the child that her boyfriend sexually abused the child and by allowing the abusive boyfriend to have further contact with the child in violation of previous protective orders. She further threatened to punish the child if she told anyone. The mother also refused counseling services. The Court noted that "a state may not, consistent with due process of law, create the conditions that will strip an individual of an interest protected under the due process clause." In this case, however, the record does not support the respondent's contention.

In re Jessica B., 50 Conn. App. 554 (1998)
The trial court terminated the mentally retarded mother's parental rights finding that DCF provided reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that there was insufficient evidence to find that DCF provided reasonable efforts. The Appellate Court held that the trial court's finding was not clearly erroneous. Although DCF declined to arrange for an interstate study after discovering the mother's husband was a convicted sex offender, DCF arranged visitation even though the mother moved out of state. DCF also referred the mother and her husband to agencies to help them provide the proper environment for the child.

In re Drew R., 47 Conn. App. 124 (1997)
The trial court terminated the father's parental rights on the ground of abandonment. The Appellate Court affirmed. The out-of-state father claimed that the evidence was insufficient to prove DCF made reasonable efforts and that he abandoned the child. The Appellate Court held that the trial court properly found that DCF made reasonable efforts to reunify the father with his son, but the father's efforts to engage in reunification were inconsistent based on his own failure to notify DCF of his whereabouts. The Appellate Court further held that the trial court properly found that the father did not provide financial support and his contact with the child was sporadic. The father failed to write or call often. The father's minimum interest by requesting custody (but then changing his mind), submitting to interstate studies and phoning DCF did not preclude a finding of abandonment.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights by finding that the father abandoned the child, committed acts of commission or omission, that there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that there was no clear and convincing evidence that DCF made reasonable efforts to reunify the child with the father. The Appellate Court held that the judgment was amply supported by the record and that the trial court could infer that reasonable efforts such as parenting classes would have been futile, given the father's

inability and lack of desire to provide continuing day to day care for his child. DCF did offer the father visitation once and twice a week, but the father only visited the child ten times in eighteen months.

RELEVANCY

"Relevant evidence is evidence that has a logical tendency to aid the trier in the determination of an issue.... All that is required is that the evidence tend to support a relevant fact even to a slight degree, so long as it is not prejudicial or merely cumulative." *See, In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011).*

"Relevant evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice or surprise, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. Evidence is cumulative if it multiplies witnesses or documentary matter to any one or more facts that were the subject of previous proof.... The court's power in that area is discretionary.... In precluding evidence solely because it is cumulative, however, the court should exercise care to avoid precluding evidence merely because of an overlap with the evidence previously admitted." (Internal citations and quotation marks omitted.) *See, In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010).*

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly precluded her from eliciting evidence from the foster mother regarding her plans, if any, to allow contact between the child and her biological family if she were to adopt the child. The mother asserted the information was relevant based on the psychologist's testimony that the child's bond with her family was "powerful" and that the child would "suffer a huge loss" if those ties were severed. The Appellate Court held that the trial court did not abuse its discretion in precluding the mother from questioning the foster mother about her plans because the psychologist already testified regarding the foster mother's plans to only allow pictures and static information. The trial court properly ruled the information was cumulative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Lukas K., 120 Conn. App. 465 (2010), aff'd, 300 Conn. 463 (2011)
The Appellate Court held that the trial court did not abuse its discretion in denying the father's motion in limine seeking to exclude evidence of his past criminal history. The trial court properly found the criminal history relevant evidence of the father's continuing course of conduct demonstrating that the father was not in a position to support an ongoing parent child relationship. The father incurred no substantial prejudice by admitting the evidence and there was no showing that the ruling was harmful and likely to affect the result of the trial. The Appellate Court also affirmed the trial court's judgment granting the TPR petition against the father on the grounds of abandonment and no ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re S.D., 115 Conn. App. 111 (2009)
The Appellate Court held that the trial court's decision to sustain objections on the basis of relevance during

the father's cross-examination of the petitioner-mother was not an abuse of discretion. The Court ruled that the law permits cross-examination, but it must comport with the rules of evidence and be relevant. During the TPR trial alleging the father abandoned his child, the status of the petitioner-mother's health, employment, boyfriends or DCF interactions were not relevant.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP115/115AP325.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother made five evidentiary claims on appeal. The mother claimed that the trial court improperly admitted information regarding (1) her prior history of termination proceedings with older children contained in a social study, (2) her arrest for social security fraud, (3) her arrest for bigamy, (4) her violent relationship and fraudulent cancer fundraiser that was allegedly beyond the scope of direct examination, and (5) a hearsay statement regarding her alcoholic husband. The Appellate Court held that the trial court did not abuse its discretion in considering any of the information. First, the mother did not object to the social study as an exhibit and the information contained therein was relevant to obtaining a historical perspective of the mother's parenting capabilities. Second, the arrest was relevant to the mother's credibility and ability to care for the children. Third, the mother did not object to the bigamy charges and said information was relevant to her credibility. Fourth, the information elicited on cross examination was proper because the mother opened the door to the information on direct examination and the information was directly related to her credibility. Fifth, while the reliance on information deemed inadmissible hearsay was improper, the mother failed to show that the information was harmful and likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court abused its discretion in admitting irrelevant service agreements dating back several years. The Court held that the service agreements were admissible because they were relevant and not too remote in time because the mother's long time alcoholism was the central issue to the case.

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted into evidence the DCF social study that contained information about the mother's other children with whom DCF was involved because the information was not relevant and prejudicial. The Appellate Court held that the trial court did not abuse its discretion in determining that the evidence was relevant and that the probative value of the social study and the information contained therein outweighed any prejudicial effect.

RELIGION

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. Holding that the trial court properly determined that it was in the child's best interest that the foster parents serve as the child's custodian and DCF as the child's statutory parent, the Supreme Court acknowledged DCF's alleged misconduct. The testamentary guardians alleged that DCF intentionally destroyed documents and ignored the wills. Nonetheless, the Court ruled that the trial court did not find that DCF engaged in any religious discrimination and any misconduct by DCF neither compelled the appointment of the testamentary guardians nor precluded DCF being appointed as the child's statutory parent.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Pascacio R., 52 Conn. App. 106 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate in light of her testimony that she stopped using drugs and embraced religion. The Appellate Court held that the record amply supported the trial court's judgment. The expert psychologists testified that the mother was unable to parent children with their special needs, even with 24-hour assistance and the trial court was under no obligation to give any weight to the mother's testimony.

RES JUDICATA / COLLATERAL ESTOPPEL

"[C]laim preclusion [or res judicata] prevents a litigant from reasserting a claim that has already been decided on the merits.... Under claim preclusion analysis, a claim that is, a cause of action includes all rights to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose.... Moreover, claim preclusion prevents the pursuit of any claims relating to the cause of action which were actually made or might have been made. The doctrines of preclusion, however, should be flexible and must give way when their mechanical operation would frustrate other social policies based on values equally or more important than the convenience afforded by finality in legal consequences." (Internal citations and quotation marks omitted.) *See, In re David W., 52 Conn. App. 576 (1999), rev'd on other grounds, 254 Conn. 676 (2000).*

"Application of the doctrine of res judicata requires that there be a previous judgment on the merits….A well established exception to the doctrine of res judicata provides, however, that "[a] judge is not bound to follow the decisions of another judge made at an earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... This principle has been frequently applied to an earlier ruling during the pleading stage of a case such as that upon the motion to strike." (Internal citations and quotation marks omitted.) *See, In re Xavier D., 113 Conn. App. 478 (2009).*

In re Juvenile Appeal (83-DE), 190 Conn. 310 (1983)
The trial court terminated the mother's parental rights based on her failure to rehabilitate. Prior to the termination, the trial court dismissed a previous termination petition because the one year waiver requirement was not met. The mother claimed that the trial court was barred by the doctrine of res judicata from relying on the grounds from the first termination petition in the second termination petition. The Supreme Court held that the trial court was not barred by the doctrines of res judicata/collateral estoppel from considering the facts that served as a basis to the first termination petition in the second termination proceeding because the first termination petition was dismissed on procedural grounds, not on the merits. Collateral estoppel also did not prevent the litigation of the second termination petition because a blanket prohibition against the admission of evidence related to the first termination petition was not required under the doctrine of collateral estoppel. "Because the issue of whether termination of parental rights is appropriate must be decided upon the basis of conditions as they appear at the time of trial, the doctrines of res judicata and collateral estoppel ordinarily afford very little protection to a parent who has once successfully resisted an attempt to terminate his rights to a child." The Court did not decide the issue of whether and under what circumstances res judicata/collateral estoppel would bar the State from bringing a second termination petition after a first petition was decided on the merits.

In re Xavier D., 113 Conn. App. 478 (2009)
The trial court granted the mother's motion to strike the termination of parental rights petition and dismissed the petition because of a clerical error. A different trial court set aside the dismissal and terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the judgment terminating her parental rights was barred by res judicata because the previous trial court

dismissed the termination petition. Here, the basis for the motion to strike and dismissal was that DCF mistakenly checked off the box that alleged abuse instead of neglect. The Appellate Court held that the termination of parental rights judgment was not barred by res judicata because the dismissal was not based on the merits of the case, but rather on procedural grounds.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP113/113AP223.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly relitigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing the role of the state as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. The doctrine of collateral estoppel precludes the relitigation of a finding of neglect. Here, the Court ruled that the parents never appealed the neglect finding and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re Nashiah C., 87 Conn. App. 210, cert. denied, 273 Conn. 926 (2005)
The trial court denied the mother's motion to dismiss the order of temporary custody (OTC) and also sustained the order of temporary custody. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her motion to dismiss the OTC because a prior trial court previously vacated the OTC. Here, one judge vacated the OTC. The second judge vacated the first judge's ruling vacating the OTC and in effect revived the previous OTC. The Appellate Court held that while an OTC is a final judgment for purposes of appeal, it is not a final judgment for purposes of res judicata. The Court ruled that the first OTC decision was interlocutory and hence did not limit the power of the second judge to modify the previous order. "[A] judge is not bound to follow the decisions of another judge made at an earlier stage of the proceedings, and if the same point is again raised he has the same right to reconsider the question as if he had himself made the original decision.... [O]ne judge may, in a proper case, vacate, modify, or depart from an interlocutory order or ruling of another judge in the same case, upon a question of law."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP87/87AP134.pdf

In re David W., 52 Conn. App. 576 (1999), rev'd on other grounds, 254 Conn. 676 (2000)
The trial court terminated the parents' parental rights on the grounds that they failed to rehabilitate and committed an act of commission or omission. Regarding the admissibility of the expert's testimony, the Appellate Court reversed the trial court's judgment and then the Supreme Court reversed the Appellate Court's judgment. At the Appellate Court, the Court rejected the parents' claim that DCF was barred from pursuing a termination of parental rights under the failure to rehabilitate statute that requires the child to have been found neglected in a prior proceeding, Conn. Gen. Stat. § 17a-112(b)(2) based on the doctrine of res judicata. The parents contended that because DCF adjudicated the child neglected and then later moved to terminate their parental rights on the same factual grounds (serious unexplained physical injuries to the infant), the TPR claim was barred by res judicata. The Appellate Court held that res judicata was not applicable because the statute does not mandate that DCF file a coterminous petition. Neglect petitions and

termination petitions are separate transactions and thus the termination judgment was not barred by the neglect judgment. **Dissent:** Schaller, J. http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr117.pdf

In re Brianna F., 50 Conn. App. 805 (1998)
DCF filed a coterminous petition and while the trial court found the adjudicatory grounds were met, the trial court denied the termination petition finding that it was not in the child's best interest. The trial court found that the child suffered serious life threatening injuries at the hand of the mother's boyfriend and the mother failed to prevent the abuse, but also determined that the mother may be able to overcome her deficient judgment. The child's attorney subsequently filed a second termination of parental rights petition alleging that the mother failed to rehabilitate. The child's attorney filed a "motion for advice" regarding the effect of the denial of the first termination on the second termination petition. The trial court ruled that collateral estoppel did not apply to the first termination judgment and that the child's attorney could not proceed directly to the best interest/dispositional phase of the termination proceeding without relitigating the adjudicatory grounds. The Appellate Court first held that "motions for advice" were not recognized in Connecticut and the Court treated it as a "motion for clarification" and ruled that the "motion for clarification" was an appealable final judgment. The Court further affirmed the trial court's ruling on the motion for advice/clarification and held that collateral estoppel did not apply to the first termination adjudication because the parent has a fundamental right to raise and care for his/her children and whenever the parent child relationship is at issue, all the relevant facts at the time of the termination petition should be considered. "The parent-child relationship presents an ongoing dynamic that cannot be frozen in time. The entire picture of that relationship must be considered whenever the termination of parental rights is under consideration by a judicial authority." Although the trial court's ruling on the motion for advice appeared inconsistent, the Appellate Court ruled that the child's attorney could introduce evidence related to the first termination proceeding to be considered in the second termination proceeding.

In re John B., 20 Conn. App. 725 (1990)
The trial court terminated the mother's parental rights. Prior to the termination, the trial court dismissed a previous termination petition. The mother claimed that the trial court was barred by the doctrine of res judicata from relying on the grounds from the first termination petition in the second termination petition. In a case of first impression, the Appellate Court held that the trial court was not barred by the doctrines of res judicata/collateral estoppel from considering the facts that served as a basis to the first termination petition in the second termination proceeding because new facts arose after the dismissal of the first termination petition that justified the filing of the second termination petition and trial courts are required in all termination cases to take into account the entire relationship between the parent and the child. Here, the mother failed to consistently visit the child and comply with her mental health treatment after the first termination petition was dismissed.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that: (1) the evidence was insufficient to find neglect based on her eight year old child's inconsistencies about the stepfather sexually abusing her, and (2) the trial court violated Connecticut's statutory public policy when it failed to reunite the family after the stepfather's criminal acquittal on the charges of sexual abuse. First, the Appellate Court held that the trial court's judgment finding that the child to be neglected was not clearly erroneous because the mother took the child and returned to live with the stepfather after the child told the mother that the stepfather sexually abused her. The mother had actual knowledge of the child's claims and chose not to believe her child, claiming inconsistencies in the child's

story. The evidence further demonstrated that the child's statements were generally consistent, and various witnesses, including the child, testified regarding the sexual abuse. Secondly, the Court held that "evidence of a judgment of acquittal in prior criminal case may not be used as proof in subsequent civil case that the act comprising crime was not committed," and accordingly ruled that the doctrine of collateral estoppel was inapplicable.

RESIDUAL HEARSAY EXCEPTION

"Generally inadmissible, hearsay may be admitted if there is a sufficient probability that the statement is reliable and trustworthy, if the evidence contained in the statement is necessary to the resolution of the case, and if the trial court concludes that admitting the statement is in the interests of justice**.** Some types of admissible hearsay occur frequently enough that certain defined exceptions to the general rule of inadmissibility have come to be recognized. In cases where the challenged hearsay testimony does not fall into one of these recognized exceptions to the hearsay rule, we must focus our analysis on two issues: (1) whether there was a reasonable necessity for the admission of the statement, and (2) whether the statement was supported by the equivalent guarantees of reliability and trustworthiness essential to other evidence admitted under the traditional hearsay exceptions The necessity requirement is satisfied when facts necessary to the just resolution of the case contained in the hearsay statements may be lost due to the death or unavailability of the declarant or because the assertion is of such a nature that evidence of the same value cannot be otherwise obtained. The trustworthiness component is met when the factual circumstances are such that there is an adequate basis to assure the court that the statement meets the same qualitative standards for reliability and trustworthiness as statements admitted under otherwise established exceptions to the hearsay rule. This assurance of trustworthiness may be found in any factual circumstances where a … sincere and accurate statement would naturally be uttered, and no plan of falsification be formed. Such a statement is considered sufficiently trustworthy to be admissible despite the inability to cross-examine the declarant in the traditional sense." (Internal citations and quotation marks omitted.) *See, In re Sean H., 24 Conn. App. 135 (1991).*

"The requirement of reasonable necessity is met when, unless the hearsay statement is ad mitted, the facts it contains may be lost, either because the declarant is dead *or otherwise unavailable,* or because the assertion is of such a nature that evidence of the same value cannot be obtained from the same or other sources….The party moving for admission of a statement of an unavailable witness has the burden of proving the declarant's unavailability."

"Should a party seek the admission of a hearsay statement of a child on the basis of psychological unavailability, the following substantive and procedural requirements must be met. If the opposing party makes a hearsay objection to the admission of the child's statement, the party seeking admission of the statement has the burden to prove the child's unavailability. The trial court has discretion to accept an uncontested representation by counsel for the offering party that the child is unavailable due to psychological harm. If the other party challenges that representation, proof of psychological harm must be adduced at an evidentiary hearing, either from an expert or another uninterested witness with knowledge of the child or from the court's in camera interview of the child, with or without counsel. Finally, a finding of psychological unavailability requires the court to find that the child will suffer serious emotional or mental harm if required to testify." (Internal citations and quotation marks omitted.) *See, In re Tayler F., 296 Conn. 524 (2010).*

In re Tayler F., 296 Conn. 524 (2010), aff'ing, 111 Conn. App. 28 (2008)
The trial court adjudicated the children neglected and granted the father primary custody of the children.

The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits. The Supreme Court held, as a matter of first impression, that a child's out of court statement may be admissible under the residual hearsay exception if the child is "unavailable," and a child is "unavailable" if there is "competent evidence that the children will suffer psychological harm" by testifying. A finding that it is not in the children's best interest to testify is insufficient. Here, although the trial court applied the best interest of the child standard instead of the psychological harm standard, and the trial court's procedures did not follow the ones set forth in this decision, the Supreme Court found that the court-ordered expert's testimony met the burden of proof regarding the children's unavailability. The Court analyzed and applied *State v. Jarzbek,* which held that a child who is the victim of sexual abuse may testify via videotape outside the physical presence of the defendant, in certain circumstances, without violating the defendant's right to confrontation. Practice Book § 32a-4 was inapplicable because no party requested that the children testify. The Supreme Court further found that the admission of the children's hearsay statements did not violate the mother's right to confrontation or to due process. **Note:** this case was decided before the enactment of the "tender years" exception in the Code of Evidence, § 8-10. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Sean H., 24 Conn. App. 135 (1991)
The trial court terminated the father's parental rights finding that he committed acts of commission or omission when he stabbed to death his children's mother. The Appellate Court affirmed. The father claimed, in part, that the statements made by the deceased mother to her attorney were inadmissible. The Appellate Court held that the deceased mother's hearsay statements to her divorce attorney were properly admitted under the residual hearsay exception. The Appellate Court held that the trial court properly admitted the statements because the mother was unavailable in that she was deceased and ruled that the mother's statements were made in the context of the attorney-client relationship and are marked with reliability and trustworthiness. Moreover, the mother's statements were contained in affidavits and testified to by the mother in previous proceedings. Lastly, the testimony was material, relevant and probative.

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the child's out-of-court statements were not admissible under the residual hearsay exception to the hearsay rule. The Appellate Court held that the necessity prong was not met and the statements were inadmissible. The child's statements were not unavailable or lost because the child testified about the abuse. Nonetheless, in light of the additional clear evidence of abuse, namely the child's own testimony and the mother's admission that her boyfriend urinated on the child, the Appellate Court held the error was harmless and thus not reversible.

REVOCATION OF COMMITMENT

"The burden is upon the person applying for the revocation of commitment to allege and prove that cause for commitment no longer exists. Once that has been established … the inquiry becomes whether a continuation of the commitment will nevertheless serve the child's best interests. On this point, when it is a natural parent who has moved to revoke commitment, the state must prove that it would not be in the best interests of the child to be returned to his or her natural parent. Parents are entitled to the presumption, absent a continuing cause for commitment that revocation will be in the child's best interests unless the state can prove otherwise." *See, In re Juvenile Appeal, 177 Conn. 648 (1979).*

"The trial court … may consider if *any* cause for commitment still exists." *See, In re Cesar G., 56 Conn. App. 289 (2000).*

In re Shanaira C., 297 Conn. 737 (2010), reversed
The trial court adjudicated the child neglected and transferred sole custody to the mother. The father's girlfriend intervened. In doing so, the trial court denied the intervening girlfriend's motion to transfer guardianship and visitation and the trial court granted DCF's motion for revocation. The Appellate Court affirmed. The Supreme Court reversed. DCF and the mother claimed that the girlfriend no longer had standing to participate in the revocation proceeding because her motion to transfer guardianship and visitation were denied. The Supreme Court held that granting the girlfriend intervening status was in the best interest of the child and her standing continued throughout the dispositional proceedings including the revocation of commitment proceedings because a revocation was part of the dispositional phase of a neglect petition. As such, she also had standing to appeal the trial court's judgment. Here, the girlfriend and child shared a close relationship for two years, during which time she cared for the child and the child referred to her as "Mommy" and expressed a desire to live with her. The intervening girlfriend claimed that she had a statutory right to an evidentiary hearing and that she was deprived of that right. Pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c), the Supreme Court held that the intervening girlfriend was entitled to a full evidentiary hearing. The trial court improperly limited the intervenor's participation by not allowing her to present evidence or cross-examine witnesses. Moreover, the trial court's improper limitation of her participation was not harmless. There is no way to know how the intervenor's meaningful participation, such as calling her own witnesses and cross-examining opposing witnesses, might have affected the court's ultimate decision.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Juvenile Appeal, 177 Conn. 648 (1979), reversed
The trial court denied the mother's motion to revoke the commitment finding that cause for commitment continued to exist. The Supreme Court affirmed in part. As a matter of first impression, the Supreme Court held that the trial court properly denied the mother's revocation motion even though all parties had agreed that cause for commitment no longer existed. The State had proven that a revocation of commitment was not in the child's best interest because of the length of separation between the mother and child and the positive relationship the child developed with her foster family. The mother was entitled to a

presumption. The Court further held that when determining whether the State met its burden regarding proving a revocation was not in the child's best interest, the factors to be considered by the court are: length of the child's stay with foster parents, nature of her relationship to foster parents, degree of contact maintained with natural parent, and nature of the child's relationship to her natural parent. Reversing the trial court's TPR judgment, the Supreme Court held that the trial court erroneously concluded that there was no "meaningful" relationship between the mother and child when the statute clearly required proof that there was "no relationship".

Appeal of Kindis, 162 Conn. 239 (1972)
The trial court denied the mother's motion for revocation of commitment. The Supreme Court held that the trial court did not err in denying the motion when it found cause for commitment to exist and that a revocation was not in the best interest of the child. In doing so, the Court rejected the mother's claim that the statute's use of the word "may" instead of "shall" required only a showing that cause for commitment no longer existed for a trial court to grant the revocation motion.

In re A.R., 123 Conn. App. 336 (2010), reversed
DCF filed a termination of parental rights petition. The grandmother intervened and filed a motion to transfer guardianship. The trial court granted the motion to intervene, but then sua sponte dismissed the grandmother's motion to transfer guardianship because the trial court concluded that by law it was a motion to revoke commitment and the grandmother was not statutorily permitted to file a motion to revoke commitment. The intervening grandmother appealed. The Appellate Court held that the trial court erred in dismissing, sua sponte, the intervenor's motion to transfer guardianship. Specifically, the Appellate Court reversed the trial court's ruling prohibiting an intervenor from filing a motion to transfer guardianship by incorrectly construing it as a motion to revoke commitment. According to C.G.S. § 46b-129(m), an intervening party is not permitted to file a motion to revoke commitment. Finding that the statutory scheme regarding proceedings following a neglect adjudication clear and unambiguous, the Appellate Court interpreted, C.G.S. § 46b-129(j) and P.B. § 35a-20(b) to allow an intervenor to file a motion to transfer guardianship as an appropriate way for her to request consideration as a potential guardian for the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP514.pdf

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court denied the father's motion for contempt against DCF and motion for revocation and granted DCF's motion to transfer guardianship as well as approved DCF's permanency plan. The Appellate Court affirmed. The father claimed that the trial court abused its discretion in approving DCF's permanency plan and transferring guardianship to the grandparents because the father did nothing wrong. The Appellate Court held that the trial court did not abuse its discretion in finding that the child's best interests mandated a transfer of guardianship to the grandparents, rather than a revocation of commitment to the father. The record amply demonstrated that the child had been living with his grandparents and was happy and bonded to them. The child was also bonded to the father, but the father had very busy life with jobs and school and had no real plan for taking care of the child if he were to resume custody.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial

court improperly denied his motion to revoke commitment and transfer guardianship of the child to the child's mother. The Appellate Court held that the trial court properly concluded that the mother failed to rehabilitate, thereby proving cause for commitment still existed and that a termination was in the child's best interest, thereby proving ongoing commitment was in the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed, in part, that the trial court erroneously denied their motion to revoke the commitment. The Appellate Court held that the trial court's decision was not clearly erroneous because the pro se parents offered no evidence in support of their appellate claim, but only presented arguments. The Appellate Court concluded that argument is not evidence and arguments of a pro se litigant are not proof.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Sarah S., 110 Conn. App. 576 (2008)
The trial court terminated the parents' rights finding that they failed to rehabilitate and denied their motion to revoke commitment and transfer of guardianship to the paternal aunt. The Appellate Court affirmed. The parents claimed that cause for commitment no longer existed because the aunt was a suitable caretaker for the child. The Appellate Court held that the trial court's decision to deny the revocation of commitment was amply supported by the evidence because the parents were still struggling with homelessness, substance abuse and mental health problems and a transfer of guardianship to the aunt was not in the child's best interest given the child's need for permanency. The father further claimed that the trial court committed plain error by improperly shifting the burden of proof to him during the dispositional phase of the termination of parental rights petition as well as the motion to revoke commitment and transfer of guardianship. Based on review of the court's memorandum of decision, the Appellate Court summarily held that the father's claim was without merit and therefore was not "plain error".
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP110/110AP494.pdf

In re Cameron C., 103 Conn. App. 746 (2007), cert. denied, 285 Conn. 906 (2008)
The trial court granted the father's motion to reinstate his guardianship and the grandmother appealed. The Appellate Court affirmed. The grandmother claimed that the trial court improperly applied the standard in the motion for revocation statute, Conn. Gen. Stat. § 46b-129(m) instead of the custody statute, Conn. Gen. Stat. § 46b-56(c) and that the evidence was insufficient to support reinstating the father's guardianship. The Appellate Court first held that the trial court properly construed the father's motion to transfer guardianship as a motion to revoke commitment pursuant to *In re Stacy G.* Applying the rules of statutory construction, the Court held that the best interest factors in Conn. Gen. Stat. § 46b-56(c), a dissolution statute, were inapplicable. Secondly, the Appellate Court held that the evidence demonstrated that the father met his burden of proof that "cause for commitment" no longer existed and the grandmother failed to prove that reinstatement of the father's guardianship was not in the best interest of the child. While the grandmother claimed that the trial court ignored her evidence that she cared for the child since birth for more than six years and was his psychological parent, the trial court properly found that based on the evidence presented, the father now understood his parenting responsibility and was visiting the child, consistently attended counseling sessions, completed parenting and an anger management assessment, and maintained stable employment and housing. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP103/103AP419.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the court acted outside its statutory authority of Conn. Gen. Stat § 46b-129 (m) and (o) when it sua sponte revoked the child's commitment without notice to any of the parties or the foster parent. The Appellate Court agreed and reversed the judgment. The Appellate Court held that the court improperly revoked the child's commitment and acted outside the scope of its authority. As written, the statutes, requiring the filing of a motion and notice to the foster parents, are intended to provide for the orderly administration of justice as well to protect the due process rights of the parties and the foster parents.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Krystal J., 88 Conn. App. 311 (2005)
The trial court denied the mother's motion to revoke commitment. The Appellate Court affirmed. The mother claimed that the trial court improperly determined that cause for commitment still existed and that DCF provided reasonable efforts to reunify. The Appellate Court held that there was ample evidence to support the trial court's finding that cause for commitment still existed because despite the psychologist recommendation, the mother refused to participate in individual or family therapy or undergo psychiatric evaluations. According to the psychologist, the mother was still unwilling to take responsibility for the children's removal and placement in DCF custody. Furthermore, while the mother completed 12 hours of anger management as required by the criminal court, the trial court properly found that the anger counseling did not relate to her needing treatment regarding her underlying issues with her children. The Appellate Court also held that the evidence supported the trial court's determination that DCF provided reasonable efforts to reunify and that reunification efforts were no longer appropriate given the mother's "rock-like determination to refuse services." The mother refused to engage in individual therapy, a psychiatric examination, visitation services that allowed visitation to take place in the community or in her home, and an interstate study that would allow an assessment of her out-of-state-home.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP88/88AP229.pdf

In re Patricia C., 93 Conn. App. 25, cert. denied, 277 Conn. 931 (2006)
The trial court denied the mother's motion for revocation and approved DCF's permanency plan for long term foster care. The Appellate Court affirmed. The mother claimed that the trial court improperly denied her revocation motion, in part, because at the time of the commitment the trial court said all the mother needed to do was obtain a larger apartment to be reunified with her children. At the time of the hearing, the mother had a larger apartment. The Appellate Court held that the trial court did not abuse its discretion in denying the revocation motion and approving the permanency plan even though she had appropriate housing. Although the Appellate Court held that it was unclear what the trial court ruled regarding whether cause for commitment continued to exist, the Appellate Court nonetheless concluded that there was ample evidence to support the trial court's finding that it was in the children's best interest to remain committed to DCF. The evidence demonstrated that the mother lacked furniture, was currently unemployed and had depression. While the parenting counselor testified she could adequately parent her children and the evidence showed that she visited the children consistently, completed all the specific steps and the children eventually wanted to return home, the court found a continued commitment to be in their best interests because they were doing well in their foster home and bonded to their foster parents.

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP93/93AP100.pdf

In re Cesar G., 56 Conn. App. 289 (2000)
The trial court denied the mother's motion for revocation of commitment. The Appellate Court affirmed. The mother claimed that the trial court erred in two ways: (1) by improperly applying the statutory standard for determining whether cause for commitment still exists by relying on the original cause of commitment, namely her son's death, that could not be changed; and (2) by improperly relying on some witnesses' testimony and disregarding others. The Appellate Court first held that the court did not deny the revocation because of the former abuse and death of the mother's son, but rather because of the evidence demonstrating that the mother's ongoing anger, her inability to control it as well as her inability to parent the children adequately and safely. The trial court properly referred to the prior death and original cause of commitment to provide context and to see if the causes of the abuse and the child's death were addressed. Secondly, the Appellate Court held that the court did not rely too heavily upon the expert witness who evaluated the mother more than one year before the revocation of commitment hearing. The Appellate Court ruled that it is within the discretion of the trial court to judge the credibility of witnesses' testimony and the weight to be afforded. The trial court properly credited the testimony and held that the length of time between the evaluation and the testimony, one year, did not render the report outdated to the extent that the court could not rely on it.

In re Thomas L., 4 Conn. App. 56 (1985)
The trial court denied the parents' motion to revoke commitment. The Appellate Court affirmed. With no analysis, the Appellate Court held that the trial court properly determined that cause for commitment no longer existed and DCF proved that revocation was not in the best interests of the child.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that the parents "have not established all the prerequisites necessary in order to grant the [motion]", was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal bases for the court's decision.

RIGHT TO BE PRESENT AT TRIAL

"It is in the interest of justice to ensure that any parent caught in the throes of a termination proceeding be present or at least represented by counsel, from the beginning of the hearing. There can be, however, circumstances in a termination hearing in which the mere presence, alone, of a respondent's counsel, is not sufficient for a court to proceed in the respondent's absence. (Internal citations and quotations marks omitted.) *See, In re Candids E., 111 Conn. App. 210 (2008).*

In re Lukas K., 300 Conn. 463 (2011), aff'ing 120 Conn. App. 465 (2010)
The Appellate Court held that the trial court did not deprive the out-of-state incarcerated father of his constitutional right to due process by denying him a continuance, a transcript or the opportunity to participate via videoconferencing. Applying the *Golding* analysis, the father's claim fails under the third prong as he was unable to prove that the alleged constitutional violation deprived him of a fair trial. The father claimed that the denial of videoconferencing implicated his due process right to be present. The trial court properly found that the father did not avail himself of any of the procedures that would have allowed him to prove evidence or to telephonically provide testimony. He also waited to the last day of trial to ask for a continuance and the court did not take any affirmative action to deny the father the opportunity to be present. The Appellate Court also affirmed the trial court's judgment granting the TPR petition against the father on the grounds of abandonment and no ongoing parent child relationship.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Juvenile Appeal, 187 Conn. 431 (1982)
The Supreme Court held that the incarcerated father was not deprived of his due process right to be present by the trial court's denial of his motion for continuance. Applying the *Mathews v. Eldrige* balancing test, the Court found that the trial court took adequate measures to ensure the out-of-state incarcerated father participated in the TPR trial via telephone and offered extra time for cross examination. Delaying the TPR proceeding until an undetermined release date would have created a significant burden on the State. The Court also upheld the judgment terminating the incarcerated putative father's parental rights by finding that he abandoned his child.

In re Tremaine C., 117 Conn. App. 521, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the father's parental rights on the basis of abandonment. The Appellate Court affirmed. The father visited his child while incarcerated and then for a short time after being released. The father then discontinued contact with DCF and his son and faced violation of probation charges. Neither DCF nor the criminal justice system could find him. At the onset of the termination trial, the father was defaulted. After two days of trial, the father was reincarcerated and was present at trial. DCF moved to reopen the proceedings and the trial court provided the father transcripts, granted him a continuance to prepare and allowed him to recall witnesses. The father claimed that the trial court violated his constitutional due process rights to be present and confront witnesses by not sua sponte ordering a new trial when the father resurfaced. Pursuing *Golding* review of his unpreserved claim, the Appellate Court held that the father failed to prove the third prong: that a constitutional violation clearly exists and clearly deprived

him of a fair trial. Applying the *Mathews* due process balancing test, the Appellate Court concluded that the risk of deprivation to the father to be low because the father chose not to be present for the termination trial. He refused to remain in contact with DCF and received proper notice of the trial and chose not to be present while he was not incarcerated. Moreover, delaying the termination proceeding for a trial de novo would place unnecessary burden on DCF's interest in furthering permanency for the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP462.pdf

In re Candids E., 111 Conn. App. 210 (2008)
The trial court terminated the mother's parental rights in her absence by finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court violated her due process right to be present by proceeding with the termination trial in her absence. Applying the *Mathews* balancing test, the Appellate Court held that the trial court did not violate the mother's procedural due process rights. The mother was at court the day the trial dates were set and failed to appear. The record further indicated that the mother told her attorney she was detained in criminal court, but the criminal docket had no such hearing involving the mother. Moreover, at all times during the trial, the mother was represented by counsel. In balancing the factors, the Court ruled "[t]he bottom-line question is whether the denial rendered the trial fundamentally unfair in view of the Mathew factors." Here, the mother failed to show how rendering a default judgment, with less procedural protections than what was actually afforded to her, could have safeguarded her due process rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP27.pdf

In re Wayne A. II, 25 Conn. App. 536 (1991)
At a contested permanency plan hearing, the incarcerated father, who was allowed to participate via telephone, moved for a continuance so that he could be physically present. The trial court denied the motion. The Appellate Court affirmed. The incarcerated father claimed that the trial court abused its discretion because it denied his continuance in violation of his due process rights. The Appellate Court held that the trial court did not abuse its discretion by denying the incarcerated father's motion for continuance because he fully participated via telephone even though he could not be physically present.

In re Jonathan P., 23 Conn. App. 207 (1990), reversed
The trial court terminated the father's parental rights. The Appellate Court reversed. The incarcerated father claimed that the trial court violated his due process rights by starting the proceedings in his and his counsel's absence. The Appellate Court held although the issue was not raised at trial, the claim was reviewable because the trial court committed plain error by allowing the expert witness to testify in his absence, knowing that the incarcerated father was on his way to court, in violation of statute, practice book rule, and due process. Applying the *Mathews* factors, the Appellate Court ruled that because a parent is a necessary party to a termination hearing and he had a right to be present, it was clearly improper for the trial court to proceed in the absence of the father and his counsel. "[I]t should be emphasized that, under the circumstances of this case, it would have been improper for the court to proceed before the [father] arrived at court, even if his counsel had been in the courtroom at the time."

RIGHT TO CONFRONTATION

"The respondent's rights to confrontation and cross-examination here are not constitutional rights, but rather statutory ones. General Statutes 46b-135(b) provides: "At the commencement of any proceeding on behalf of a neglected, uncared-for, or dependent child or youth, the parent or parents or guardian of the child or youth shall have the right to counsel, and shall be so informed by the judge, and that if they are unable to afford counsel, counsel will be provided for them, and such counsel and such parent or guardian of the child or youth shall have the rights of confrontation and cross-examination." We have recognized that cases involving the testimony of abused children require special consideration. The United States Supreme Court has recognized that competing interests 'may warrant dispensing with confrontation at trial.'" (Internal citations and quotation marks omitted.) *See, In re Noel M., 23 Conn. App. 410 (1990).*

In re Tayler F., 296 Conn. 524 (2010), aff'ing, 111 Conn. App. 28 (2008)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court improperly admitted the out-of-court children's statements through various witnesses and exhibits in violation of her right to confrontation and cross-examination. The Appellate Court held that the trial court's admission of the children's hearsay statements under the residual hearsay exception neither violated the mother's constitutional or statutory right (Conn. Gen. Stat. § 46b-135) to confrontation and cross-examination. Parents in termination of parental rights or neglect proceedings do not have a Sixth Amendment right to confrontation. This Court previously held in *In re Lauren R.* that excluding the child victim's testimony did not violate a parent's statutory rights either. The Supreme Court affirmed. On appeal, the Supreme Court also rejected the mother's contention that she had an unqualified due process right to confrontation and cross-examination to bar properly admitted evidence and declined to weigh the factors in the *Mathews* balancing test. **Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf;
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly precluded her from calling her own child as a witness. The Appellate Court held that the trial court did not abuse its discretion in precluding the mother from calling her child as a witness because there was expert testimony that requiring the child to testify would have been harmful and the child's testimony would have been unreliable. Accordingly, the mother's statutory right to confrontation pursuant to Conn. Gen. Stat. § 46b-135(b) was not violated. Further, the child's testimony would have been cumulative. "[C]ases involving the testimony of abused children require special consideration."

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court violated her statutory right to confrontation under Conn. Gen Stat. § 46b-135(b) by not allowing the child to testify in camera. The evidence demonstrated that during the four years that the child had been in foster care, the mother failed to believe the child's disclosure of sexual abuse, failed to protect her, failed to cooperate with police and DCF regarding the charges, and failed to seek counseling. Moreover, the mother continued a relationship with the abusive boyfriend. The Appellate Court held that the trial court acted within its discretion and did not violate her right to confrontation because the child's testimony was not necessary based on "all of the evidence." The child's testimony would be cumulative. Moreover, requiring the child to testify would further victimize her.

In re Wayne A. II, 25 Conn. App. 536 (1991)
The father claimed that the trial court violated his statutory right to confrontation when the trial court did not allow him to call two more DCF witnesses at a contested permanency plan hearing. The Appellate Court affirmed. The Appellate Court held that the trial court did not abuse its discretion when it denied the father's request on the basis that the testimony was irrelevant and cumulative and held that the statute, Conn. Gen. Stat. §46b-135(b) was inapplicable.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that the trial court violated her constitutional and statutory rights to confrontation and cross-examination when the trial court prevented her attorney from cross examining the child in the judge's chambers. The Appellate Court held that parents in neglect proceedings have no constitutional right to confrontation and cross-examination pursuant to the Sixth Amendment. Parents do however have a statutory right to confrontation and cross-examination pursuant to Conn. Gen. Stat. § 46b-135(b). The Court further held that the trial court's procedure in which the child testified in camera without the mother present did not violate her statutory rights to confrontation and cross-examination because the trial court properly followed the Practice Book provision and allowed all the counsel to be present and submit and resubmit questions during the child's interview.

RIGHT TO COUNSEL

"Neither the sixth amendment to the United States constitution nor article first, § 8, of the Connecticut constitution can be extended to a parent in a termination of parental rights hearing to provide a right to effective assistance of counsel. Where, however, as here, a statute (General Statutes § 46b-136) or practice book rule mandates the assistance of counsel, it is implicit that this means competent counsel. Because of the substantial interests involved, a parent in a termination of parental rights hearing has the right not only to counsel but to the effective assistance of counsel." (Internal citations and quotation marks omitted.) *See, State v. Anonymous, 179 Conn. 155 (1979).*
"This court and our Supreme Court have held on numerous occasions that the right to counsel cannot be . . . manipulated so as to obstruct the orderly procedure in the courts or to interfere with the fair administration of justice. . . . Particularly, the right to counsel may not be abused as a means to impede the judicial process and to delay a trial." (internal citations and quotation marks omitted.) *See, In re Zowie N., 135 Conn. App. 470 (2012)*

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court and Supreme Court affirmed. The children's dually appointed attorney and GAL advocated for the termination despite the fact that the children wanted to return to the care of their parents. The parents claimed that the children had a constitutional right to conflict free legal representation and that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem to represent their children's best interests in light of such conflict. Side stepping the issue of whether the children have a constitutional right to counsel, the Supreme Court affirmed the Appellate Court and held that the trial court did not have a constitutional obligation to appoint a separate GAL because the factual record did not support a finding that the trial court knew or should have known that a conflict existed between what the children wanted and what their attorney advocated for. The Supreme Court applied the test utilized in a criminal context to determine whether the trial court had a duty to inquire if an attorney conflict existed: 1) when there was a timely conflict objection at trial, or 2) when the trial court knew or reasonably should have known that a particular conflict exists.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's untimely motion to open the TPR judgment, the Supreme Court noted that without actual notice of the TPR proceedings against her, the mother was not able to exercise her right to counsel. The Court advised that trial courts should seriously consider appointing counsel to represent absent parents in TPR cases when the parents have only received constructive notice. Such appointment may allow for more diligent searches of the parents. **Dissent:** Borden, Norcott, JJ.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother claimed that she was denied effective assistance of counsel. Though her claim was not properly preserved, the Supreme Court reviewed the claim anyway to examine whether no substantial injustice had been done. As a matter of first impression, the Supreme Court held that the constitutional right to effective assistance of counsel in criminal matters does not apply to respondents in termination of parental rights cases. The parents are however entitled to a statutory right of effective assistance of counsel. Because of the substantial interests involved, a parent in a termination of parental rights hearing has the right not only to counsel, but to the effective assistance of counsel. The Court enunciated the test to be applied: "The range of competence ... requires not errorless counsel, and not counsel judged ineffective by hindsight, but 'counsel whose performance is reasonably competent, or within the range of competence displayed by lawyers with ordinary training and skill in (that particular area of the) law.' The defendant must, moreover, demonstrate that the lack of competency contributed to the termination of parental rights." The Court held that the mother failed to prove her ineffective assistance of counsel claim because the mother failed to demonstrate that the trial counsel's failure to make merely pro forma motions to correct or dismiss the termination petition negatively affected the outcome of the case.

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed. The pro se father claimed that the trial court violated his statutory right to counsel pursuant to Conn. Gen. Stat. § 45a-717(b) because the trial court did not advise the pro se father of his right to counsel at the start of the termination of parental rights trial. The Appellate Court held that based on the record, the trial court properly advised the pro se father of his right to counsel when he first appeared without counsel after being served with the petitions (at the plea date). Insofar as the pro se father claims he has a constitutional right to counsel, the Appellate Court also ruled, in a footnote, that according to *State v. Anonymous*, the pro se father does not have a constitutional right to counsel in termination of parental right cases. The Appellate Court further held that, based on review of the transcripts, the pro se father waived his statutory right to counsel on numerous occasions despite the withdrawing attorney's request for substitute counsel as well as the court strongly advising against pro se representation and warning that it was in the father's best interest to accept counsel. Although the father claimed on appeal that he reinvoked his statutory right to counsel on the first day of the termination of parental rights trial, the Appellate Court further held that the trial court did not abuse its discretion in denying a second motion for continuance so that the pro se father could have court-appointed counsel after previously waiving his right to counsel and knowingly and voluntarily choosing to represent himself.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
The trial court terminated the mother's parental rights. The mother sought to appeal and completed an application for waiver of fees and costs. The trial court denied her application on the alleged basis that the appeal was frivolous. The mother filed a motion to review with the Appellate Court. The Appellate Court granted the mother's motion for review and reversed the trial court's denial of her application. As a matter of first impression, the Appellate Court held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. In so holding, the Appellate Court applied plenary review to interpret the Practice Book rules as they relate to our statutes, including an indigent parent's statutory right to counsel in termination cases. "It is axiomatic that the

separate provisions of the rules of practice should be read to be in harmony with one another." As a basis for its holding, the Court reasoned that parents have a statutory right to counsel and that right includes effective assistance of counsel. Thus, parents' counsel must be able to obtain access to the portions of the trial transcript necessary to assess and litigate an appeal. "This view gives meaning to a parent's right to counsel. The right to counsel on appeal afforded by statute and by rule could too readily become illusory if we were to permit trial judges effectively to block counsel's access to the information necessary for counsel to evaluate properly whether an appeal should be advanced in the exercise of his or her professional responsibilities to the litigant and to the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

In re Bobby Jo S., 10 Conn. App. 36 (1987)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother lived out of state, failed to visit her child and was properly notified of the termination proceedings. The mother did not appear for the adjudicatory phase of the termination proceeding and was unrepresented by counsel. She appeared at the beginning of the dispositional phase and was appointed counsel. At the adjudicatory phase, given her absence, the mother was unrepresented by counsel. The trial court denied the mother's motion to set aside the adjudication and for a new trial claiming pursuant to Conn. Gen. Stat. § 46b-136 she was entitled to an attorney. The Appellate Court held that the trial court did not abuse its discretion by denying the motion to set aside and for a new trial because the statute and practice book provide that the trial court may appoint an attorney in the interests of justice and an attorney is not statutorily required when a parent fails to request an attorney or appear for the hearing after receiving adequate notice. Furthermore, the Appellate Court concluded that in light of *Lassiter,* due process does not require that an indigent parent will always be appointed an attorney.

RIGHT TO FAMILY INTEGRITY

"Parents have a constitutionally protected right to raise and care for their own children.... This right is not free from intervention by the state, however, when the continuing parens patriae interest of the state in the well being of children is deemed by law to supercede parental interests." *See, In re Davonta V., 285 Conn. 483 (2008).*

"The United States Supreme Court has recognized that "freedom of personal choice in matters of family life is a fundamental liberty interest protected by the fourteenth amendment." *Santosky v. Kramer,* 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982) (listing Supreme Court precedent recognizing fundamental nature of right). The state has, however, an interest in preserving and promoting the welfare of a child. Id., at 766, 102 S.Ct. 1388. These interests conflict in cases involving the termination of parental rights, and state interference with the relationship between a parent and child is justified only in specific instances. The state must act in accordance with procedural due process in any interference with that relationship; *Lehrer v. Davis,* 214 Conn. 232, 237, 571 A.2d 691 (1990); and must prove a termination of parental rights by clear and convincing evidence, rather than by the lesser burden of a fair preponderance of the evidence. The desire and right of a parent to maintain a familial relationship with a child cannot be separated from the desire and best interest of a child either to maintain or to abandon that relationship, or the interest of the state in safeguarding the welfare of children. These legitimate interests of parent, child and state require a balancing of the factors involved in those interests. See *id*., at 240, 571 A.2d 691. In every case involving parental rights, a struggle exists between parents and the state to determine what is in the child's best interest, the child being the focus of the struggle." *Troxel v. Granville,* 530 U.S. 57, 85-86, 120 S.Ct. 2054, 2071, 147 L.Ed.2d 49 (2000) (Stevens, J., dissenting). *See, In re Shaquanna M., 61 Conn. App. 592 (2001).*

"The right to the integrity of the family is among the most fundamental rights guaranteed by the fourteenth amendment.... With respect to the respondent's claim that the department prevented reunification, we note that a state may not, consistent with due process of law, create the conditions that will strip an individual of an interest protected under the due process clause." (Citation omitted; internal quotation marks omitted.) *See, In re Daniel C., 63 Conn. App. 339 (2001).*

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'ing, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court then terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to

enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea. To reconcile both the children's need for permanency and the parents' fundamental right to raise their children, the Supreme Court, in reversing the termination judgment, ordered that the future neglect and termination proceedings be expedited.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Tayler F., 296 Conn. 524 (2010)
The trial court adjudicated the children neglected and granted the father primary custody of the children. The Appellate and Supreme Court affirmed. The mother claimed that the trial court erred in admitting hearsay statements of the children in violation of due process rights to confrontation and cross-examination. In reviewing the due process claim, the Supreme Court first determined that the mother's protected liberty interest was her fundamental right to family integrity. Rejecting the mother's contention that she had an unqualified due process right to confrontation and cross-examination to bar properly admitted evidence, the Court declined to weigh the factors in the *Mathews* balancing test. **Appellate Court Dissent:** Lavery, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP515E.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR296/296CR66.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The Supreme Court held, for the first time, that children have standing to appeal a trial court's judgment terminating their parent's parental rights. The Supreme Court concluded that the rights of the children here are inextricably intertwined with those of their parent and "both the [parents] and the children have a mutual interest in the perseveration of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship." **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Leah S., 284 Conn. 685 (2007), reversed
The Appellate Court affirmed the trial court's judgment holding the Commissioner of DCF in contempt for failing to comply with the specific steps and ordering DCF to pay $500 to the mother to assist her with attorney's fees. The Supreme Court reversed. The Commissioner claimed that the specific steps were ambiguous in that they provided the Commissioner with broad discretion regarding the services offered to

the child and her family. The Supreme Court held that the specific steps were not sufficiently clear and unambiguous to support a finding of civil contempt. In doing so, the Court reiterated that trial courts have the authority to order specific steps, as well as to augment them with supplemental orders, to facilitate family reunification. Reunification efforts "help to preserve the integrity of the family and are based on the well settled notion that [t]he right of a parent to raise his or her children [is] recognized as a basic constitutional right." http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR284/284CR14.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court affirmed. The mother claimed that, according to the holding in *Roth v. Weston*, Conn. Gen. Stat. §17a-112(j) is facially unconstitutional or unconstitutional as applied under the due process clause. The Court explained that *Roth* limited third party visitation orders when such orders where contrary to the desires of a fit parent. The underlying presumption in *Roth* is that a fit parent makes decisions in the best interest of the child. In termination of parental rights cases, there is no such underlying presumption. Where there are allegations that a parent is unfit, then the state may intrude upon the right to family integrity. The mother cited no authority for her claim that she should be allowed to raise her child without interference and that a parent who has been shown to be unfit, by clear and convincing evidence, is entitled to a presumption that she acted in the child's best interest. The Supreme Court found the mother's proposition to be implausible and rejected her constitutional claim.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the trial court erred in granting the foster parents custody solely on the basis of the bond the child developed with the foster parents even though the bond was allowed to develop due to DCF's improper conduct. They further asserted the constitutional right to family integrity. The Supreme Court held that the trial court did not abuse its discretion in concluding that it was in the child's best interest to grant custody to the foster parents based on the bond and on a number of additional factors including the ability of the foster parents to maintain sibling and extended family ties, the foster parents views against corporal punishment and their amenability towards tradition therapy. On the contrary, the named testamentary guardians did not have a connection to the child's biological extended family, supported corporal punishment and favored religious intervention over therapy. DCF's alleged improper conduct did not compel appointing the named testamentary guardians as the child's legal guardians. The Court further ruled that the right to family integrity does not extend to a predeath statement in a will indicating the deceased parents' wishes for their child's future because the parent child relationship no longer exists. There is no legal authority demonstrating that the right to family integrity survives the death of the parents or may be passed to the named testamentary guardians.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. The Supreme Court applied the *Mathews* balancing factors and weighed the father's right to family integrity with the State's parens patriae interest and the risk that the procedures used would lead to erroneous decisions and concluded that due process does not warrant the right to file a habeas petition. In a termination proceeding, "the parent's interest includes the most essential and basic aspect of familial privacy--the right of the family to remain together without the coercive interference of the awesome power of the state." The State's parens patriae interest to expedite termination proceedings, provide permanent homes for children, and finalize adoptions weighs against allowing habeas petitions because habeas petitions may be filed at any time. Allowing habeas petitions to attack termination judgments would necessarily "suspend adoption proceedings and infuse uncertainty therein." The Court further reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court declined to recognize preadoptive parents' right to family integrity as the basis to intervene in TPR proceeding regarding a mother's motion to reopen a TPR judgment. As preadoptive parents they unsuccessfully asserted they have a different legal status than foster parents. **Dissent:** Borden, Norcott.

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983)
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard rather than the 'fair preponderance' of the evidence standard. In doing so, the Court provided an in-depth discussion of the right to family integrity. "The parent has only one interest, that of family integrity and the state has only one compelling interest, that of protecting minor children; The child, however, has two distinct and often contradictory interests. The first is a basic interest in safety; the second is the important interest, ... in having a stable *family* environment. Connecticut's child welfare statutes recognize both the conflicting interests and the constitutional limitations involved in any intervention situation." "Unfortunately, an order of temporary custody often results in the children of one family being separated and scattered to different foster homes with little opportunity to see each other. Even where the parent-child relationship is "marginal," it is usually in the best interests of the child to remain at home and still benefit from a family environment." (internal citations omitted).
Concurring: Peters, Parskey, Grillo, Shea, JJ.

In re Juvenile Appeal, 177 Conn. 648 (1979), reversed

The Supreme Court affirmed the trial court's judgment denying the mother's motion to revoke commitment finding that cause for commitment continued to exist. In doing so, the Court noted that "[w]hile rights of parents qua parents to custody of their children is an important principle that has constitutional dimensions, we recognize that even parental rights are not absolute." [W]e must continue to be guided by what is best for the child's welfare, but . . . place the advantages of a parent's care high in the scale of factors conducive to that welfare. In any controversy between a parent and a stranger, the parent as such should have a strong initial advantage, to be lost only where it is shown that the child's welfare plainly requires custody to be placed in the stranger." The Supreme Court also reversed the trial court's judgment terminating the mother's parental rights on the ground of no ongoing parent child relationship.

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties to an appeal. Although the transfer of guardianship judgment affected them emotionally, it did not directly affect their legal rights. The Appellate Court reiterated that foster parents' rights are statutory and they do not share the same rights as biological families or adoptive families. They do not have a fundamental liberty interest in the right to family integrity. While they have a statutory right to apply for a writ of habeas corpus under Conn. Gen. Stat. § 52-466(f) and a right to be heard under Conn. Gen. Stat. § 46b-129(o), they do not a have right to intervene in neglect matters.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that in light of her constitutional right to raise her child, the trial court erred in denying her motion to reopen the evidence to allow for the results of a yet-to-be-taken hair drug test. The Appellate Court held that the trial court did not abuse its discretion because the evidence demonstrated that the mother refused to take a prior hair test at least four times, and tested positive for marijuana in a urine screen. Moreover, allowing the mother further time to take a hair test after the close of evidence would only serve to delay the proceedings and delay the child's permanency because the results of a hair test would shed very little light on the mother's rehabilitation. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Christina M., 280 Conn. 474 (2006), aff'ing, 90 Conn. App. 565 (2005)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court and Supreme Court affirmed. The children's dually appointed attorney and GAL advocated for the termination despite the fact that the children wanted to return to the care of their parents. On appeal, the parents claimed that the children had a constitutional right to conflict free legal representation and that the trial court had a constitutional obligation to sua sponte appoint a separate guardian ad litem to represent their children's best interests in light of such conflict. Side stepping the issue of whether the children have a constitutional right to counsel, the Supreme Court affirmed the Appellate Court and held that the trial court did not have a constitutional obligation to appoint a separate GAL

because the factual record did not support a finding that the trial court knew or should have known that a conflict existed between what the children wanted and what their attorney advocated for. Regarding the right to family integrity, in affirming the termination of parental rights, the Supreme Court acknowledged and outlined the fundamental right to family integrity. "Indeed, it is beyond dispute that, the interest of parents in the care, custody, and control of their children ... is perhaps the oldest of the fundamental liberty interests recognized by the United States Supreme Court." (internal citations and quotations omitted). The Appellate Court also noted the following: "[a]n important goal of the child protection statutes, in addition to protecting children from abuse and neglect, is to preserve family integrity by teaching parents the skills they need to nurture and care for their children. When the State initiates a parental rights termination proceeding, it seeks not merely to infringe the fundamental liberty interest of the parents in the care, custody and control of the children, but to end it. A parent's interest in the accuracy and justice of the decision to terminate his or her parental status is a commanding one." "Like every other court in this country, we are mindful of our responsibility to respect and protect the constitutional rights of parents, rich or poor, to make decisions about the care, custody and control of their children. Like all other rights, however, these rights can be lost. The family is not ... beyond regulation in the public interest, and the rights of parenthood are not beyond limitation. Trial courts must take the laboring oar to maintain the proper balance between parental rights to family integrity and the state's responsibility to protect the rights of children to grow up in a safe and nurturing environment. The trial court in this case undertook this responsibility with articulated appreciation of its difficulties as well as a firm commitment to finding that the best possible resolution of the painful disparity between these parents' love for their children and their ability to provide them with the nurturing care to which they are entitled." (internal citations and quotations omitted)
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The Appellate Court noted that the court must afford a proper deference to the parent child relationship because the interest of parents in raising their children is a fundamental right. The Court further noted that "termination of parental rights does not follow automatically from parental conduct that might justify the removal of a child from the natural parental home." Nonetheless, the Court concluded that the trial court properly found that DCF made reasonable efforts and the mother failed to rehabilitate. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
The trial court sustained an order of temporary custody ("OTC") for an infant born to an eleven year old minor mother. The minor mother was in DCF's care under an OTC. In doing so, the trial court ruled that the mother to the minor mother (the grandmother to the infant), did not have standing as the minor mother's legal guardian to contest the OTC regarding the infant because the trial court appointed the minor mother a guardian ad litem ("GAL") as well as an attorney. The grandmother appealed. The Appellate Court affirmed. The grandmother claimed she had standing to contest the OTC on her minor daughter's behalf as her legal parent and legal guardian. In this case of first impression, the Appellate Court held the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother. Specifically, between a GAL and a natural guardian, the Court ruled that a presumption exists that the court-appointed GAL is the proper person to speak for the child for the purposes of the court action, unless the

GAL cannot properly fulfill the GAL role and another is better suited. The grandmother failed to show that the GAL could not properly represent the child's best interest and here the grandmother was not better suited since she allowed her eleven year old child to be sexually assaulted by a seventy five year old man as well as agreed to her child being in DCF custody. In reaching this holding, the Court recognized the general proposition that guardianship includes the responsibility to safeguard a child's best interest, the parent's constitutional right to family integrity as well as the State's interest to act as parens patriae to protect the child and further stated the right to family integrity is not absolute. "From a child's perspective, family integrity consists of nurturance and protection. It is not conceptual; rather it is practical and tangible, moment by moment." The Court also analyzed the role of a GAL verses a child's attorney. The GAL is charged with protecting the child's best interest as well the child's legal rights in the process and the GAL should refrain from acting as a second attorney for the child. "Just as it is not normally the province of the attorney to testify, it is not the province of the GAL to file briefs with the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically nor statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent based on the holdings in *Nye v. Marcus* and *Hunte v. Blumenthal.* The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. Note: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001), reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. As a preliminary issue, the Court held that the mother had standing to bring the due process claim because the denial of the continuance interfered with her rights as a parent. In doing so, the Court set forth the intersection between the mother's right to family integrity, the state's parens patriae interests and the child's best interest.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The Appellate Court affirmed. The Court rejected the mother's claim that the trial court's decision violated her right to family integrity and due process. She claimed that the state prevented reunification by ordering a full protective order and therefore was precluded from terminating her parental rights because the state created the conditions supporting the TPR. The Appellate Court held that the mother created the conditions requiring the protective order by failing to believe the child that her boyfriend sexually abused the child and by allowing the abusive boyfriend to have further contact with the child in violation of

previous protective orders. She further threatened to punish the child if she told anyone. The mother also refused counseling services. The Court noted that "a state may not, consistent with due process of law, create the conditions that will strip an individual of an interest protected under the due process clause." In this case, however, the record does not support the respondent's contention.

In re Brianna F., 50 Conn. App. 805 (1998)
DCF filed a coterminous petition and while the trial court found the adjudicatory grounds were met, the trial court denied the termination petition finding that it was not in the child's best interest. The trial court found that the child suffered serious life threatening injuries at the hand of the mother's boyfriend and the mother failed to prevent the abuse, but also determined that the mother may be able to overcome her deficient judgment. The child's attorney subsequently filed a second termination of parental rights petition alleging that the mother failed to rehabilitate. The trial court ruled that collateral estoppel did not apply to the first termination judgment and that the child's attorney could not proceed directly to the best interest/dispositional phase of the termination proceeding without relitigating the adjudicatory grounds. The child's attorney appealed. The Appellate Court held that collateral estoppel did not apply to the first termination adjudication because the parent has a fundamental right to raise and care for his/her children and whenever the parent child relationship is at issue, all the relevant facts at the time of the termination petition should be considered. "The parent-child relationship presents an ongoing dynamic that cannot be frozen in time. The entire picture of that relationship must be considered whenever the termination of parental rights is under consideration by a judicial authority." Although the trial court's ruling on the motion for advice appeared inconsistent, the Appellate Court ruled that the child's attorney could introduce evidence related to the first termination proceeding to be considered in the second termination proceeding.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that: (1) the evidence was insufficient to find neglect based on her eight year old child's inconsistencies about the stepfather sexually abusing her, and (2) the trial court violated Connecticut's statutory public policy when it failed to reunite the family after the stepfather's criminal acquittal on the charges of sexual abuse. First, the Appellate Court held that the trial court's judgment finding that the child to be neglected was not clearly erroneous because the mother took the child and returned to live with the stepfather after the child told the mother that the stepfather sexually abused her. The mother had actual knowledge of the child's claims and chose not to believe her child, claiming inconsistencies in the child's story. The evidence further demonstrated that the child's statements were generally consistent, and various witnesses, including the child, testified regarding the sexual abuse. Secondly, the Court held that "evidence of a judgment of acquittal in prior criminal case may not be used as proof in subsequent civil case that the act comprising crime was not committed" and accordingly ruled that the doctrine of collateral estoppel was inapplicable. The court noted that the right to family integrity is not the parent's right alone, but a reciprocal right of children too and that family integrity is the State's goal only when it does not endanger the safety of the child.

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents claimed that because the expert testimony failed to establish a cause of the child's sexual abuse, namely whether the

father or the boyfriend sexually abused the child, the trial court's findings violated the State's public policy. The Appellate Court held that despite the failure of the physician and the psychologist to formulate opinions as to the cause of the child's sexual abuse, the expert testimony clearly established that sexual abuse had occurred. Based on the totality of the evidence, including the child's statements to her neighbor and foster mother that the father had inappropriately touched her, sufficient evidence supported the trial court's findings. The record demonstrated that DCF provided extensive services to the family over many years to help the family, and the trial court's findings were consistent with the public policy. "The primary concern of [DCF] is the safety of [the child]. Family integrity can be the goal of [DCF] only when such a reunion will not endanger the safety of the child. Where *appropriate,* the agency can and must take unilateral action *either* to reunite families *or* to terminate parental rights as expeditiously as possible to free neglected children for placement and adoption in stable family settings."

In re Davonta V., 285 Conn. 483 (2008)
The trial court granted DCF's TPR petition finding that the mother failed to rehabilitate and that a termination of her rights was in the best interest of the 14 year old child even though he did not have an adoptive home. The Appellate Court affirmed and the Supreme Court affirmed. The Court recognized that parents' have a constitutionally protected right to family integrity, yet held that given the child's need for permanency, as opined by the expert psychologist, the evidence supported the judgment terminating the mother's parental rights even though an adoption was not imminent. **Note**: In re Davonta V., 98 Conn. App. 42 (2006), **Dissent:** Schaller, J.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR285/285CR35.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights. In doing so, the Court ruled against applying the amended statute retroactively and relied on the holding in *In re Migdalia M.,* stating, "[p]arents have a constitutionally protected right to raise and care for their children and that protection cannot be diluted by use of statutory standards enacted subsequent to a petition to terminate that right, absent a counter legislative directive." **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly relitigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing to the role of the State as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. The doctrine of collateral estoppel precludes the relitigation of a finding of neglect. Here, the Court ruled that the parents never appealed the neglect finding and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition.

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

In re T.K., 105 Conn. App. 502, cert. denied, 286 Conn. 914 (2008)
The trial court adjudicated the child neglected under the doctrine of predictive neglect. The Appellate Court affirmed. The parents claimed that the trial court improperly determined that the child was neglected as a matter of law because a finding of predictive neglect requires (1) a serious prior history of neglectful or abusive parenting of one or more children or (2) a serious inability or unwillingness of the parents to accept, cooperate with or benefit from services necessary to help them care for their child. Recognizing the family's right to family integrity, but relying in part on the statutory scheme designed to allow the State to further its parens patriae interests, the Appellate Court held that the trial court's finding that the child was neglected under the doctrine of predictive neglect was proper because the state has a responsibility to avoid harm to the well-being of a child, not to repair it after a tragedy has occurred. The Court rejected the parents' argument that predictive neglect requires a prior history as untenable because then no first-born child could ever be adjudicated neglected under the doctrine of predictive neglect as presumably the parents would have no history of prior abuse. Secondly, whether a parent complies or doesn't comply with services is not determinative of predictive neglect. The parents further claimed that the trial court improperly relied on an erroneous factual finding regarding whether the father picked up the mattress that the mother was lying on causing her to fall. The Appellate Court held that the alleged error was harmless in light of the other sufficient evidence demonstrating the child was predictively neglected. Here, the Appellate Court concluded that the trial court properly adjudicated the child neglected under the doctrine of predictive neglect because at the child's birth the mother reported having thoughts of harming herself and the child. The father also suffered from suicidal thoughts and would benefit from medical treatment. The couple's martial conflict also contributed to the mother's obsessive thoughts.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP95.pdf

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The trial court terminated the parents' parental rights finding that they failed to rehabilitate. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that they failed to rehabilitate was clearly erroneous. The Appellate Court first held that the statutory law effective at the time of the filing of the termination petition was binding, not the amendment that was in effect at the time of the termination trial. Applying the rules of statutory construction, the Court also reasoned that "parents have a constitutionally protected right to raise and care for their children and that protection cannot be diluted by the use of statutory standards enacted subsequent to a petition to terminate that right, absent a counter legislative directive." The Appellate Court further held that the trial court's decision was not factually supported or legally correct because the evidence did not support the trial court's findings that the parents' failed to rehabilitate. The evidence, rather, showed that the child was voluntarily placed with DCF because she had serious medical problems, a chronic kidney disease. According to the transcript, the care of the child is tantamount to paramedical care, and required several hours of medical attention each day. The determination was clearly erroneous because DCF did not prove by clear and convincing evidence that the parents failed to comply with all of the expectations, together with the lack of clarity as to some of those expectations, and the use of the expectations as the sole standard for the trial court's conclusion that their parental rights should be terminated. Here, the evidence did not show that the parents, who were Spanish speaking and poor, did not attend counseling or understand the child's needs or failed to secure adequate housing. Both parents love their child, have never been physically abusive to the child, and have never engaged in any deliberate act to harm the child. Moreover, their parental limitations lie in their inability to

care for a seriously ill child. "It is the child's health problems, not some personal deficiency of theirs, which caused the original commitment. The wealthy parent who cannot give daily arduous care to a severely physically handicapped child obtains the care necessary by paying for it. The affluent parent does not have his parental rights terminated because of an inability to learn how to care full-time for a physically dependent child. The low income parent who cannot cope with the daily care of such a child should be put in no different position as far as concerns the termination of his or her parental rights."

In re Juvenile Appeal (1983-4), 39 Conn. Supp. 490 (1983)(appellate session)
The trial court adjudicated the child neglected and committed her to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that she was unable to protect her child and that commitment was in the child's best interest. The Appellate Court held that the trial court properly found that committing the child to DCF was in the child's best interest because the mother was unable to protect her child from the violent and abusive boyfriend. Despite the child's fears of the boyfriend, the mother continued to expose the child to the boyfriend. The Appellate Court ruled that the state's intervention into the family is only justified when it is in the best interests of the child and that to determine what is in the child's best interest, trial courts must balance the child's interests in safety and in a stable family environment with the mother's interest in the integrity of the family. "It is only when the child's interest no longer coincides with that of the parent, thereby diminishing the magnitude of the parent's right to family integrity, that the state may intervene to protect the child."

RIGHT TO FREE SPEECH

"As a restriction imposed on the petitioner's right to free speech, the order is permissible only if it is narrowly tailored to serve a compelling state interest. A "prior restraint on expression comes ... with a heavy presumption against its constitutional validity. Prior restraints are considered the most serious and the least tolerable infringement on First Amendment rights. The potential for encroachment on protected First Amendment rights is greater in court-ordered injunctions than with prohibitions contained in criminal statutes. To justify an order in the present case, the state must establish a compelling interest for the order and narrowly tailor the order to reach that end. The United States Supreme Court has acknowledged that a person's free speech rights are not without limits, and restrictions imposed on such rights may properly be based on the privacy interests of others. The right to disclose information is not without limit and may be limited by legitimate privacy interests. The court must make its own inquiry into the imminence and magnitude of the danger said to flow from the particular utterance and then to balance the character of the evil, as well as its likelihood, against the need for free and unfettered expression. The possibility that other measures will serve the State's interests should also be weighed. An order of confidentiality involves the confluence of the petitioner's right to free speech and the juvenile's right to keep private information learned during closed proceedings. That emphasis on the rights of the juvenile is evident in the statutory presumption of confidentiality accorded such proceedings.

We conclude that nondisclosure orders are a necessary part of the confidentiality of juvenile proceedings and that courts are empowered to issue such orders. Although an interest in simply maintaining the anonymity of juveniles is not sufficiently compelling to justify the imposition of fines on newspapers publishing the names of juveniles lawfully obtained; an interest in maintaining the confidentiality of facts disclosed in the course of the juvenile proceedings is sufficiently compelling to justify the prior restraint." (Internal citations and quotation marks omitted.) *See, In re Brianna B., 66 Conn. App. 695 (2001).*

In re Brianna B., 66 Conn. App. 695 (2001)

The former foster mother filed a writ of habeas corpus to obtain custody of her former foster child. The trial court granted a protective order requiring the former foster mother not to disclose confidential information about the former foster child on the internet. The foster mother violated the court order and the court held the foster mother in contempt. The Appellate Court affirmed. The former foster mother claimed that the nondisclosure order violated her constitutional First Amendment rights to free speech. Recognizing the "the presumption of confidentiality of juvenile records, the Appellate Court held that the trial court properly limited the foster mother's First Amendment rights to disclose confidential information obtained during the course of the habeas proceedings. The court's order was narrowly tailored because it did not restrict her from speaking freely about information of which she had prior knowledge and it allowed her permission to speak with the child advocate or her legislative representative.
http://www.jud.ct.gov/external/supapp/Cases/AROap/66ap622.pdf

RIGHT TO PRIVACY

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that parental information, including the father's name, in a birth certificate does not fall within one of the limited categories that the U.S. Supreme Court has determined implicates a fundamental right to privacy. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

RIGHT TO REMAIN SILENT

"The Fifth Amendment privilege against self-incrimination does not forbid the drawing of ad- verse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them. Aside from the privilege against compelled self-incrimination, silence in the face of accusation is, in proper circumstances, a relevant fact not barred from evidence….The Fifth Amendment privilege against self- incrimination not only protects the individual against being involuntarily called as a witness against himself in a criminal prosecution but also privileges him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings. The privilege against self-incrimination carries with it the added benefit that no adverse inference may be drawn against the accused in any criminal proceeding from the accused's invocation of the privilege." (Internal citations and quotation marks omitted.) *See, In re Samantha C., 268 Conn. 614 (2004).*

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. Because the trial court failed to advise and explain this, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases. The Court ruled that because a parent's statutory or rule-based right not to testify is not constitutionally based, the parents are not entitled to the Fifth Amendment right against adverse inferences. The Fifth Amendment is inapplicable because the parents have claimed a nonconstitutional privilege in a civil proceeding.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the termination trial should not have proceeded while criminal charges were pending against her involving the same incident because her Fifth Amendment right against self-incrimination prevented her from explaining her actions in connection with the termination hearing. The Appellate Court disagreed and held that the exercise of the privilege against self–incrimination can be waived. The privilege against self-incrimination is not a muzzle, but a privilege that one can choose to exercise. Since the mother chose to remain silent, she could not now complain that she did not have the opportunity to tell her side of the story.
http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Carl O., 10 Conn. App. 428, cert. denied, 204 Conn. 802 (1987)
The trial court adjudicated the infant uncared for as homeless and having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The mother claimed that the statute permitting a court to order a mental examination after a hearing violated her constitutional right against self-incrimination and due process by compelling her to submit to the evaluation that was admitted as evidence and used against her. The Appellate Court held that the mother's claim was without merit because she cited no authority demonstrating that the right against self-incrimination recognized in criminal proceedings is applicable to child protection proceedings. Furthermore, the statute did not violate the mother's due process rights because the statute clearly provides for a hearing before an evaluation is ordered, thereby providing the mother with the necessary procedural protections.

SEARCH AND SEIZURE

In re Nicholas R., 92 Conn. App. 316 (2005)
DCF responded to a referral that the parents shook the infant and DCF requested the infant be medically cleared as part of its investigation. The parents bought the child to the ER where a medical exam revealed that the child sustained a few weeks old fracture to his arm. The trial court granted DCF an order of temporary custody. The father appealed. The Appellate Court affirmed. The father claimed that he never consented to the medical exam and that the trial court improperly admitted the results of the medical examination. The Appellate Court held that the trial court did not abuse its discretion in sustaining the order of temporary custody because the medical examination was admissible as the exclusionary rule did not apply. The Appellate Court ruled that consent is judged by an objective standard and although the mother testified that she felt coerced, the testimony demonstrated that the parents consented to the examination. Even if the trial court had concluded that the parents had been forced to seek a medical examination, the exclusionary rule would not apply so as to make the evidence inadmissible because this was not a criminal trial in which the strict rules of evidence prevail. Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap92/92ap33.pdf

SEQUESTRATION

"We think each party to a litigation has the undoubted right to be present at the trial. An occasion may arise where, to prevent a similarity of statements by different witnesses, the court may exclude any witness, including a party to the litigation, from the court room, but this is a power to be sparingly exercised and only upon the clearest grounds so far as the party is concerned. Thus, while there is authority for the court to exclude a party-witness during the course of a trial, this is a power to be sparingly exercised and only upon clearest grounds so far as the party is concerned….The object of the trial is the ascertainment of the truth. The presence of a party to the litigation who is conversant with the facts which the witness is to relate, not infrequently produces upon him a moral effect and serves as a deterrent to an untruthful statement." (Internal citations and quotation marks omitted.) *See, In re Christopher A., 22 Conn. App. 656 (1990).*

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly refused to sequester witnesses who testified on behalf of DCF because their presence in the courtroom was unnecessary. The Appellate Court found that the trial court did not abuse its discretion and the mother failed to allege that the any witness benefited from the testimony of the other witnesses.

In re Christopher A., 22 Conn. App. 656 (1990), reversed
The trial court denied the termination of parental rights petition. DCF appealed. The Appellate Court reversed. DCF claimed that the trial court erred in not permitting the DCF social worker to be present during the trial. The Appellate Court held that the trial court abused its discretion in excluding the social worker from the courtroom because the social worker was DCF's designated representative and a party to the case. In light of the fact that the trial court allowed other party-witnesses to be present, the trial court erred in ruling that the party or DCF's representative had to be someone who was not a witness. The DCF social worker was essential to DCF's case as she had first-hand knowledge of the facts and her absence from the courtroom harmed DCF's presentation of its case.

SERIOUS PHYSICAL INJURY, TERMINATION OF PARENTAL RIGHTS, GROUND F

In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006)
The trial court terminated the mother's parental rights finding that, under "Ground F", she committed a deliberate act that resulted in serious bodily injury of another child and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly concluded that her child sustained a "serious bodily injury" under Conn. Gen. Stat. § 17a-112(j)(3)(F). The Appellate Court held that the trial court properly found that the injury was a "serious bodily injury" because the mother caused a serious injury to her child by pulling her out of bed by her hair that resulted in a severe fracture of the child's elbow. The seriousness was manifested by the mother's decision not to seek medical treatment for her child in order to avoid DCF intervention. The Appellate Court declined to define "serious bodily injury" or apply the criminal definition of "serious physical injury". Rather, the court applied the "commonly approved usage" rule and found that the term "serious" is defined in the dictionary as "such as to cause considerable distress, anxiety, or inconvenience."
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP474.pdf

In re Clark K., 70 Conn. App. 665, cert. denied, 261 Conn. 925 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the evidence was insufficient to prove neglect, acts of commission, or that she inflicted a serious physical injury to her child, the child's sibling (Ground F). The Appellate Court held that the trial court's findings were not clearly erroneous. The trial court properly found by clear and convincing evidence that based on the mother's statement to the police that she deliberately slammed C's brother's head against the floor, which resulted in fractures to the skull, the mother committed an assault through a deliberate, nonaccidental act resulting in serious bodily injury to C's brother.
http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

SERVICE OF PROCESS

"We recognize that [n]otice by publication, although sometimes necessary, is not the preferred method for assuring full participation in so significant an impairment of constitutionally protected parental rights." (internal citations and quotation marks omitted.) *See, In re Salvatore P., 74 Conn. App. 23 (2002), cert. denied, 262 Conn. 934 (2003).*

In re Salvatore P., 74 Conn. App. 23 (2002), cert. denied, 262 Conn. 934 (2003)
The trial court terminated the mother's parental rights in her absence after finding that she received notice by publication. More than four months later, the mother filed a motion to open the termination judgment. The trial court denied the motion to open. The Appellate Court affirmed. The mother claimed that: (1) the trial court, as the judge who also presided over the termination petition, should not have presided over the motion to open, (2) she was unable to attend the termination hearing due to duress, and (3) service by publication was insufficient. The Appellate Court held that the trial court did not abuse its discretion in denying the motion to open because: (1) the mother never filed a motion to disqualify the trial judge before or during the motion to open, (2) the motion was filed after the fourth month and the mother presented no evidence regarding her alleged duress, and (3) while service by notice of publication is not preferred, in this case it was warranted because the mother was aware of the termination proceedings and refused to attend or let DCF know her whereabouts and at the trial, the mother's legal interests were represented by counsel.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap62.pdf

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Appellate Court held that notice by publication in a previous neglect proceeding to an incarcerated father was inadequate. Although the father's failure to receive adequate notice of the neglect petition may have violated his due process rights in that proceeding, this did not prevent the court from terminating his parental rights on abandonment. The Court also rejected the father's claim that his due process rights were violated because he was not given proper notice of the TPR petitions. The father and his counsel were present at the trial and fully participated. The father thus waived any claim of lack of personal jurisdiction because he submitted to the court's jurisdiction. The trial court, however, properly denied the failure to rehabilitate ground because the father lacked an opportunity to participate in the neglect proceedings and did not know what he needed to do to rehabilitate. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

SEXUAL ABUSE

In re Michael D., 58 Conn. App. 119 (2000), reversed
The trial court granted the children's motion to strike the neglect petitions alleging not sexual abuse, but the potential for sexual abuse. In its articulation, the trial court stated "the case of neglect ... at best would have to be based on 'predictive neglect,' a theory not sanctioned by statute or caselaw." DCF appealed. The Appellate Court reversed. DCF claimed that the trial court improperly granted the motion to strike. The Appellate Court held that the trial court erred because the neglect petitions were legally sufficient to state claims of neglect upon which relief can be granted. The Court concluded that based on the public policy in Conn. Gen. Stat. § 17a-101, our statutes permit an adjudication of neglect based on a potential for harm to occur in the future, i.e. predictive neglect. The State can act before harm occurs to protect children. Thus, DCF need only allege that there was a potential for harm to occur. Here, the neglect petitions alleged that the father had sexually abused his stepson for ten years and that the mother knew about the abuse and did nothing to prevent it. At the time of the filing, the mother allowed the father to live with her and her two other children.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find that he sexually abused his child and that he committed acts to deny his child necessary care, guidance and control because his expert witness contradicted DCF's expert witness. The Appellate Court held that the trial court's judgment was supported by clear and convincing evidence based on the child's multiple statements about the sexual abuse and DCF's expert's testimony describing the child as articulate and clear about distinguishing between the abuse she suffered from her father versus her uncle. The father's expert criticized the number of times the child victim of sexual abuse was interviewed. The trial court properly noted that there was "no recognized and accepted protocol for questioning victims of sexual abuse is binding on the court in termination decisions." The Court further ruled that the trial court may consider circumstantial evidence as there is no difference between circumstantial and direct evidence so far as probative force is concerned.

In re Noel M., 23 Conn. App. 410 (1990)
The trial court adjudicated the child neglected and committed her to DCF. The Appellate Court affirmed. The mother claimed that: (1) the evidence was insufficient to find neglect based on her eight year old child's inconsistencies about the stepfather sexually abusing her, and (2) the trial court violated Connecticut's statutory public policy when it failed to reunite the family after the stepfather's criminal acquittal on the charges of sexual abuse. First, the Appellate Court held that the trial court's judgment finding that the child to be neglected was not clearly erroneous because the mother took the child and returned to live with the stepfather after the child told the mother that the stepfather sexually abused her. The mother had actual knowledge of the child's claims and chose not to believe her child, claiming inconsistencies in the child's story. The evidence further demonstrated that the child's statements were generally consistent, and various witnesses, including the child, testified regarding the sexual abuse. Secondly, the Court held that "evidence

of a judgment of acquittal in prior criminal case may not be used as proof in subsequent civil case that the act comprising crime was not committed" and accordingly ruled that the doctrine of collateral estoppel was inapplicable.

In re Christine F., 6 Conn. App. 360 (1986) cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents made multiple claims pertaining to the sufficiency of the evidence. They first claimed that because the experts' testimony did not exclude, to a reasonable degree of medical probability, the hypothesis that the child's injuries were accidental, the evidence was legally insufficient to establish the cause of the sexual abuse. They further argued because the cause was unclear, namely whether the father or the boyfriend, sexually abused her that the judgment was speculative. The Appellate Court held that despite the failure of the physician and the psychologist to formulate opinions as to the cause of the child's sexual abuse, the expert testimony clearly established that sexual abuse had occurred. Based on the totality of the evidence, including the child's statements to her neighbor and foster mother that the father had inappropriately touched her, sufficient evidence supported the trial court's findings. Moreover, the child had pornographic pictures and stated to the neighbor and social worker that her father gave them to her.

SOCIAL STUDY

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. They claimed that the social study was not timely filed. The Court held that there was no error because the social study was filed before the trial court rendered a decision on the neglect disposition and there were further court proceedings after the social study was filed. The Court explained that the "purpose of the social study is to put parents on notice of allegations that need to be explained or denied. The respondents must have an opportunity 'to refute or rebut the contentions with which they disagree.' The parents had such an opportunity."

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother claimed that the statute impermissibly delegates unfettered discretion to state officials and social workers because social workers draft the termination petitions and accompanying social studies. While the social worker filed the termination petition and the social study, the Court rejected this claim because the statute and hearing provide sufficient safeguards to prevent arbitrary and capricious actions as the social worker is subject to cross-examination and the judge is the final arbitrator. Thus, the filing of termination petition and social study is not an impermissible grant of discretion that violates the mother's due process rights.

In re Ellis V., 120 Conn. App. 523 (2010)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly admitted the DCF social studies as a business record. The Appellate Court held that DCF met the requirements for the business record exception to hearsay and further that the parents failed to show that the admission of the social study was harmful and likely affected the result.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother did not object at trial to the social study as an exhibit. However, the mother claimed on appeal that the trial court improperly admitted the DCF social study as an exhibit because it contained information of her past history of termination proceedings regarding her older children and the trial court sustained her objection to the social worker testifying to this information. The Appellate Court held that the trial court did not abuse its discretion in admitting the social study as it was relevant and not prejudicial to both the adjudicatory and dispositional phases of a termination of parental rights hearing. In termination of parental rights cases, the court is required to obtain an "historical perspective of the respondent's child caring and parenting abilities."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Halle T., 96 Conn. App. 815, cert. denied 280 Conn. 924 (2006)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court violated his due process rights by "cutting and pasting" the DCF social study into its memorandum of decision, such that more than 50% of its memorandum of decision was verbatim sections of the social study. While the Appellate Court made clear that it did not approve nor endorse the trial court's improper 'parroting' of significant portions of the social study as an exhibit into its written decision, the record demonstrated that DCF presented clear and convincing evidence that the father failed to rehabilitate and the trial court's actions did not dilute DCF's burden of proof. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96ap398.pdf

In re Latifa K., 67 Conn. App. 742 (2002)
The trial court terminated the father's parental rights by finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly denied his request to strike a sentence in the DCF social study as inadmissible hearsay. The Appellate Court held that the trial court did not abuse its discretion in not striking the sentence because the alleged error was harmless. Without deciding if the information was inadmissible hearsay, the Court concluded that other properly admitted evidence contained similar information and as such the alleged error would not have affected the ultimate result of the trial. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap152.pdf

In re Galen F., 54 Conn. App. 590 (1999)
The trial court terminated the father's parental rights finding that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly admitted the social studies containing inadmissible hearsay regarding his extensive criminal history in the adjudicatory phase of the termination proceedings. The Appellate Court held that the trial court did not abuse its discretion in admitting the social studies because the hearing was not bifurcated and that Practice Book § 33-5 permits the trial court to consider events contained in the social studies in the adjudicatory phase. Moreover, the social studies were cumulative to other properly admitted evidence and as such if the admission of the social studies was improper, the alleged error was harmless error. In this case, the trial court could have reasonably concluded from other evidence that the father failed to take advantage of his opportunities to visit with his child.

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted into evidence the DCF social study that contained information about the mother's other children with whom DCF was involved because the information was not relevant and prejudicial. The Appellate Court held that the trial court did not abuse its discretion in determining that the evidence was relevant and that the probative value of the social study and the information contained therein outweighed any prejudicial effect.

In re Anna B., 50 Conn. App. 298 (1998)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission, failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted the DCF social study over her hearsay objection. Without deciding whether statements in the report were hearsay, the

Appellate Court held that the challenged evidence contained in the social study was cumulative of the psychologist's testimony and the mother failed to prove that the result would have been different had the studies not been admitted. Therefore, any alleged error was harmless.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly relied on the DCF social study in the adjudicatory phase, thereby relying on dispositional information during the adjudicatory phase. The Appellate Court held that although the Practice Book "prohibits the trial court from considering *events* subsequent to the filing of the termination petition during the adjudicatory phase, the court is not prohibited from considering *material* prepared after the filing of the petitions, providing the facts and events discussed in that material predate the filing of the petition." Here, the trial court properly cited to the social study in its adjudicatory findings because the information contained therein was based on events prior to the filing of the termination petitions.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed, claiming, in part, that the court erred in admitting the social study containing hearsay in violation of her due process rights. The Appellate Court affirmed. The Court held that the mother could not challenge the admission of the social study because she did not object to it at trial and further introduced most of the information contained therein during trial. Upholding the judgment, the Court ruled that "[i]n juvenile proceedings certain procedural informalities are constitutionally permissible, allowing, for example, the liberal interpretation of the formal rules of evidence as long as due process standards are observed."

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not err when it admitted as evidence a DCF prepared social study over the mother's inadmissible hearsay objection. The DCF study had a letter attached to it from an out-of-state agency describing the children's circumstances before coming to Connecticut. The Appellate Court held that the trial court did not abuse its discretion in admitting the report with the letter attached because the statute deemed the report admissible provided that the preparer was subject to cross examination and the social worker testified.

SOCIAL WORKER

In re Darlene C., 247 Conn. 1 (1998)
The trial court, sua sponte, enjoined the Commissioner of DCF and her nonlawyer designees from drafting, signing and filing termination of parental rights petitions on the basis that it constitutes an unauthorized practice of law. On transfer, the Supreme Court reversed the judgment. The Supreme Court held that the trial court improperly enjoined the Commissioner and her designees because both the statutes and practice book rules authorized the social workers to file petitions in court and, therefore, such activities did not constitute the unauthorized practice of law. **Concurring:** Borden, J., Berdon, J.

Manifold v. Ragaglia, 102 Conn. App. 315 (2007)
In this wrongful removal case, the trial court granted DCF's motion for summary judgment finding that DCF and the social workers were statutorily immune from suit by the parents and their children claiming infliction of emotional distress after DCF removed the children from the home for 5 days via a 96 hour hold and OTC on the basis of extensive bruising that eventually was shown to be the result of a rare blood disease. The Appellate Court affirmed. The Appellate Court upheld the finding that DCF and its social workers were statutorily immune because the parents failed to show that they acted wantonly, recklessly and maliciously even though DCF removed the children without any direct evidence of abuse and precluded any testing regarding blood disorders.
http://jud.ct.gov/external/supapp/Cases/AROap/AP102/102ap351.pdf

In re Christopher A., 22 Conn. App. 656 (1990), reversed
The trial court denied the termination of parental rights petition. DCF appealed. The Appellate Court reversed. DCF claimed that the trial court erred in not permitting the DCF social worker to be present during the trial. The Appellate Court held that the trial court abused its discretion in excluding the social worker from the courtroom because the social worker was DCF's designated representative and a party to the case. In light of the fact that the trial court allowed other party-witnesses to be present, the trial court erred in ruling that the party or DCF's representative had to be someone who was not a witness. The DCF social worker was essential to DCF's case as she had first-hand knowledge of the facts and her absence from the courtroom harmed DCF's presentation of its case.

SPECIFIC STEPS

In re Leah S., 284 Conn. 685 (2007), reversed
The Appellate Court affirmed the trial court's judgment holding the Commissioner of DCF in contempt for failing to comply with the specific steps and ordering DCF to pay $500 to the mother to assist her with attorney's fees. The Supreme Court reversed. The Commissioner claimed that the specific steps were ambiguous in that they provided the Commissioner with broad discretion regarding the services offered to the child and her family. The Supreme Court held that the specific steps were not sufficiently clear and unambiguous to support a finding of civil contempt. The Court first set forth the standard of review for contempt decisions. First, the Court must determine whether the underlying court order was sufficiently clear to support a contempt finding. Secondly, the reviewing court must determine whether the trial court abused its discretion in issuing, or refusing to issue, a contempt judgment. While the mother claimed that DCF failed to comply with the court order in the specific steps that required that DCF "take all necessary measures to ensure the child's safety and well-being" because it failed to seek a residential placement for Leah, and to provide Leah with psychiatric care for her serious mental illness and her persistent headaches, the Court ruled that the order was ambiguous and DCF had discretion regarding which services to provide. DCF provided the child with counseling, medical screening and a referral to a day treatment facility. Further, the trial court's supplemental order that DCF must coordinate visitation with the child's twin sister was also ambiguous because it provided no timeframes or benchmarks. The Court also held that DCF did not have an obligation to seek a clarification of the ambiguous orders as is required in cases where parties resort to self-help when disobeying a court order. In doing so, the Court reiterated that trial courts have the authority to order specific steps, as well as to augment them with supplemental orders, to facilitate family reunification. Reunification efforts "help to preserve the integrity of the family and are based on the well settled notion that [t]he right of a parent to raise his or her children [is] recognized as a basic constitutional right." The Court further noted that although it was compelled to reverse the contempt finding, that it did not condone DCF's treatment of this psychiatrically disabled child. "Nothing herein should be construed as an endorsement of the department's treatment of Leah, a troubled child removed from the custody of the respondents *precisely because* they were not addressing her severe mental health problems adequately….[We] note nevertheless that the filing of the contempt motion served as an effective catalyst for the department, which shortly thereafter placed Leah in residential treatment, began to facilitate Leah's reunification with her twin sister, and provided enhanced support services to the respondents. Such a catalyst should not have been necessary." http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR284/284CR14.pdf

In re Jeffrey C., 261 Conn. 189 (2002), reversed
The Appellate Court reversed the trial court's judgment holding the father in contempt for failing to comply with the specific steps and ordering the father to pay attorney's fees to the State. The Supreme Court reversed the Appellate Court and upheld the trial court's finding of contempt. DCF claimed that the Appellate Court improperly held that the specific steps were not court orders subject to contempt. The Supreme Court held that the supplemental orders to the specific steps that the trial court issued to the father during the period of protective supervision were like any other court orders and were subject to contempt. Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap451.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/261cr95.pdf

In re Marcus S., 120 Conn. App. 745, cert. denied, 297 Conn. 914 (2010)
The trial court denied the father's motion for contempt against DCF and motion for revocation and granted DCF's motion to transfer guardianship as well as approved DCF's permanency plan. The Appellate Court affirmed. The father claimed that the trial court abused its discretion in denying the motion for contempt against DCF for failing to refer him to *any* services and to develop a permanency plan as required by the court ordered specific steps. Distinguishing *In re Leah S.*, the Appellate Court held that the orders were clear and unambiguous. The Court held, however, that the trial court properly denied the motion for contempt because the record demonstrated that DCF did refer the father to some services, but the father was too busy to participate in them. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP271.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents claimed that the trial court erred in ordering specific steps for reunification and the specific steps violated their constitutional rights. The Appellate Court held that the trial court did not err because when DCF takes custody of a minor child, the trial court has the authority to issue specific steps to facilitate reunification with the parents. The record revealed that the court had extensive dialogue with the parents regarding the specific steps and they were in the best interests of the children. The parents never asked for an evidentiary hearing regarding the validity of the specific steps and the court properly clarified that the steps were to facilitate reunification and the parents needed to comply with the steps to increase their chances of success on a motion to revoke commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's failure to order specific steps for a mother was not plain error. Although the trial court failed to order the specific steps as required by statute, the mother suffered no manifest injustice because her parental rights were terminated on the ground of abandonment, not on the ground of failure to rehabilitate. The mother failed to show how the court's judgment was so harmful that not reversing the judgment would cause a manifest injustice. Moreover, the evidence demonstrated that the mother would not have benefitted from reunification services based on her hostility towards DCF and her failure to seek guardianship of the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Emerald C., 108 Conn. App. 839, cert. denied, 289 Conn. 923 (2008)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts and that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court erred in finding that he failed to rehabilitate by considering his noncompliance with additional requirements imposed by DCF. The Court held that the trial court (1) explicitly found that the father did not comply with the court-ordered specific steps, and (2) may consider factors that led to the child's removal regardless of whether those factors were part of the specific steps or required by DCF. Here, the evidence demonstrated that despite the requirement that he or the child not have contact with the mother, the father nonetheless exposed the child to the mother and also engaged in domestic violence in front of the child. As a result, he was arrested. He also failed to comply with substance abuse testing, parenting classes and failed to visit the child as often as permitted.

Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP108/108AP394.pdf

In re Kristy A., 83 Conn. App. 298, cert. denied 271 Conn. 921 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly found she failed to rehabilitate because the mother complied with the specific steps. The mother argued that based on the DCF social worker's testimony that she complied with the specific steps, DCF is precluded from arguing otherwise because the testimony constituted an admission. The Appellate Court ruled that the mother failed to prove that the DCF social worker's testimony was a judicial admission. The mother claimed that the DCF social worker's testimony that the mother had complied with the specific steps was a judicial admission precluding DCF from arguing on appeal that the mother failed to comply with the specific steps. The Appellate Court, citing the differences between judicial admissions and an evidentiary admission, ruled that the DCF social worker's testimony could not be construed as an admission because the record was unclear as to whether the social worker was a "party" and the mother never sought an articulation on the issue. The Court also rejected the mother's argument that alleged compliance with specific steps requires denying the termination of parental rights. The Court concluded that specific steps were designed to *facilitate* reunification and "[i]f a parent is unwilling or unable to adopt the necessary behaviors, no matter how many classes the parent attends, the parent has not achieved sufficient rehabilitation."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap343.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court improperly granted the coterminous petition because the court did not provide them with specific steps at the filing of the petition. The Court held that the parents had adequate notice of what they needed to rehabilitate from because over the last decade, the court had ordered specific steps whenever the children were removed from their care. The parents were aware that they needed, in part, to rehabilitate from substance abuse. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Sarah Ann K., 57 Conn. App. 441 (2000)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly (1) interpreted and applied the termination statute and (2) found that he failed to rehabilitate. Specifically, the father asserted that, in violation of the statute as amended, DCF never provided him with specific steps to follow to facilitate the return of the child. The Appellate Court held that since DCF filed the termination petition prior to the date that the statutory amendment became effective, the former statute applied. The Court also concluded that the evidence demonstrated that DCF did provide the father with specific steps, contrary to his assertion.

In re Michael M., 29 Conn. App. 112 (1992)
The trial court terminated the incarcerated mother's parental rights on the ground of abandonment, failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that DCF failed to establish by clear and convincing evidence that she failed to rehabilitate and that the trial court's finding was improper because she was never notified of the specific steps and had no idea

what was expected of her in terms of rehabilitation. The Appellate Court held the failure to issue specific steps does not bar a termination judgment. In this case, the trial court did not rely on the mother's failure to complete the specific steps, but relied on the mother's failure to correct the conditions that led to the children's initial commitment. Moreover, the evidence amply supported the trial court's judgment based on the psychologist's testimony that the mother's prognosis was poor due to her failure to acknowledge that her substance abuse contributed to the children's commitment.

In re Shavoughn K., 13 Conn. App. 91 (1987), cert. denied, 207 Conn. 805 (1988)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the evidence was insufficient for the trial court to find that she failed to rehabilitate. The Appellate Court held that ample evidence supported the trial court's finding because the mother never attended counseling for her personality disorder, was involved with the criminal justice system and failed to obtain adequate housing and visit the children consistently. To the extent that this decision holds that the adjudicatory finding of failure to rehabilitate requires the trial court to consider the statutory dispositional factors, it was overruled by *In re Barbara J., 215 Conn. 31 (1990).* Although there were no court orders/specific steps in place, the trial court repeatedly "spelled out the expectations" the mother was expected to complete to be reunified with her children.

STANDARD OF PROOF

"The fair preponderance of the evidence standard of proof is the proper standard in neglect proceedings because any deprivation of rights is reviewable and nonpermanent and therefore "the private interests involved are relatively balanced between the safety of the child and the combined family integrity interests of parent and child." *See, In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984).*

"In *Santosky* v. *Kramer,* supra, the United States Supreme Court held that due process requires the state to prove the allegations in a petition to terminate parental rights by clear and convincing evidence before those rights could be terminated." *See, In re Juvenile Appeal (83-AB), 189 Conn. 58 (1983).*

"A trial court may state explicitly, or implicitly, in its decision which standard of proof it applies to a given claim." *See, In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009).*

In re Joseph W., 305 Conn. 633 (2012)
The trial court adjudicated the children neglected under the doctrine of predictive neglect and committed them to DCF. The Supreme Court, on transfer, reversed and remanded the case for a new trial. The father claimed that the trial court applied an improper standard of proof and it was inconsistent with the standard of proof for neglect as set forth in Conn. Gen. Stat. § 46b-120(8). The Supreme Court held that the trial court improperly applied a "potential risk of neglect" standard pursuant to the Appellate Court's holding in *In re Kamari C.L.*, 122 Conn. App. 825 (2011). Rejecting the father's claim that the standard of proof in predictive neglect actions should be "virtual certainty that harm to the child will occur," the Supreme Court, applying the principles of due process as set forth in *In re Juvenile Appeal (84-AB)*, concluded that the trial court must find that it is "more likely than not," that if a child remains in the current situation, the child would be denied proper care and attention or would be permitted to live under conditions injurious to the child's well-being according to Conn. Gen. Stat. § 46b-120(8). The Court further held that the finding must be made with respect to each parent contesting the neglect petition and who has expressed a willingness to care for the child independently of the other parent.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR305/305CR76.pdf

In re Theresa S., 196 Conn. 18 (1985)
The trial court terminated the mother's parental rights on the ground of acts of commission or omission and found a termination of her parental rights was in the best interest of the children. The Supreme Court affirmed. The mother claimed that the trial court erred by applying an incorrect legal standard in determining the commission or omission ground and that there was insufficient evidence. The Supreme Court held that the trial court applied the correct legal standard of "clear and convincing" evidence and the trial court's use of the phrase "strong evidence" was merely an expression directed at one of many factors considered by the court. The Supreme Court also held that the evidence presented regarding the mother's psychotic episodes and her attempt to take her own life and her two year old children's lives by cutting their wrists overwhelmingly supported the trial court's decision to terminate the mother's parental rights.

In re Juvenile Appeal (84-AB), 192 Conn. 254 (1984)
In this coterminous action, the trial court adjudicated the child neglected and terminated the parents' rights finding that they committed an act of commission or omission. The infant child suffered ten unexplained bone fractures, among other injuries. The Supreme Court affirmed. The parents made numerous claims. (1) The parents claimed that the trial court applied the wrong standard of proof. They claimed specifically that because the proceedings were not bifurcated, the trial court erred by applying a fair preponderance of the evidence standard to the neglect as well as the termination proceedings. After providing a detailed explanation of the elements of coterminous proceedings, the Court held that the trial court properly adjudicated the child neglected by more evidence than a fair preponderance of the evidence and found that, based on the child's serious physical injuries, the parents committed an act of commission or omission by clear and convincing evidence. (2) They also claimed that because *Santosky v. Kramer's* holding that clear and convincing evidence was required in termination proceedings was handed down during their termination action, there was reversible error because the new standard of proof was not set forth at the onset of the proceedings. The Supreme Court held that the trial court properly applied the clear and convincing standard in light of the *Santosky* holding and the parents failed to show any harm, i.e., that they would have presented their case any differently had the *Santosky* decision was rendered prior to the inception of their case.

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983)
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard. The statute was constitutional because when read together with another temporary custody statute containing the requirement that "serious physical illness or serious physical injury" or "immediate physical danger", the State must prove that the child is "at risk of harm" to justify removal. The statute is justified by a compelling state interest to protect children and is narrowly drawn to express that legitimate state interest. The Supreme Court further held that due process requires the burden of proof to be on the State and the standard of proof to be a 'fair preponderance of the evidence,' and that the trial court erred by applying the 'probable cause' standard. Moreover, the trial court erroneously granted the order of temporary custody when no immediate risk of danger to the children was shown. The trial court's conclusion that the children were "presumptively neglected" impermissibly shifted to the defendant the burden of proof to show that the children were not neglected, and was, therefore, error. **Concurring:** Peters, Parskey, Grillo, Shea, JJ.

In re Juvenile Appeal (83-AB), 189 Conn. 58 (1983), reversed
The trial court terminated the parental rights of parents in six cases. The appeals were consolidated. The Supreme Court reversed. The parents claimed that the trial court erroneously failed to set forth a standard of proof in its decisions. The Supreme Court held that in the absence of an articulated standard of proof, the Court assumes that a fair preponderance of the evidence standard was used. Based on the United States Supreme Court holding in *Santosky v. Kramer* that due process requires termination of parental rights cases to be proven by clear and convincing evidence, the Supreme Court reversed the judgments of the trial court and ordered new trials.

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly shifted the burden of proof to the mother to prove she rehabilitated. The Appellate Court held that although the trial court stated in its decision that the mother had not made "significant progress to persuade the court by clear and convincing evidence that she met the objectives" and that the mother had not "established to the court's satisfaction that she is prepared . . . to assume the primary role of caring for her children", the decision as a whole indicated that the court required DCF to prove its case by clear and convincing evidence and that the court found that DCF in fact met its burden. The Court further held that the trial court's articulation did not change the basis of its memorandum of decision nor substitute its original decision. **Dissent:** Robinson, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Zamora S., 123 Conn. App. 103 (2010), reversed
The trial court adjudicated one child neglected as to the father, but not as to the mother and the trial court denied the termination of parental rights petitions as to the mother regarding all the children on the grounds that DCF did not prove that the mother failed to rehabilitate. The Appellate Court reversed. DCF claimed, in part, that the trial court erred in denying the termination petitions because it required that DCF prove a subordinate fact by clear and convincing evidence. The Appellate Court agreed and held that the trial court erroneously required DCF to prove by clear and convincing evidence that the mother continued to live with the abusive father in order to prove the mother failed to rehabilitate. The Court concluded that only the elements of the termination of parental rights claim must be proven by clear and convincing evidence, not a subordinate fact underlying the failure to rehabilitate claim.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP471.pdf

In re G.S., 117 Conn. App. 710, cert. denied, 294 Conn. 919 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court erroneously found DCF made reasonable efforts and that the trial court applied an incorrect standard of proof. The Appellate Court held that the trial court correctly applied the 'clear and convincing' evidence standard of proof because it was the only standard stated in the memorandum of decision and it was referred to repeatedly. If the mother claimed that the standard of proof was ambiguous, then she was required to filed a motion for articulation. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP4.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly used the best interest standard to assess rehabilitation. The Appellate Court held that the trial court's judgment was proper because the trial court did not apply an improper balancing test in assessing rehabilitation, but rather properly considered the mother's progress in light of the child's age and needs. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Zion R., 116 Conn. App. 723 (2009)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed that the trial court improperly considered the child's best interests during the adjudicatory phase. The mother contended that there was no evidence that the mother was incapable of caring for the child and that the court, in finding that she had not rehabilitated, improperly considered the child's interest in permanency and stability with the foster parents. The Appellate Court held that the trial court did not err by considering the child's best interest during the adjudicatory phase, but rather properly considered *"the age and needs of the child,"* as required by statute. The trial court properly considered the fact that the child resided with the same foster parents since birth and further delay was unacceptable. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP444.pdf

In re Nasia B., 98 Conn. App. 319 (2006), reversed
The trial court granted the parents' oral motion to dismiss DCF's termination of parental rights petition and sua sponte revoked the child's commitment without any pending written motion and ordered the child returned to the mother's custody under an order of protective supervision. No parties filed a written motion to revoke commitment. The Appellate Court reversed. DCF claimed that the trial court improperly granted the parents' oral motion to dismiss the petition when it failed to view the evidence in the light most favorable to the nonmoving party. The Appellate Court held that the trial court applied the incorrect legal standard when it granted the motion to dismiss for failure to make out a prima facie case by weighing the evidence and the credibility of DCF's case in chief. The Appellate Court further concluded that DCF did present a prima facie case that grounds for the termination of parental rights existed.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP98/98AP12.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The father claimed that because he was impoverished, due process required that DCF must prove grounds for a termination must exist "beyond a reasonable doubt". Rejecting legal precedent from another state, the Appellate Court held that based on our Connecticut caselaw, termination proceedings are not criminal or quasi-criminal matters and the due process did not require that the statute be declared unconstitutional or that the termination grounds be proven "beyond a reasonable doubt." Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Alexander C., 67 Conn. App. 417 (2001) aff'd, 262 Conn. 308 (2003), per curiam
The trial court terminated the father's parental rights finding that there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court, per curiam, affirmed the Appellate Court. The father claimed that the trial court applied an incorrect legal standard when it found there was no ongoing parent child relationship because the child had been in DCF's custody since birth, as in *In re Valerie G.* The Appellate Court held that the trial court did not err because this case is distinguishable from *In re Valerie G.* Although the child was in foster case since birth, the father's actions and inactions caused the lack of relationship. The father was incarcerated for sexually abusing the child's sibling and a protective order was in place. The father never inquired about the child, contacted the social workers, sought to modify the protective order, participated in any parenting classes or counseling while incarcerated and had no positive memories of the child or desire to develop a relationship.

Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr19.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap105.pdf

In re Jonathon G., 63 Conn. App. 516 (2001)
The trial court terminated the father's parental rights by finding that there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed, in part, that the trial court's findings regarding the seven dispositional findings were not supported by the evidence. The Appellate Court held that proof by clear and convincing evidence of the seven factors prior to the finding by the court that it is in the best interest of the child to terminate the father's parental rights is not required. The Court declined to analyze each of the court's findings because the record adequately supported the trial court's findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap401.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court improperly applied the wrong standard of proof, a fair preponderance of the evidence, rather than clear and convincing evidence. The Appellate Court rejected the mother's assertion that the burden of proof should be higher and held that it is well settled that the burden of proof in neglect trials is a fair preponderance of the evidence.

In re Quanitra M., 60 Conn. App. 96, cert. denied, 255 Conn. 903 (2000)
The trial court terminated the mother's parental rights finding a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF was required to prove the seven statutory best interest factors in Conn. Gen. Stat. § 17a-112(e) by clear and convincing evidence prior to determining whether a termination of parental rights is in the best interest of the children. The Appellate Court, applying rules of statutory construction, held that the factors serve as guidelines to the trial court and are not statutory prerequisites that need to be proven before the court can order a termination.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap521.pdf

In re Hector L., 53 Conn. App. 359 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify and the father failed to rehabilitate. The Appellate Court affirmed. The father claimed, in part, that the trial court violated his constitutional rights by improperly using a "clear and convincing" instead of a "beyond a reasonable doubt" standard of proof. The Appellate Court declined to review this claim because the father neither raised the issue at trial nor raised it on appeal pursuant to the plain error doctrine. However, the Court noted that it already settled this issue based on *Santosky v. Kramer*, 455 U.S. 745 (1982) and *In re Marvin M.*, 48 Conn. App. 563 (1998).

In re Marvin M., 48 Conn. App. 563, cert. denied, 245 Conn. 916 (1998)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court improperly applied the "clear and convincing" standard instead of the "beyond a reasonable doubt" standard. The Appellate Court rejected the parents' claim based on the United States Supreme Court ruling in *Santosky v. Kramer* that the "clear and convincing" evidence standard "adequately conveys to the fact-finder the level of subjective certainty about his factual conclusions necessary to satisfy

due process" and that Connecticut's legislature clearly set forth the burden of proof in termination of parental rights proceedings as "clear and convincing" evidence.

In re Azareon Y. et al., 139 Conn. App. 457 (2012)
Mother appealed termination of parental rights, arguing that the court failed to find by clear and convincing evidence that there was a permanency plan less restrictive than termination, and that the court should have conducted a hearing to determine her competence, sua sponte, on the basis of evidence adduced by DCF that she suffered from significant ongoing mental health problems. Neither claim was raised at trial, so both were evaluated - and rejected - under the State v. Golding standard. Mother's first claim failed because the record was insufficient to indicate whether mother proposed an alternative permanency plan or whether any other plan was considered, and under Golding, the court declined to speculate whether the trial court had considered other options or not. Mother's second claim was rejected because the record contained no indication or assertion that she could not understand the proceedings.

In re Joseph W., Jr., et al., 305 Conn. 633 (2012)
Supreme Court remands for new neglect proceedings and clarifies the standard of proof for predictive neglect adjudications: Contrary to the Appellate Court's ruling in In re Kamari C.-L., 122 Conn. App. 815 (2010), a predictive neglect finding requires the petitioner to prove, by a preponderance of the evidence, that a child is more likely than not to be denied proper care and attention or allowed to live under conditions injurious. "The petitioner is required to meet this standard with respect to *each parent* who has contested the neglect petition and who has expressed a desire, or at least a willingness, to care for the child independently of the other parent. . . . If the parents have indicated that they intend to care for the child jointly, however, or if the trial court discredits a parent's claim that he or she intends to care for the child independently, the trial court may treat the parents as a single unit in determining whether the petitioner has met its burden of proving predictive neglect." The Court also held that the Americans with Disabilities Act did not provide an affirmative defense nor require special protections in neglect proceedings.

STANDING

"The issue of standing implicates this court's subject matter jurisdiction," ([i]t is a basic principle of law that a plaintiff must have standing for the court to have jurisdiction). [T]he standing doctrine requires a plaintiff to demonstrate two facts. First, the complaining party must be a proper party to request adjudication of the issues.... Second, the person or persons who prosecute the claim on behalf of the complaining party must have authority to represent the party. Moreover, [w]hen standing is put in issue, the question is whether the person whose standing is challenged is a proper party to request an adjudication of the issue and not whether the controversy is otherwise justiciable, or whether, on the merits, the [party] has a legally protected interest [which may be remedied]. (Internal citations and quotation marks omitted.) *See, In re Jonathan M., 255 Conn. 208 (2001).*

"In order for a party to have standing to invoke the jurisdiction of the court, that party must be aggrieved. Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless [one] has, in an individual or representative capacity, some real interest in the cause of action.... Standing is established by showing that the party claiming it is authorized by statute to bring suit or is classically aggrieved." (Internal citations and quotation marks omitted.) *See, In re Shawn S., 262 Conn. 155 (2002).*

"Standing is not a technical rule intended to keep aggrieved parties out of court; nor is it a test of substantive rights. Rather it is a practical concept designed to ensure that courts and parties are not vexed by suits brought to vindicate nonjusticiable interests and that judicial decisions which may affect the rights of others are forged in hot controversy, with each view fairly and vigorously represented.... Two broad yet distinct categories of aggrievement exist, classical and statutory.... Classical

In re Shanaira C., 297 Conn. 737 (2010), reversed
The trial court adjudicated the child neglected and transferred sole custody to the mother. The father's girlfriend intervened. In doing so, the trial court denied the intervening girlfriend's motion to transfer guardianship and visitation and the trial court granted DCF's motion for revocation. The Appellate Court affirmed. The Supreme Court reversed. DCF and the mother claimed that the girlfriend no longer had standing to participate in the revocation proceeding because her motion to transfer guardianship and visitation were denied. The Supreme Court held that granting the girlfriend intervening status was in the best interest of the child and her standing continued throughout the dispositional proceedings including the revocation of commitment proceedings because a revocation was part of the dispositional phase of a neglect petition. As such, she also had standing to appeal the trial court's judgment.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The Supreme Court held, for the first time, that children have standing to appeal a trial court's judgment terminating their parent's parental rights. The Supreme Court concluded that the rights of the children here are inextricably intertwined with those of the their parent and "both the [parents] and the children have a mutual interest in the perseveration of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship." **Concurring:** Schaller, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. The parents claimed on appeal to the Supreme Court that the children have a constitutional right to effective assistance of counsel and the trial court erred by not sua sponte appointing a

separate GAL for the children. DCF claimed that the parents did not have standing to assert their children's constitutional rights. The Supreme Court held that the parents have standing to challenge the adequacy of their children's legal representation because the parents' rights are inextricably intertwined with those of their children and inadequate representation of their children could harm the parents and their own rights in a termination proceeding. The Court declined to decide whether the children had a constitutional right to conflict free representation. The Court held that the trial court did not err in failing sua sponte to appoint a separate guardian ad litem to advocate for the children's wishes because there was insufficient evidence to support that the trial court knew or reasonably should have known that a conflict existed between what the children wanted and what their attorney advocated.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Allison G., 276 Conn. 146 (2005), reversed
The trial court adjudicated the child uncared for, but sua sponte dismissed the neglect allegation, and committed the child to DCF. DCF appealed. The Appellate Court dismissed the appeal finding that the issue was moot. The Supreme Court reversed the Appellate Court. The Supreme Court held that DCF was aggrieved by the trial court's decision to dismiss the neglect count and that the matter was not moot. DCF claimed that although it achieved its favored disposition, commitment, it was nonetheless aggrieved because there were prejudicial collateral consequences that could result from a failure to obtain a neglect adjudication and the case was not moot because the practical relief to be afforded was the neglect adjudication itself. The parents claimed that DCF was not aggrieved because it achieved the relief/disposition it requested and that the matter was moot. The Supreme Court held that DCF was aggrieved, in part, because a neglect adjudication had future ramifications in further hearings, including permanency plan hearings and termination of parental rights matters. This decision highlighted the overlap between aggrievement and mootness and further expounded in detail upon the legal construct of a neglect petition, including the legal significance of adjudications and dispositions as it relates to the child protection statutory scheme. The Supreme Court also determined the case was not moot because there were no subsequent proceedings that rendered the case moot and because practical relief was available by way of obtaining a full evidentiary hearing and a possible neglect adjudication.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

In re Shawn S., 262 Conn. 155 (2002)
The trial court accepted the parents' nolo pleas, adjudicated the children uncared for and accepted their express agreement to a commitment. The parents appealed. The parents claimed that the commitment order violated their statutory right to voluntary services pursuant to Conn. Gen. Stat. § 17a-129 and also violated their constitutional rights. The Appellate Court dismissed the appeals holding that the parents failed to exhaust their administrative remedies. The Supreme Court affirmed. The Supreme Court held that the Appellate Court incorrectly applied the exhaustion doctrine, but that the Court lacked subject matter to hear the appeal nonetheless because the parents did not have standing to appeal because they were not per se aggrieved by the order of commitment. While the parents clearly have a personal and legal interest in the matter, the parents did not prove that their legal interest was injured by the trial court's decision. The parents had waived their right to contest the commitment because they agreed to the commitment. "The fact that the respondents expressed their unhappiness at having their children committed does not change the fact that the commitment was a disposition to which the respondents agreed."
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

In re Jonathan M., 255 Conn. 208 (2001)
The trial court terminated the father's parental rights. The father filed a separate habeas corpus petition challenging the termination judgment claiming he was denied effective assistance of counsel. The trial court dismissed the father's habeas petition. On transfer, the Supreme Court affirmed. The father claimed that: (1) the trial court improperly concluded that he lacked standing to bring a writ of habeas corpus, and (2) due process required that he be permitted to file a habeas petition to attack collaterally the termination judgment. First, the Supreme Court held that the father had standing to file a habeas petition because the father has authority to prosecute his own ineffective assistance claim. Although after the termination of his parental rights, he was no longer the child's "legal" father, the father is the proper party to request an adjudication of the issues presented in the habeas petition because it is the termination of parental rights judgment itself that he is challenging in the habeas petition. Secondly, the Supreme Court held that due process does not require that the father be entitled to bring a writ of habeas corpus as a means of attacking the termination of parental rights judgment based on a claim of ineffective assistance of counsel. In doing so, the Court reasoned that allowing a writ of habeas corpus would subject adoption decrees to further attack without any time limits. **Dissent:** McDonald, C.J.
Majority: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6.pdf
Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROcr/cr6e.pdf

Orsi v. Senatore, 230 Conn. 459 (1994), reversed
The trial court denied the foster mother's writ of habeas corpus, dissolved her motion for a temporary injunction and denied the foster mother's motion for declaratory judgment filed as next friend for her foster child. The foster mother only appealed the trial court's decision denying her standing as next friend to challenge DCF's regulation as unconstitutional. The then-existing DCF regulation denied foster parents an administrative hearing upon removal of a foster child from their home. The Appellate Court reversed the trial court holding that the foster parent had standing as a matter of law, as next friend, to challenge DCF's regulation. The Supreme Court reversed and remanded the case. The Court held that on remand the trial court must determine whether, under the facts and circumstances of this case, the foster parent had standing, as next friend, to file a declaratory judgment on behalf of her foster child challenging the removal of the child when the child was already represented by a guardian. In certain exceptional circumstances, the law permits a person to file suit on behalf of the child as next friend. **Dissent:** Berdon, J.

In re Baby Girl B., 224 Conn. 263 (1992)
The Supreme Court affirmed the trial court's ruling denying the foster parents the right to intervene in the proceedings regarding the mother's motion to reopen the TPR judgment. Applying the *Horton v. Meskill* test, the trial court properly found, as a matter of right, that the foster parents had no legal interest at stake in a TPR proceeding. The trial court also did not abuse its discretion in denying the foster parents permissive intervention because their intervention would have been of little value in determining whether the TPR adjudicatory grounds are proven. Quoting *In re Juvenile Appeal, 1888 Conn. 259 (1982)*, the Court stated, "[t]he intervention of foster parents as parties at the termination stage will permit them to shape the case in such a way as to introduce an impermissible ingredient into the termination proceedings. Petitions for termination of parental rights are particularly vulnerable to the risk that judges or social workers will be tempted, consciously or unconsciously, to compare unfavorably the material advantages of the child's natural parents with those of prospective adoptive parents and therefore to reach a result based on such comparisons rather than on the statutory criteria." **Dissent:** Borden, Norcott, JJ.

In re Juvenile Appeal, 188 Conn. 259 (1983), reversed
The trial court terminated the mother's parental rights. The Appellate Court reversed. During the termination trial, over the mother's objection, the trial court permitted the foster parents to intervene as parties. The mother appealed and claimed that the foster parents' intervention denied her a fair trial. The Appellate Court reversed. The Appellate Court held the intervention of the foster parents was improper because allowing them to intervene would permit them to "shape the case in such a way as to introduce an impermissible ingredient in to the termination proceedings." Termination proceedings involve an adjudicatory phase and a best interest phase, and the best interest of the child is not a factor in the adjudicatory phase.

In re Joshua S., 127 Conn. App. 723 (2011)
The trial court denied the foster parents' motion to intervene and granted the child's motion to transfer guardianship of him to his maternal aunt. The foster parents moved again to intervene and filed a motion to open the judgment and transfer guardianship to themselves. The trial court again denied their motion to intervene. The foster parents appealed. The Appellate Court dismissed the appeal. The Appellate Court held that pursuant to Conn. Gen. Stat. § 52- 263, it did not have jurisdiction to entertain the foster parents' appeal because the foster parents did not have a colorable claim to intervene in a neglect proceedings and accordingly they were not parties and did not have standing to bring an appeal.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP318.pdf

Albright-Lazzari v. Commissioner of Children and Families, 120 Conn. App. 376, cert. denied, 297 Conn. 908, cert. denied, 131 S.Ct. 516 (2010)
In an administrative appeal, the trial court dismissed the parents' pro se appeal of DCF's substantiation against the mother for emotional neglect and the decision to place her name on the child abuse registry. The Appellate Court affirmed. The Appellate Court upheld the trial court's dismissal of the mother's husband's appeal for lack of subject matter jurisdiction because the husband was not aggrieved. The husband did not have standing to bring the administrative appeal because he was not aggrieved by his wife's name being on the registry, even though her name was hyphenated to include his own last name. The Appellate Court further held that "substantial evidence" existed to support DCF's substantiation that the mother's emotional neglect of the children when she refused to believe the doctor's opinion that her child was not sexually abused and in front of her child, she insisted that the doctor perform invasive procedures on her child and acted bizarrely.
http://jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP225.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the pro se mother's parental rights finding that DCF made reasonable efforts to reunify and the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The pro se mother and grandmother appealed. The Appellate Court affirmed. The Appellate Court held the intervening grandmother had standing to appeal the denial of the mother's motion to transfer guardianship to her because the court properly allowed the grandmother to intervene as a party, treated the motion as a jointly filed motion and the grandmother was aggrieved by the court's denial. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Kaurice B., 83 Conn. App. 519 (2004)
The trial court granted DCF's motion for an order of temporary custody of the child. The Appellate Court

affirmed. The stepmother claimed that there was insufficient evidence that the child was in immediate physical danger if returned to her. The Appellate Court first held that the stepmother had standing to contest the order of temporary custody regarding her stepdaughter because she was granted guardianship pursuant to a previous revocation of commitment. The Appellate Court also held that there was ample evidence to support the trial court's finding. The evidence demonstrated that the stepmother and father had physically abused the child and her sister on numerous occasions by hitting her in the face and with a belt. The children reported that the father also drove with the children in the car while he was intoxicated. Moreover, the child disclosed that she was having a sexual relationship with a minor male relative with the parents' knowledge. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap359.pdf

In re Tayquon H., 76 Conn. App. 693 (2003)
The trial court sustained an order of temporary custody ("OTC") for an infant born to an eleven year old minor mother. The minor mother was in DCF's care under an OTC. In doing so, the trial court ruled that the mother to the minor mother (the grandmother to the infant), did not have standing as the minor mother's legal guardian to contest the OTC regarding the infant because the trial court appointed the minor mother a guardian ad litem ("GAL") as well as an attorney. The grandmother appealed. The Appellate Court affirmed. The grandmother claimed she had standing to contest the OTC on her minor daughter's behalf as her legal parent and legal guardian. In this case of first impression, the Appellate Court held the grandmother did not have standing to speak on behalf of the minor mother because the appointment of a GAL for the minor mother superseded the role of grandmother as parent/guardian for the minor mother. Specifically, between a GAL and a natural guardian, the Court ruled that a presumption exists that the court-appointed GAL is the proper person to speak for the child for the purposes of the court action, unless the GAL cannot properly fulfill the GAL role and another is better suited. The grandmother failed to show that the GAL could not properly represent the child's best interest and here the grandmother was not better suited since she allowed her eleven year old child to be sexually assaulted by a seventy five year old man as well as agreed to her child being in DCF custody. In reaching this holding, the Court recognized the general proposition that guardianship includes the responsibility to safeguard a child's best interest, the parent's constitutional right to family integrity as well as the State's interest to act as parens patriae to protect the child and further stated the right to family integrity is not absolute. "From a child's perspective, family integrity consists of nurturance and protection. It is not conceptual; rather it is practical and tangible, moment by moment." The Court also analyzed the role of a GAL verses a child's attorney. The GAL is charged with protecting the child's best interest as well the child's legal rights in the process and the GAL should refrain from acting as a second attorney for the child. "Just as it is not normally the province of the attorney to testify, it is not the province of the GAL to file briefs with the court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP76/76ap300.pdf

In re Jessica M., 71 Conn. App. 417 (2002)
The probate court terminated the mother's parental rights on the basis of her consent. The Commissioner of DSS appealed to the superior court. The superior court denied the termination of parental rights petition. The mother appealed. The Appellate Court affirmed. The mother claimed that DSS did not have standing to intervene in the termination proceeding and that the trial court improperly based its decision to deny the termination based solely on the mother's financial status. The Appellate Court held that DSS had standing in the termination case because the Commissioner of DSS constituted an aggrieved person since the probate court order affected DSS' right to reimbursement of assistance payments that were made to the mother. The Appellate Court concluded that the trial court properly considered the mother's financial condition as a factor in determining the children's best interest and the evidence supported the trial court's

conclusion denying the termination. The evidence demonstrated that the children still wanted a relationship with their mother and the mother's petition to terminate her parental rights was motivated by her desire to avoid child support obligations. Thus, the termination was not in the children's best interests. "Rather than allowing the petitioner to pull off a sham on the court and to divest herself of her responsibilities to her children, which would directly undermine our law, the court determined, on the basis of the entire record, that the petitioner had failed to meet her burden of proving that termination of her parental rights was in the children's best interests." http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

Terese B., v. Commissioner of Children and Families, 68 Conn. App. 223 (2002)
In an administrative appeal, the trial court granted DCF's motion to dismiss the foster parent's action to prevent DCF from removing a foster child from her home because she lacked standing. The Appellate Court affirmed. The Appellate Court held that the foster mother was neither classically or statutorily aggrieved and thus had no standing to bring the administrative appeal. Hence, the trial court lacked subject matter jurisdiction and properly granted DCF's motion to dismiss. The foster mother was not classically aggrieved because she did not have a fundamental liberty interest in family integrity as a foster parent. The Court further held that the foster mother was not statutorily aggrieved because she had no statutorily protected interest that was injured. Thus, her appeal was not a "contested case" under the UAPA as she had no statutorily required right to be determined by DCF. Note: the foster parent did not appeal from the trial court's decision denying its petition for writ of habeas corpus.
http://www.jud.ct.gov/external/supapp/Cases/AROap/68ap186.pdf

In re Shaquanna M., 61 Conn. App. 592 (2001) reversed
The Appellate Court reversed the trial court's judgment terminating the mother's parental rights. The Appellate Court held that the trial court's denial of the mother's motion for mistrial and continuance after her children's attorney died midtrial violated the mother's due process rights. The Court held that the mother had standing to bring the due process claim because the denial of the continuance interfered with her rights as a parent. The mother was aggrieved by the ruling because the denial of the continuance likely affected the course of the trial and ultimately whether her parental rights were terminated.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap135.pdf

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The father was the biological father to one child and in the prior neglect proceedings the trial court found him to be the psychological parent of the child's sibling. The father claimed that he had standing to contest the termination petitions for both children. The Appellate Court held that the father, even though recognized as the psychological parent, has no standing to appeal the termination of parental rights decision for the child biologically unrelated to him. The termination statute does not include psychological parent, but rather defines "parent" to be a "natural or adoptive parent." Whether the father pursued custody of the unrelated child had nothing to do with whether the unrelated child's parents' rights were terminated. Therefore, the Appellate Court lacked subject matter jurisdiction over the father's appeal pertaining to the unrelated child.

In re Helen B., 50 Conn. App. 818 (1998)
The trial court granted the aunt's petition to remove the father as the child's legal guardian. The Appellate Court affirmed. The father claimed that the aunt was not authorized by statute to amend the petition. The

Appellate Court held that the statute permitted the aunt file the petition, thus she also had standing to amend it.

In re Michelle G., 52 Conn. App. 187(1999), reversed
On transfer from probate court, the Superior Court dismissed the husband's (father by marriage) application for reinstatement of guardianship for lack of jurisdiction. The Appellate Court reversed. The husband claimed that the trial court improperly concluded, without an evidentiary hearing, that he was not a 'parent' or 'formal guardian' and therefore did not have standing to apply for reinstatement of guardianship under Conn. Gen. Stat. § 45a-611. The Appellate Court held that due process required the trial court to conduct an evidentiary hearing to determine whether the husband was by law a "parent" or a 'former guardian" entitling him to standing to apply for reinstatement as guardian. The probate court's conclusion that the results of the paternity test excluded him as the child's biological father does not preclude a factual determination of whether the husband is a 'father' or 'guardian' pursuant to statute. Moreover, the definition of a 'guardian' does not necessarily include a 'parent'. In this case, the husband was named on the birth certificate and visited the child regularly.

In re Ryan V., 46 Conn. App. 69 (1997)
The trial court denied the grandmother's motion to intervene which was filed after the TPR trial, but before the decision was rendered. The Appellate Court affirmed the judgment. The grandmother claimed that she participated in the underlying neglect proceedings and did not get notice of the TPR proceedings. The Appellate Court held that the grandmother did not have standing to intervene because her purpose in intervening was to ensure adoption or custody to herself, not to contest whether the parent's rights should be terminated. Alternatively, the grandmother argued that intervention was not necessary because she had standing as a "de facto" party. The Court held that our law does not recognize "de facto" parties and that the grandmother lacked standing to intervene. Moreover, an intervention after the close of evidence would require opening the judgment, retrying the case and causing further delay in achieving permanency for the children.

In re Jennifer P., 17 Conn. App. 427 (1989), cert. denied, 211 Conn. 801 (1989), reversed
The foster parent filed a motion for visitation. The trial court concluded that the foster parent did not have standing to request visitation of a child in DCF custody. The Appellate Court reversed. The Appellate Court held that Conn. Gen. Stat. § 46b-59, a third party visitation statute, applied and a foster parent had standing. The court remanded the case for a hearing regarding whether the visitation was in the best interest of the child.

In re Juvenile Appeal (85-1), 3 Conn. App. 158 (1985)
The trial court granted DCF's motion to dismiss the parents' motion to revoke the commitment based on the parents' failure to establish a prima facie case. The Appellate Court affirmed. First, the Appellate Court noted that the mother had standing to bring an appeal of the father's motion to revoke because she fully participated in the revocation trial and the trial court's decision specifically extended to the mother. The parents claimed that the trial court abused its discretion in granting the motion to dismiss by erroneously placing the entire burden of proof on the parents. Even though the trial court did erroneously set forth the burden of proof by stating that the parents had to prove *both* that cause for commitment no longer existed and that a revocation is in the best interest of the child, the Appellate Court held that the record was insufficient to determine whether the judgment should have been reversed. The trial court's statement that

the parents "have not established all the prerequisites necessary in order to grant the [motion]", was ambiguous in that the trial court may have determined that the parents failed to establish that cause for commitment no longer existed. It was incumbent upon the parents to file a motion for articulation to dispel any ambiguity and to clarify the factual and legal bases for the court's decision.

STATUS REPORT

In re Devaun J., 109 Conn. App. 832 (2008)
The trial court terminated the mother's parental rights on the grounds of failure to rehabilitate and no ongoing parent child relationship. The Appellate Court affirmed. On appeal, the mother claimed that judgment should be reversed because DCF filed the post judgment statutorily required status report late. The statute, Conn. Gen. Stat. § 17a-112 (o) requires that the report be filed 30 days after the judgment. The Court held that although DCF filed it 90 days later, the untimeliness of the report has no legal bearing on the TPR judgment because this obligation relates to DCF receiving federal funding for monitoring children in foster care. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP454.pdf

STATUTORY CONSTRUCTION

"It is a well-settled principle of [statutory] construction that specific terms covering [a] given subject matter will prevail over general language of ... another statute which might otherwise prove controlling. Additionally, [t]here is a presumption that the legislature, in enacting a law, does so with regard to existing relevant statutes so as to make one consistent body of law. In construing a statute, common sense must be used and courts must assume that a reasonable and rational result was intended." (Internal citations and quotation marks omitted.) *See, Lovan C. v. Department of Children and Families, 86 Conn. App. 290 (2004).*

"When statutory language is clear and unambiguous, the Appellate Court does not construe a statute by looking to the statute's history or purpose; the Court need look no further than the statute's words themselves because the Court assumes that the language expresses the legislature's intent. The legislative intent of a statute is to be determined by an analysis of the language actually used in the legislation; it is found not in what the legislature perhaps meant to say, but in the meaning of what it did say." (Internal citations and quotation marks omitted.) *See, In re Thomas J., 77 Conn. App. 1 (2003), cert. denied, 265 Conn. 902 (2003).*

"When a statute does not supply a definition or a term, its "commonly approved usage" governs. General Statutes § 1-1(a). Our Supreme Court has explained that [t]o ascertain the commonly approved usage of a word, it is appropriate to look to the dictionary definition of the term." (Internal citations and quotation marks omitted.) *See, In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006).*

"The purpose of statutory construction is to give effect to the intended purpose of the legislature.... If the language of a statute is plain and unambiguous, we need look no further than the words actually used because we assume that the language expresses the legislature's intent.... Common sense must be used [when construing statutes] and courts will assume that the legislature intended to accomplish a reasonable and rational result.... We must presume that each sentence, clause and phrase in a public act has a purpose and that the legislature did not intend to enact a meaningless law." (Internal citations and quotation marks omitted.) *See, In re Stephen M., 109 Conn. App. 644 (2008).*

"The test to be applied in determining whether a statute is mandatory or directory is whether the prescribed mode of action is the essence of the thing to be accomplished, or in other words, whether it relates to a matter of substance or a matter of convenience. If it is a matter of substance, the statutory provision is mandatory. If, however, the legislative provision is designed to secure order, system and dispatch in the proceedings, it is generally held to be directory, especially where the requirement is stated in affirmative terms unaccompanied by negative words." (Internal citations and quotation marks omitted.) *See, In re Adrien C., 9 Conn. App. 506 (1987).*

In re Jose B., 303 Conn. 569 (2012)
Two days before his 18th birthday, the youth filed a neglect petition seeking to have himself committed to DCF and the trial court dismissed the petition for lack of jurisdiction after the youth turned 18. The Appellate Court affirmed. The child appealed. The Supreme Court affirmed the Appellate Court. The Supreme Court concluded that the trial court lacks statutory authority under Conn. Gen. Stat. §46b-129(a) to adjudicate a person eighteen years or older and to commit such person to DCF under Conn. Gen. Stat. §46b-129(j). The Court held that the trial court properly granted DCF's motion to dismiss because the child's 18th birthday rendered the neglect petition moot based on the trial court's lack of statutory authority. Worth noting, the Supreme Court ruled that a claim based on the failure to establish an essential fact for obtaining relief pursuant to a particular statute is not a matter of subject matter jurisdiction, but of statutory authority.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR303/303CR18.pdf

In re Joseph W., Jr., 301 Conn. 245 (2011), aff'd, 121 Conn. App. 615 (2010), reversing trial court
The trial court adjudicated the child neglected based on the mother's nolo plea. DCF filed a termination of parental rights petition. The father filed a motion to open the judgment claiming he was precluded from entering a plea on the neglect petition. The trial court denied the motion to open the neglect judgment, but at the same time allowed the father to have another opportunity to prove he was a custodial parent during the termination trial. The trial court then terminated the parents' parental rights. The parents appealed. The Appellate Court reversed the trial court's judgment finding that the father was custodial and that the terminations were premised on an improper neglect adjudication because the father was not allowed to enter a neglect plea. The Supreme Court affirmed the Appellate Court's judgment, but on alternate grounds. The Supreme Court held that a parent, regardless if the parent was custodial or noncustodial, has the right to enter a plea to contest whether his/her child is neglected. In doing so, the Court applied the rules of statutory construction to interpret Conn. Gen. Stat. § 46b-129 and P.B. § 35a-1(b). The Court concluded that the statute, read together with the rules, was not intended to prohibit a noncustodial parent who was known, who was present and who wanted to contest the allegations of neglect, from entering a plea. Distinguishing *In re David L*, the Court ruled that here the father was not arguing about whether he was responsible for neglecting the child, but whether the child was a neglected child. "To compel a parent to stand silent while the child is adjudged as neglected, and then to use that unassailable neglect adjudication as a basis for terminating the parent's parental rights would raise serious questions of due process." Accordingly, the trial court should have unconditionally granted the father's motion to open the neglect judgment, having found that the father did not stand silent or waive his right to enter a neglect plea. Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR301/301CR72.pdf; Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347.pdf; Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP347E.pdf

In re Yarisha F., 121 Conn. App. 150 (2010), reversed
The trial court denied the termination of parental rights petition and transferred guardianship of the child to the maternal great grandmother ("grandmother") pending the results of an interstate study. The interstate study later recommended against placement with the grandmother. In an articulation of its judgment, the trial court further ruled the transfer of guardianship effective regardless of the outcome of the interstate study. DCF filed a motion to open the judgment based on newly discovered evidence. The trial court denied the motion to open. The Appellate Court reversed. In this case of first impression, the Appellate Court held that the trial court erred in transferring guardianship to the grandmother in Florida without first

notifying and receiving approval from Florida pursuant to the Interstate Compact on the Placement of Children ("ICPC"). Applying the rules of statutory construction to interpret, Conn. Gen. Stat. § 17a-175, the Court concluded that the plain language of the statute does not authorize sending the child out of state without the approval of an interstate study and neither does the law allow the trial court to substitute its own independent best interest findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP297.pdf

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K* and guided by the principles of statutory construction, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Here, pursuant to Conn. Gen. Stat. § 17a-11, it was undisputed that the child was not admitted to DCF through its voluntary services program. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction. **Concurring:** Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Shanaira C., 297 Conn. 737 (2010), reversed
Applying plenary review, the Supreme Court reversed the judgment of the trial court and held that pursuant to Conn. Gen. Stat. § 46b-129 (m) and Practice Book § 35a-14(c) and the rules of statutory construction, the intervening girlfriend was entitled to a full evidentiary hearing when considering the proper disposition of a neglect petition, especially a contested motion for revocation.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297cr852.pdf

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was 'unwilling or unable' to reunify, she committed an act of commission or omission and that termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment. At the Appellate Court, the mother only appealed the trial court's finding that the mother was 'unable or unwilling' to benefit from reunification efforts, and did not also appeal the trial court's finding that DCF made reasonable efforts to reunify. Finding that the Appellate Court erred, the Supreme Court, utilizing rules of statutory construction, held that the statute, Conn. Gen. Stat. § 17a-112(j)(1) is clear and unambiguous; DCF is required to prove *either* that it had made 'reasonable efforts to reunify' or, alternatively, that a parent was 'unwilling or unable to benefit' from reunification efforts, and in a termination proceeding, DCF is not required to prove both circumstances.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Migdalia M., 6 Conn. App. 194 (1986), cert. denied, 199 Conn. 309 (1986), reversed
The trial court terminated the parents' parental rights finding that they failed to rehabilitate. The Appellate Court reversed. The Appellate Court held that based on the record, the trial court's finding that they failed to rehabilitate was clearly erroneous. The Appellate Court first held that the statutory law effective at the time of the filing of the termination petition was binding, not the amendment that was in effect at the time of the termination trial. Applying the rules of statutory construction, the Court also reasoned that "parents have a constitutionally protected right to raise and care for their children and that protection cannot be diluted by the use of statutory standards enacted subsequent to a petition to terminate that right, absent a counter legislative directive." The Appellate Court further held that the trial court's decision was not factually supported or legally correct because the evidence did not support the trial court's findings that the parents' failed to rehabilitate. The evidence, rather, showed that the child was voluntarily placed with DCF because she had serious medical problems, a chronic kidney disease. The determination was clearly erroneous because DCF did not prove by clear and convincing evidence that the parents failed to comply with all of the expectations, together with the lack of clarity as to some of those expectations, and the use of the expectations as the sole standard for the trial court's conclusion that their parental rights should be terminated. Here, the evidence failed to show that the parents, who were Spanish speaking and poor, did not attend counseling or understand the child's needs or secure adequate housing. Both parents love their child, have never been physically abusive to the child, and have never engaged in any deliberate act to harm the child. "It is the child's health problems, not some personal deficiency of theirs, which caused the original commitment. The wealthy parent who cannot give daily arduous care to a severely physically handicapped child obtains the care necessary by paying for it. The affluent parent does not have his parental rights terminated because of an inability to learn how to care full-time for a physically dependent child. The low income parent who cannot cope with the daily care of such a child should be put in no different position as far as concerns the termination of his or her parental rights."

In re Juvenile Appeal (85-BC), 195 Conn. 344 (1985), reversed
The children were adjudicated neglected and committed to DCF. Guardianship was then transferred to the grandmother. The mother moved to "revoke the children's commitment" to the grandmother. DCF moved to re-commit the children back to DCF. The trial court dismissed the mother's petition because the "extension of commitment" expired and custody reverted to the mother. Both DCF and the grandmother appealed. Applying the rules of statutory construction, the Appellate Court held that the trial court erred in dismissing the petition because "extensions of commitment" do not apply to cases where guardianship was transferred to a third party. A statute should be construed to give effect, when possible, to legislative intent. The Court further ruled that Conn. Gen. Stat. § 46b-129 confers exclusive jurisdiction to the Superior Court to enter custody and guardianship orders where the custody order arose from a prior finding of neglect. Moreover, an order vesting custody or guardianship of the children to their grandmother is an order subject to modification by the court based on the best interests of the children. Reversing the court order entitles the mother to a judicial hearing for the mother to prove that no cause for "commitment" exists so that guardianship can be transferred back to her.

In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006)
The trial court terminated the mother's parental rights finding that, under "Ground F", she committed a deliberate act that resulted in serious bodily injury of another child and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly

concluded that her child sustained a "serious bodily injury" under Conn. Gen. Stat. § 17a-112(j)(3)(F). Applying the rules of statutory construction, the Appellate Court held that the trial court properly found that the injury was a "serious bodily injury" because the mother caused a serious injury to her child by pulling her out of bed by her hair that resulted in a severe fracture of the child's elbow. The seriousness was manifested by the mother's decision not to seek medical treatment for her child in order to avoid DCF intervention. The Appellate Court declined to define "serious bodily injury" or apply the criminal definition of "serious physical injury". Rather, the court applied the "commonly approved usage" rule and found that the term "serious" is defined in the dictionary as "such as to cause considerable distress, anxiety, or inconvenience." http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP474.pdf

Teresa T. v. Ragaglia, 272 Conn. 734 (2005)
The children sued the Commissioner of DCF in federal court alleging their constitutional rights were violated by DCF's failure to remove them from their abusive stepfather. After the district court dismissed the claim, the second circuit court of appeals, on interlocutory appeal, certified questions to the Connecticut Supreme Court: (1) whether Conn. Gen. Stat. § 17a-101g(c) required the Commissioner to remove the children via a 96 hour hold if probable cause existed to believe they were in imminent risk of physical harm, and (2) if the Commissioner authorized removal, whether the Commissioner's designated employees were required, or merely authorized, to remove the children. The Supreme Court held that Conn. Gen. Stat. § 17a-101g did not mandate that DCF remove a child upon determining that probable cause exists to believe that the children were at imminent risk of physical harm while living with their abusive stepfather. The Court applied various rules of statutory construction. Despite the use of the word "shall," the statutory and regulatory scheme provided that the DCF investigator had discretion to pursue various alternative remedies, such as removing the abuser or placing the children with a relative. The Court also held that even if the Commissioner authorized removal under Conn. Gen. Stat. § 17a-101g(c), Conn. Agencies Regs. § 17a-101-13(b) allowed the designated employees discretion regarding whether to remove the children. The Court ruled that "administrative rules and regulations are given the force and effect of law." Furthermore, when a policy manual is inconsistent with a state statute or agency regulation, it does not govern the interpretation of the statute or regulation. http://jud.ct.gov/external/supapp/Cases/AROcr/CR272/272CR12.pdf

In re Samantha C., 268 Conn. 614 (2004), reversed
The trial court terminated the parents' rights finding that DCF made reasonable efforts to reunify and the parents failed to rehabilitate. The parents appealed claiming, in part, that the trial court improperly drew an adverse inference against them for not testifying. On transfer, the Supreme Court reversed. The Supreme Court held that P.B. § 34-1 allowed the trial court to draw an adverse inference from the parents' failure to testify during the TPR trial based on the rules of statutory construction and an in depth analysis of the rule, the commentaries, and corresponding statutes. However, based on the plain language of P.B. § 34-1, the trial court must advise the parents of their right to remain silent and of the trial court's right to draw an adverse inference. In interpreting this practice book rule, the Court ruled that while the Superior Court may adopt rules to regulate court procedures, the rules cannot "abridge, enlarge or modify any substantive right" created by the legislature. Because the trial court failed to advise and explain the parents' choice regarding testifying and the possibility of an adverse inference, the Supreme Court reversed the judgment terminating the parents' rights. The trial court's failure to do so was not harmless error. In so holding, the Court rejected the parents' claims that the "missing witness" doctrine applied to parents and that the Fifth Amendment right to remain silent applied to parents in TPR cases.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR268/268cr66.pdf

In re Michaela Lee R., 253 Conn. 570 (2000), reversed
The probate court granted the mother's request to remove the biological father's name from her child's birth certificate. The trial court affirmed. On transfer, the Supreme Court reversed. The Supreme Court held that neither probate court nor the Commissioner of public health had subject matter jurisdiction to delete a biological parent's name from the child's birth certificate when there was no allegation that the information contained therein was inaccurate. The Court applied the rules of statutory construction to interpret the vital statistics and birth certificate statutes. The Supreme Court considered the statutory scheme as a whole and presumed that the legislature intended to create a harmonious body of law. **Dissent and Concurring:** MacDonald, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78.pdf; Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/253cr78e.pdf

In re Darlene C., 247 Conn. 1 (1998)
The trial court, sua sponte, enjoined the Commissioner of DCF and her non-lawyer designees from drafting, signing and filing termination of parental rights petitions on the basis that it constitutes an unauthorized practice of law. On transfer, the Supreme Court reversed the judgment. The Supreme Court held that the trial court improperly enjoined the Commissioner and her designees because both the statutes and practice book rules authorized the social workers to file petitions in court and, therefore, such activities did not constitute the unauthorized practice of law. Interpreting the relevant statutes, the Court applied the following rules of statutory construction: (1) in interpreting the language of a statute, the words must be given their plain and ordinary meaning and their natural and usual sense unless the con- text indicates that a different meaning was intended, (2) to ascertain the commonly approved usage of a word, for purposes of statutory construction, it is appropriate to look to the dictionary definition of the term, and (3) it is a well-settled principle of [statutory] construction that specific terms covering the given subject matter will prevail over general language of the same or another statute which might otherwise prove controlling. **Concurring:** Borden, Berdon, JJ.

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The Supreme Court, reversing the Appellate Court, applied a plenary standard of review in determining that under the statutory scheme, DCF did not have to prove that DCF made reasonable efforts to reunify as a predicate to terminating the mother's parental rights based on rules of statutory construction. The Supreme Court held that based on the legislature's intent in enacting the statutory amendment imposing the requirement of reasonable reunification efforts, the statutory amendment did not apply retroactively. The Court applied the following rules of statutory construction: to ascertain and give effect to the legislative intent; to discern intent by looking at the words of the statute, legislative history and its relationship to existing legislation; to apply presumption in favor of prospective applicability of a statute requiring a new obligation, unless an exception to apply the statute retroactively applies. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Valerie D., 223 Conn. 492 (1992), reversed
The trial court terminated the mother's rights by finding that she committed an act of commission or omission and there was no ongoing parent child relationship. The Appellate Court affirmed. The Supreme Court reversed the Appellate Court. Applying many rules of statutory construction, the Supreme Court held that the statute did not permit a finding of "serious physical injury to the child" that constituted "acts

of parental commission or omission" based solely on the mother's prenatal conduct of injecting cocaine hours before the labor and delivery of her baby. Nor did the statutory scheme permit a finding of no ongoing parent child relationship when the state removed the child from her mother at birth.

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's untimely motion to open the TPR judgment, the Supreme Court held that a TPR judgment is a civil judgment pursuant to Conn. Gen. Stat. § 52-212a and the trial court had jurisdiction to open the judgment even after the appeal period. Applying the rules of statutory construction, the Court ruled it "searches for an effective and constitutional construction that reasonably accords with the legislature's underlying intent." **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerating this holding. **Dissent:** Borden, Norcott, JJ.

In re A.R., 123 Conn. App. 336 (2010), reversed
DCF filed a termination of parental rights petition. The grandmother intervened and filed a motion to transfer guardianship. The trial court granted the motion to intervene, but then sua sponte dismissed the grandmother's motion to transfer guardianship because the trial court concluded that by law it was a motion to revoke commitment and the grandmother was not statutorily permitted to file a motion to revoke commitment. The intervening grandmother appealed. The Appellate Court held that the trial court erred in dismissing, sua sponte, the intervenor's motion to transfer guardianship. Specifically, the Appellate Court reversed the trial court's ruling prohibiting an intervenor from filing a motion to transfer guardianship by incorrectly construing it as a motion to revoke commitment. According to C.G.S. § 46b-129(m), an intervening party is not permitted to file a motion to revoke commitment. Finding that the statutory scheme regarding proceedings following a neglect adjudication clear and unambiguous, the Appellate Court interpreted, C.G.S. § 46b-129(j) and P.B. § 35a-20(b) to allow an intervenor to file a motion to transfer guardianship as an appropriate way for her to request consideration as a potential guardian for the children.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP123/123AP514.pdf

In re Stephen M., 109 Conn. App. 644 (2008), reversed
The trial court denied DCF's termination of parental rights petition against the mother and father. DCF appealed and the Appellate Court reversed. DCF claimed that the trial court improperly relitigated the previous underlying neglect adjudication made by another trial court in deciding to deny the termination petition. Citing to the rules of statutory construction, the role of the state as parens patriae, the constitutional rights of parents to family integrity, the statutory scheme and the best interest of the children, the Appellate Court held that a neglect adjudication is an appealable final judgment and it cannot be collaterally attacked during a subsequent termination trial. The doctrine of collateral estoppel precludes the relitigation of a finding of neglect. Here, the Court ruled that the parents never appealed the neglect finding and the trial court, being bound by the prior finding of neglect, improperly concluded that "the alleged sexual abuse by the father appears to have been a pretext to remove the children," and this improper conclusion served as the basis for the rest of its determinations regarding the termination petition.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP433.pdf

Lovan C. v. Department of Children and Families, 86 Conn. App. 290 (2004), reversed
In an administrative appeal, the trial court dismissed the mother's appeal of DCF's substantiation against her for physical abuse and decision to place her name on the child abuse registry. The Appellate Court reversed. The Appellate Court held that the hearing officer improperly found the mother physically abused her child when she utilized corporal punishment as a form of discipline because the hearing officer did not assess the

reasonableness of the corporal punishment. Construing Conn. Gen. Stat. § 53a-18 as allowing a parent to inflict reasonable physical force as discipline, the Court applied rules of statutory construction such as, "common sense must be used and courts must assume that a reasonable and rational result was intended." Thus, the hearing officer must consider the surrounding circumstances, including the parent's motive and whether the parent believed the punishment was necessary to maintain discipline or to promote the child's welfare, the type of punishment administered, the amount of force used and the child's age, size and ability to understand the punishment. Here, there was no substantial evidence of abuse because the mother had no malice or ill motive when she struck her child with a belt leaving a one-inch bruise on her thigh after her child continued to jump on the bed. http://jud.ct.gov/external/supapp/Cases/AROap/AP86/86ap47.pdf

In re Thomas J., 77 Conn. App. 1 (2003), cert. denied, 265 Conn. 902 (2003)
The trial court denied the delinquent child's motion to review DCF's decision to not substantiate his claim that a DCF police officer slammed his head against a glass wall. The Appellate Court reversed the judgment for the purpose of instructing the trial court to dismiss rather than deny the aggrieved child's motion. The Appellate Court held that while Conn. Gen. Stat. § 17a-6 permits a child who is in DCF custody to file petitions when his statutory rights are violated, the child's "motion for review" was not a "petition" because the "motion" was not made under oath as required by the statute. Moreover, because a proper petition was not filed, DCF was not given proper notice and opportunity to appear. In effect, the motion was an administrative appeal from an agency determination in an ex parte fashion. Applying the rules of statutory construction, the Court ruled that the statutory language was clear and unambiguous, that it did not need to look to the statute's history or purpose to determine the statute's meaning and intent. Because the trial court lacked statutory authority to consider the motion, it should have dismissed the motion not denied it. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap323.pdf

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
The trial court terminated the mother's parental rights. The mother sought to appeal and completed an application for waiver of fees and costs. The trial court denied her application on the alleged basis that the appeal was frivolous. The mother filed a motion to review with the Appellate Court. The Appellate Court granted the mother's motion for review and reversed the trial court's denial of her application. As a matter of first impression, the Appellate Court held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. In so holding, the Appellate Court applied plenary review to interpret the Practice Book rules as they relate to our statutes, including an indigent parent's statutory right to counsel in termination cases. "It is axiomatic that the separate provisions of the rules of practice should be read to be in harmony with one another." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

In re Kachainy C., 67 Conn App. 401 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. In finding that DCF made reasonable efforts to reunify, the trial court relied on a prior finding that reasonable efforts were no longer appropriate that was rendered at the extension of commitment hearing. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in concluding that the trial court, in a termination proceeding, may rely on a previous finding that reasonable efforts to reunify were no longer appropriate that was made at an extension of commitment hearing. The Appellate Court held that the mother's claim lacked merit because the statute clearly permitted a court to find that DCF made reasonable efforts to reunify by relying on a previous finding that continuing efforts were no longer appropriate. The

Appellate Court cited the tenant of statutory construction that "[i]f the language of a statute is plain and unambiguous, we need look no further than the words actually used because we assume that the language expresses the legislature's intent." The mother further claimed that the previous determination made at the extension hearing were improper because they were not supported by clear and convincing evidence. The Appellate Court declined to address this claim because it was an improperly collateral attack on a final judgment. The mother never appealed the previous determination and an extension of commitment decision was a final judgment. http://www.jud.ct.gov/external/supapp/Cases/AROap/67ap49.pdf

In re Quanitra M., 60 Conn. App. 96, cert. denied, 255 Conn. 903 (2000)
The trial court terminated the mother's parental rights finding a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF was required to prove the seven statutory best interest factors in Conn. Gen. Stat. § 17a-112(e) by clear and convincing evidence prior to determining whether a termination of parental rights is in the best interest of the children. The Appellate Court, applying rules of statutory construction, held that the factors serve as guidelines to the trial court and are not statutory prerequisites that need to be proven before the court can order a termination. The Court ruled that its "fundamental objective is to ascertain and give effect to the apparent intent of the legislature.... In seeking to discern that intent, we look to the words of the statute itself, to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter." http://www.jud.ct.gov/external/supapp/Cases/AROap/ap521.pdf

In re Brandon W., 56 Conn. App. 418 (2000)
The trial court adjudicated the children neglected and committed them to DCF. The Appellate Court affirmed. The mother claimed that the trial court erred by failing to exclude expert testimony because DCF failed to disclose its expert witnesses prior to trial. Applying the rules of statutory construction, the Appellate Court held that the trial court did not err in allowing the testimony because P.B. § 13-4(4) pertaining to the disclosure of expert witnesses in civil trials, does not apply to juvenile proceedings. The rule precludes the expert from testifying if prior notice is not given. The Court concluded that the judges, the promulgators of the rules, could have explicitly stated that the rule applies to juvenile matters, but they did not.

In re Corey E., 40 Conn. App. 366 (1996)
The trial court granted DCF's motion to extend commitment of the children. The parents appealed. DCF filed petitions to terminate their parental rights. The parents claimed that DCF was precluded from seeking an extension of commitment when it filed a petition for termination of parental rights and vice versa. Based on statutory interpretation, the Appellate Court held that the legislature clearly intended to allow DCF to petition for an extension of commitment pursuant to Conn. Gen. Stat. § 46b-129(e) even where a termination petition has been filed and is pending. This interpretation avoids bizarre and unworkable results and advances the policies that undermine the statute.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the trial court improperly ordered her to undergo an evaluation and admitted the report. The Appellate Court held that the mother waived her right to appeal the trial court's order because she failed to object to the trial court's ordering of the psychological evaluations. The Appellate Court further concluded that the statutory requirements of Conn. Gen. Stat. § 46b-129(c),

regarding a hearing and finding by the trial court to order a mental examination of parents is merely a directory provision to secure order in proceedings, rather than a mandatory provision relating to matter of substance. Thus, the trial court may order an evaluation without a hearing if there is no objection. For the same reasons, the trial court did not commit plain error in ordering the evaluation of the mother. Nonetheless, the Appellate Court reversed the judgment holding that the trial court violated the mother's due process right to adequate notice by granting DCF's motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

In re Adrien C., 9 Conn. App. 506 (1987)

The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother appealed claiming that the trial court lacked subject jurisdiction over the termination proceeding because DCF failed to file a termination petition within 90 days of the expiration of the child's commitment. Applying the rules of statutory construction, the Appellate Court held that because the word "shall" in the statute directing DCF to file a termination petition was discretionary rather than mandatory, the court had jurisdiction to entertain the termination petition. Moreover, the mother waived her right to contest the trial court's jurisdiction because she failed to file a motion to dismiss within thirty days of the filing of the termination petition.

STATUTORY PARENT

In re Joshua S., 260 Conn. 182 (2002)
The mother killed herself, her husband and her children. Two children survived. One child was placed with her biological father and DCF sought an order of temporary custody, filed a neglect petition and placed the other child in foster care. In their will, the parents named testamentary guardians for their children. The trial court named DCF the statutory parent of the child and allowed the child to remain in foster care. The testamentary guardians appealed. The Supreme Court, on transfer, affirmed. The named testamentary guardians claimed that the Superior Court lacked jurisdiction to name DCF as a statutory parent during the pendency of a neglect petition. The Supreme Court held that in the absence of legal authority granting the Probate Court exclusive jurisdiction over the appointment of a statutory parent. The Court ruled that the appointment of a statutory parent was ancillary to the neglect proceeding.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/260cr63.pdf

STAY OF PROCEEDINGS

"Practice Book § 61-12 provides: In noncriminal matters in which the automatic stay provisions of Section 61-11 are not applicable and in which there are no statutory stay provisions, any motion for a stay of the judgment or order of the superior court pending appeal shall be made to the judge who tried the case unless that judge is unavailable, in which case the motion may be made to any judge of the superior court. Such a motion may also be filed before judgment and may be ruled upon at the time judgment is rendered unless the court concludes that a further hearing or consideration of such motion is necessary. A temporary stay may be ordered sua sponte or on written or oral motion, ex parte or otherwise, pending the filing or consideration of a motion for stay pending appeal. The motion shall be considered on an expedited basis and the granting of a stay of an order for the…" **"…** payment of money may be conditional on the posting of suitable security. . . .In the absence of a motion filed under this section, the trial court may order, sua sponte, that proceedings to enforce or carry out the judgment or order be stayed until the time to take an appeal has expired or, if an appeal has been filed, until the final determination of the cause. A party may file a motion to terminate such a stay pursuant to Section 61-11." (Internal citations and quotation marks omitted.) *See, In re Melody L., 290 Conn. 131 (2009).*

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court erred in denying their motion for stay and for visitation with their mother pending the outcome of the appeal by failing to apply the best interest of the child standard. The Supreme Court concluded that by affirming the termination of parental rights judgment of the trial court, the visitation issue was moot because there was no practical relief (i.e. visitation pending the appeal) that the Court can grant.
Concurring: Schaller, J. Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial erred in ordering, sua sponte, that no visitation occur between the father and child pending the outcome of an appeal. The Appellate Court held that the father could not challenge the no visitation order because he never moved for a stay of execution of the termination of his parental rights, pursuant to P.R. § 61-11. Hence, the father's visitation rights were extinguished when parental rights were terminated. Nevertheless, the Appellate Court vacated part of the trial court's decision holding that the trial court abused its discretion by ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and

without a showing of compelling need, the court's decision cannot be released.

In re Cynthia A., 8 Conn. App. 656 (1986)
The trial court committed the child to DCF and the mother appealed claiming, in part, that the trial court erred in denying her motion for continuance until her boyfriend's criminal case was resolved so that he could testify at the neglect trial. The Appellate Court affirmed. The Court held that the trial court did not abuse its discretion in denying the motion because "time is of essence in child custody cases and the boyfriend's criminal disposition was speculative.

TERMINATION OF PARENTAL RIGHTS, DISPOSITION OF,

"In order to terminate a parent's parental rights under § 17a-112, the petitioner is required to prove, by clear and convincing evidence, that: (1) the department [of children and families (department)] has made reasonable efforts to reunify the family; General Statutes § 17a-112(j)(1); (2) termination is in the best interest of the child; General Statutes § 17a-112(j)(2); and (3) there exists any one of the seven grounds for termination delineated in § 17a-112(j)(3)." *See, In re Tremaine C., 117 Conn. App. 590, cert. denied, 294 Conn. 920 (2009).*

"Termination of parental rights" is the complete severance by court order of legal relationship, with all its rights and responsibilities, between child and his parent. Before a state may sever completely and irrevocably the rights of parents in their natural child, due process requires that state support its allegations by at least clear and convincing evidence. In petitioning to terminate parental rights, commissioner of children and families must allege and prove one or more of the statutory grounds. In contrast to custody proceedings, in which best interests of child are always the paramount consideration and usually dictate the outcome, in proceedings to terminate parental rights the statutory criteria must be met before termination can be accomplished and adoption proceedings begun. During dispositional phase of petition to terminate parental rights, trial court must determine whether termination is in best interests of child." (Internal citations and quotation marks omitted.) *See, In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999).*

"If the trial court determines that a statutory ground for termination exists, it proceeds to the dispositional phase. In the dispositional phase, the trial court determines whether termination is in the best interests of the child. The best interests of the child include the child's interests in sustained growth, development, well-being, and continuity and stability of its environment.... In the dispositional phase of a termination of parental rights hearing, the trial court must determine whether it is established by clear and convincing evidence that the continuation of the respondent's parental rights is not in the best interest of the child. In arriving at this decision, the court is mandated to consider and make written findings regarding seven factors delineated in [§ 17a-112 (k)]. We note that those seven factors serve simply as guidelines for the court and are not statutory prerequisites that need to be proven before termination can be ordered.... There is no requirement that each factor be proven by clear and convincing evidence." (Internal citations and quotation marks omitted.) *See, In re Rafael S., 125 Conn. App. 605 (2010).*

"It is well settled that we will overturn the trial court's decision that the termination of parental rights is in the best interest of the children only if the court's findings are clearly erroneous." (Internal citations and quotation marks omitted.) *See, In re Devon W., 124 Conn. App. 631 (2010).*

"The trial court is vested with broad discretion in determining what is in the child's best interests. Conducting a best interest analysis is not a narrow concept restricted to a compelling reason or to fully reuniting the parent with the child. Rather, it is purposefully broad to enable the trial court to exercise its discretion based upon a host of considerations." (Internal citations and quotation marks omitted.) See, *In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000).*

"After statutory grounds for termination of parental rights are proved by clear and convincing evidence in adjudicatory phase, question then to be decided in dispositional phase is whether it is in best interests of child to sever parent-child relationship; that is different from question of who should have custody of child if termination of parental rights is determined to be in best interests of child. Judicial termination of parental rights may not be premised on a determination that it would be in the child's best interests to terminate the parent's rights in order to substitute another, more suitable set of adoptive parents." (Internal citations and quotation marks omitted.) *See, In re Carissa K., 55 Conn. App. 768 (1999).*

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court erred by finding that it was in their best interest to terminate their mother's parental rights because the trial court ignored their loving bond with their mother. The Supreme Court held even though the children and their mother shared a loving bond, this did not preclude a finding that a termination was in their best interests. Moreover, the evidence demonstrated that one child was still fearful of returning home because she was afraid that the mother's ex-boyfriend would sexually abuse her again, another child was scheduled to reunify until the mother became overwhelmed, and the evaluator testified that there was not a strong parental relationship between the mother and two of the children.
Concurring: Schaller, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Davonta V., 285 Conn. 483 (2008)
The trial court granted DCF's TPR petition finding that the mother failed to rehabilitate and that a termination of her rights was in the best interest of the 14 year old child even though he did not have an adoptive home. The Appellate Court affirmed and the Supreme Court affirmed. The mother claimed that there was not clear and convincing evidence that a TPR was in the child's best interest based on his strong ties to his biological family and that long term foster care rather than adoption was the likely outcome. The Supreme Court held that given the child's need for permanency, as opined by the expert psychologist, the evidence supported the judgment terminating the mother's parental rights even though an adoption was not imminent. **Note**: In re Davonta V., 98 Conn. App. 42 (2006), **Dissent:** Schaller, J.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR285/285CR35.pdf

In re Jeisean M., 270 Conn. 382 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the child. The Supreme Court, on transfer, affirmed. The mother claimed that the trial court erred in finding that it was in the child's best interest to terminate her parental rights. The Supreme Court held that the trial court's judgment was supported by the record because although the child had a relationship with his mother, the child required permanency in light of the mother's failure to rehabilitate and the child was in the same foster home for twenty of his twenty four months of life, was bonded to the foster parents, and foster sibling and

the foster parents were willing to adopt the child.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR270/270cr91.pdf

In re Eden F., 250 Conn. 674 (1999), rehrg. denied, 251 Conn. 924 (1999), reversed
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and terminating her parental rights was in the best interest of the children. The Appellate Court reversed. The Supreme Court, reversing the Appellate Court, held that the evidence as a whole supported the trial court's finding that a termination was in the best interest of the children because the child had special needs, the mother was not able to meet those needs based on her long standing serious mental health issues, and the child was bonded to the foster parents even though the foster family was not committed to adopting the child. The foster parents did commit to providing her with a permanent foster home. Although there was no guarantee that an adoptive family would be found, an adoption, though preferred is not a prerequisite to terminating parental rights. **Dissent:** MacDonald, Berdon, JJ. **Note:** Conn Gen. Stat. § 17a-112 now requires DCF to prove by clear and convincing evidence that it made reasonable efforts to reunify prior to terminating parental rights.

In re Romance M., 30 Conn. App. 839 (1993), aff'd, 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights by finding that she failed to rehabilitate and that a termination was in the best interest of her child. The Supreme Court affirmed. The mother claimed that the trial court failed to take into account that few people rehabilitate from alcoholism without relapses. The Supreme Court held that the trial court's findings were supported by the record because the mother continued to abuse alcohol and while she visited the child and had a relationship with her, the foster parent was the child's psychological parent, the mother failed to attend treatment and the child had an urgent need for permanency. In this dispositional phase, "the emphasis appropriately shifts from the conduct of the parent to the best interest of the child."

In re Theresa S., 196 Conn. 18 (1985)
The trial court terminated the mother's parental rights on the ground of acts of commission or omission and found a termination of her parental rights was in the best interest of the children. The Supreme Court affirmed. The mother claimed that the trial court erred in concluding that a TPR was in the best interests of the children because the court did not sever the father's parental rights. She further asserted that the judgment was not logically correct because the children could not be placed for adoption. The Court noted that parental rights can be terminated without a pending adoption. The trial court's decision not to terminate the father's parental rights, did not preclude the termination of the mother's parental rights.

In re Juvenile Appeal (83-BC), 189 Conn. 66 (1983)
Although the trial court proved by was clear and convincing evidence the adjudicatory ground of mental deficiency for a termination of parental rights, the Supreme Court remanded the case to the trial court matter on the best interest ground to determine whether there existed a realistic prospect for finding an adoptive home for the child. The Court ruled that establishing a adjudicatory ground for a TPR does not automatically require terminating a parent's parental rights. **Dissent:** Parskey, J.

In re Brian T., 134 Conn. App. 1 (2012)
The trial court, on an appeal from probate court, terminated the father's parental rights finding abandonment, failure to rehabilitate, and the termination was in the best interest of the child. The Appellate Court affirmed. Regarding best interests, the father claimed that the trial court improperly considered the

best interests of the child before reaching a conclusion whether the statutory adjudicatory grounds were proven. The Appellate Court held that although the memorandum of decision includes best interest findings preceding adjudicatory findings, the order clearly sets forth the four adjudicatory grounds and then makes an express finding by clear and convincing evidence regarding the best interests of the child. The memorandum of decision and the trial court's order must be read in conjunction. **Concurring:** Lavine, J.; Robinson, J.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP232.pdf

In re Mia M., 127 Conn. App. 363 (2011)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that the evidence as a whole supported the trial court's finding that a termination was in the child's best interest because the mother suffered from a grave schizoaffective disorder, and continued to suffer the manifestations of her serious and long-standing mental illness. The mother was hospitalized numerous times for her mental health issues and had ongoing physical confrontations with neighbors and her mother due to her paranoid delusions that resulted in criminal charges. The trial court properly balanced the seven statutory factors and the child's relative in Mexico was a preadoptive resource.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP286.pdf

In re Alison M., 127 Conn. App. 197 (2011)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother failed to rehabilitate and a termination was in the best interests of the children. The Appellate Court affirmed. The mother claimed, in part, that the trial court erred in finding a termination was in the children's best interest because the trial court failed to consider the mother and children's shared bond, the acrimony between the grandmother and mother and the court-ordered psychologist's opinion that a termination was not in the children's best interest. The Appellate Court held that evidence supported the trial court's finding because although the children shared a loving bond with their mother, the children also had been living with their grandparents and had a loving bond with them. The court also properly considered that the grandmother testified that she intended to allow the mother to be involved in the children's lives. While the expert opined that it would not be in the best interests of the children for their relationship with their mother to be severed, the court properly balanced the expert's opinion against the children's need for permanency. "Although [courts] often consider the testimony of mental health experts . . . such expert testimony is not a precondition of the court's own factual judgment as to the child's best interest." http://www.jud.ct.gov/external/supapp/Cases/AROap/AP127/127AP258.pdf

In re Sarah O., 128 Conn. App. 323, cert. denied, 301 Conn. 928 (2011)
The trial court terminated the mother's parental rights by finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the trial court's findings were supported by the record because the mother continued to reside with her father whose house everyone agreed was inappropriate and used her money to try and fix it up instead of obtain separate housing. While the mother and the child shared a loving bond, the child was in foster care for one and half years of her three years of life, the court found the mother failed to make reunification with the child a priority.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP128/128AP361.pdf

In re Luciano B., 129 Conn. App. 449 (2011)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts to reunify, they failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the best interest finding was erroneous because the mother was making progress and the mother was loving and appropriate towards her child and they had a good relationship. The Appellate Court held that the record supported the trial court's determination because the child had a visiting relationship with the parents, but the child's psychological parents were his foster parents. Although the mother was sober for a year, her risk of relapse was high and the child deserved permanency. During the recommended three additional month reunification period the mother failed to attend weekly individual therapy and substance abuse treatment. The mother's failure to comply with the expert's minimal requirements caused the court to conclude that she could not meet the full-time demands of a young child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP448.pdf

In re Jason R., 129 Conn. App. 746 (2011), cert. pending
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, DCF made reasonable efforts to reunify and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly concluded that the termination of parental rights was in the best interest of the children. The Appellate Court held that the evidence demonstrated that the mother had difficulty parenting the children, managing her medication, addressing her psychotherapy needs and refraining from marijuana use. The court properly afforded great weight to the psychologist who testified, in part, that the mother had not properly addressed her own barriers to reunification with the children. The Court further held that the trial court did not improperly shift the burden of proof from DCF to the mother in its decision and did not improperly change the basis of its memorandum of decision nor substitute its original decision in its articulation. **Dissent:** Robinson, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507.pdf;
Dissenting Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP507E.pdf

In re Jaime S., 120 Conn. App. 712 (2010), cert. dismissed, 300 Conn. 294 (2011)
The Appellate Court held that the trial court properly found that the petitioner, the mother, proved by clear and convincing evidence that terminating the father's parental rights on the grounds of abandonment was in the best interest of the child. The court properly found that at eight years old, the child was afraid of his father and had no independent memories of him. The father was not prevented by any third party's unreasonable act from maintaining a relationship with the child. Father failed to maintain contact with his child due to his threatening behavior towards the mother requiring protective orders, his illegal activity, his incarceration and subsequent detainment by immigration, as well as his substance abuse and mental health issues.
Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP262.pdf; Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR32.pdf

In re Devon W., 124 Conn. App. 631 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The mother and children both appealed. The children claimed that given the strong loving bond they shared with their mother, the trial court erred in finding a termination was in their best interests. The Appellate Court held that the trial court properly considered the best interest statutory factors and the findings were not clearly erroneous. Although the mother and children share a loving bond, this does not negate a finding that a termination is in the best interest of the

children. The evidence demonstrated that the mother was hospitalized numerous times for her psychotic state, she had a poor track record of attending treatment and taking her medication, had never demonstrated her ability to care for all four of her children at the same time and the children had been in foster care for much of their lives. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP30.pdf

In re Jordan T., 119 Conn. App. 748, cert. denied, 296 Conn. 905 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the child. The Appellate Court affirmed. The mother made numerous claims. The mother claimed that a termination was not in her child's best interest because the psychologist opined that the child's closest parental bond was with her mother and her family ties were "powerful" and that the child would "suffer a huge loss" if those ties were severed. The child was sad to be separated from her mother. The psychologist further opined that none of the dispositional options available were ideal and that the question of the child's best interest was one of minimizing harm. Here, the mother committed a robbery while intoxicated and the child was placed in foster care. While released on bond, the mother substantially completed the specific steps and DCF's plan was reunification. The mother was then sentenced to two years in prison and DCF filed a termination petition. The Appellate Court held that the record supported the trial court's judgment because the court concluded that maintaining the child's preadoptive placement would do less harm than waiting for the mother's release from prison and possible eventual rehabilitation. The Court stated, "[e]ven if the evidence persuaded this court that termination was not in Jordan's best interest, it failed to convince the trial court."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP181.pdf

In re Jocquyce C., 124 Conn. App. 619 (2010)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interests. The Appellate Court affirmed. The mother claimed that there was insufficient evidence that a termination was in the child's best interest given her sobriety and her ability to care for her other child in her custody. The Appellate Court held that the trial court properly balanced the progress the mother made in completing inpatient treatment and remaining drug free, as well as caring for the child in her custody against the effect that further delay in permanency would have on the child in DCF's custody. The child, who was in foster care for two years, did not view his mother as his psychological parent and was bonded to his foster parents. Although counsel for the child did not support a termination, counsel did not assert that the mother was capable of caring for the child at the time of trial.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP29.pdf

In re Rafael S., 125 Conn. App. 605 (2010)
The trial court terminated the mother's parental rights finding that it was in the children's best interest. The Supreme Court affirmed. The Supreme Court held even though the child and the mother shared a loving bond and there was no identified preadoptive family, based on the facts presented, a termination of the mother's parental rights was warranted. The trial court found that the mother failed to rehabilitate and the Court ruled that even without an impending adoption, a termination of parental rights promotes stability and permanency for the child because it reduces litigation by the parent. Although adoption is the preferred outcome, the foster mother was highly committed to the child while in residential treatment. The Court further held that despite the court-ordered expert psychologist's response equivocating between adoption or long term foster care being in the child's best interest, the record as a whole supported the trial court's best interest finding. Trial courts are entitled to make their own factual determinations.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap118.pdf

In re Chevol G., 125 Conn. App. 618 (2010)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts, the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed trial court erred in finding a termination was in the children's best interest. The Appellate Court summarily held there was ample evidence to support the trial court's determination. The evidence showed the mother had a lengthy history of difficulty with parenting and behavioral problems based on the testimony of the mental health professionals and the recommendation of the guardian ad litem. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP125/125ap120.pdf

In re Sole S., 119 Conn. App. 187 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court failed to credit the expert psychologist's opinion regarding reunification and best interests. The Appellate Court held that the trial court's determination was not clearly erroneous because the evidence was sufficient. The trial court's decision was not inconsistent with the psychologist's opinion. The psychologist opined the father should have more time to reunify in light of his release from prison and his progress, but that the father should obtain appropriate housing and comply with his probation. The evidence demonstrated that the father was living in a sober rooming house that was unsuitable for his child, he was unable to secure adequate income, he tested positive for cocaine, in violation of his parole and was not able to independently care for his child in over four years.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP119/119AP133.pdf

In re Ellis V., 120 Conn. App. 523 (2010)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The parents claimed, in part, that the trial court improperly found it was in the children's best interest. The Appellate Court held that the trial court properly considered each of the seven dispositional factors and properly found that the parents failed to comply with specific steps provided by court for reunification, the mother continued to use illegal substances and was unable to provide children with a stable and safe environment, and the children, who had various emotional and physical problems, had significant problems that needed to be addressed and required permanency. Although the father was capable of caring for the children, his loyalty to his wife and choice not to separate from her or alter his sea duty schedule prevented him from providing the children with a stable environment and the intensive attention and care that they require.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP252.pdf

In re Jorden R., 120 Conn. App. 65 (2010)
The trial court terminated the mother's parental rights, in part, finding that the termination was in the child's best interests. The Appellate Court, on remand, affirmed. The mother claimed that the trial court improperly found that a termination was in the child's best interest. The Appellate Court held that the evidence supported the trial court's determination that a termination was in the child's best interest because the child suffered severe and unexplained injuries, shaken baby syndrome and multiple fractures, while in the care of his parents and the parents had a volatile relationship marked with domestic violence. While the mother suspected the father caused the child's serious injuries, she reunited with him after they separated in violation of the court-ordered specific steps. The trial court properly considered the seven best interest factors as well as the child's interests in sustained growth, development, well-being and stability. Note: the

intricate procedural history of this case.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP195.pdf

In re Albert M., 124 Conn. App. 561, 299 Conn. 920 (2010)
The trial court terminated the father's parental rights finding that DCF provided reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court improperly failed to consider that giving the father additional time to rehabilitate would not harm the child. The father did not challenge the sufficiency of the evidence. The Appellate Court held the evidence was sufficient and the trial court properly applied the seven dispositional factors. Here, the parents had a "highly conflicted codependent relationship" and the father was "unable to separate from her." The father had actual knowledge of the requirement that he separate from the mother despite DCF's failure to put that requirement in concrete terms. The Appellate Court found it significant that the father did not testify that he did not know that separation from the mother would help him reunify with his son. Rather, the father testified that the social worker told him he would have a better chance of regaining custody if he left the mother.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP124/124AP22.pdf

In re Gabrielle M., 118 Conn. App. 374 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, she failed to rehabilitate and a termination was in the child's the best interests. The Appellate Court affirmed. The mother claimed that the best interest finding was erroneous because she was capable of immediately assuming care of the child and providing her with a stable living environment. The Appellate Court briefly stated that the mother's position is not supported by the record. Here, despite multiple psychiatric hospitalizations, the mother continued to deny that she was delusional or psychotic and needed treatment.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP118/118AP64.pdf

In re Cheila R., 112 Conn. App. 582 (2009)
The trial court terminated the minor mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court erred in terminating her parental rights. The Appellate Court held that evidence was sufficient for the trial court to conclude that she failed to rehabilitate and a termination was in the child's best interest because despite numerous services, including a residential placement for her and her child at St. Agnes House, the mother had not bonded with the child or gained the ability to safely parent her. The mother repeatedly violated the rules of St. Agnes, left and requested the child return to foster care. The minor mother had unresolved mental health and sexual victimization issues. The mother was seventeen when her child was born and the father of the child was the maternal grandmother's boyfriend. She failed to cooperate with DCF and service providers or make necessary lifestyle changes to protect and nurture the child. The child was bonded to her foster parents whom she knew since birth and required permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP148.pdf

In re Anthony A., 112 Conn. App. 643 (2009)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and the mother failed to rehabilitate. The trial court also denied the motion to transfer guardianship to the intervening grandmother. The Appellate Court affirmed. The pro se mother and grandmother appealed. The mother claimed that she should be given another chance to rehabilitate. The Appellate Court summarily held that the trial court's determination was supported by the evidence. The mother failed to

attend or to complete numerous treatment and counseling programs offered to her regarding ongoing domestic violence between her and the child's father. She was also unable to make progress in improving her parenting skills and failed to obtain stable housing and employment. The child was bonded to his foster parents who he saw as his psychological parents and with whom he lived with for two years. The foster parents wanted to adopt the child and the mother's continued lack of stability and domestic violence issues would have negative impact on the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP153.pdf

In re Janazia S., 112 Conn. App. 69 (2009)
The trial court terminated the parents' parental rights finding that the parents failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The parents claimed that the court improperly found a termination was in the child's best interest based on the mother's progress and the loving bond and interaction between the mother and child. Specifically, they claimed that an intensive reunification program allowing placement of the child with the mother would preclude a termination. The Appellate Court, without going into much detail, held that the evidence was sufficient to establish that termination of the parents' parental rights based on the mother's lack of sufficient rehabilitation and the child's need for permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP112/112AP105.pdf

In re Tremaine C., 117 Conn. App. 590, cert. denied, 294 Conn. 920 (2009)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court erred in finding a termination was in the child's best interest because she was always appropriate and loving with her child. The Appellate Court held that the evidence clearly supported the trial court's judgment because the while the mother had been clean and sober, the court expressed concern about her ability to sustain her sobriety in the community. The evidence also demonstrated that the mother, although living with the aunt, had not secured her own appropriate housing or employment. Despite her ability to care for her six month old infant, the record showed that the child spent his entire 2 years of life in foster care and was recently placed with a relative who expressed an interest in adopting him and as long as the mother retained her parental rights, the child could face further disruption in his life. **Dissent:** Schaller, J.
Appellate Majority: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493.pdf;
Appellate Dissent: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP117/117AP493E.pdf

In re Trevon G., 109 Conn. App. 782 (2008)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that a termination was in the best interest of the child children. The Appellate Court affirmed. The mother claimed a termination was not in the children's best interest based on the loving bond they shared. The Appellate Court held that the existence of a strong bond between a parent and the children did not bar a termination of parental rights. The record amply demonstrated that while one child would experience a significant hardship if she were not able to see the mother at all, this hardship would eventually be overcome in time and all the foster parents were willing to adopt the children. The court properly balanced the children's need for stability and permanency against the benefit of maintaining the parent child relationship.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP109/109AP448.pdf

In re Coby C., 107 Conn. App. 395 (2008)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that it could not review the mother's claim that the trial court erred in terminating her parental rights by failing to consider a best interest dispositional factor, namely whether the child had emotional ties to his foster parent. Specifically, the mother claimed that the best interest determination was erroneous because the trial court failed to make an express finding regarding the child's disruption from his preadoptive placement. The Appellate Court concluded that the claim was unreviewable because the record did not reveal the trial court's basis for the omission and the mother never filed a motion for articulation to rectify the trial court's omission. There were not exceptional circumstances warranting appellate review of a claim that was not raised or decided at the trial court.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP257.pdf

In re Justice V., 111 Conn. App. 500 (2008), cert. denied, 290 Conn. 911 (2009)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that the petitioner, DCF, proved by clear and convincing evidence that the mother had abandoned the child and that the termination of parental rights was in the best interest of the child. The trial court properly found that the child suffered when she was in the mother's custody and given the mother's hostility towards DCF, she refused to cooperate with DCF. The child was thriving in her paternal grandmother's home, and she said she wants to live there "forever and ever." Although there was a protective order in place requiring the mother to visit the child as permitted by DCF, the court found that no third party prevented the mother from maintaining a relationship with the child.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP111/111AP65.pdf

In re Brittany J., 100 Conn. App. 329 (2007)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interest. The Appellate Court affirmed. The Appellate Court held the evidence supported the trial court's determination that she failed to rehabilitate because the mother had untreated mental health issues and refused to take her psychotropic medication until the eve of trial, even though DCF offered a plethora of services and the children had been in foster care for more than two years. Although there was a strong bond between the mother and her children, the mother exercised poor judgment with regard to her children and would continue to do so in the future. The evidence also supported that a termination was in the children's best interest. The children's desire to return home to live with their mother was ambivalent at best and the children required permanency.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP100/100AP219.pdf

In re Ryan R., 102 Conn. App. 608, cert. denied, 284 Conn. 924 (2007)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the child. The mother and child both appealed. The Appellate Court affirmed. The mother and child claimed that the trial court improperly determined a termination was in the child's best interest given the loving and significant bond they shared. The Appellate Court held that the court's decision was not clearly erroneous because mother's failure to address her long-term 20 year history of substance abuse dictated that a termination was in the child's best interest despite their loving bond. The evidence was further buttressed by testimony of therapists and psychologists opining that the mother could not rehabilitate in a reasonable period of time.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP102/102AP338.pdf

In re Anna Lee M., 104 Conn. App. 121, cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred because of the bond that still exists between her and her children. The Appellate Court upheld the trial court's judgment because the record demonstrated that a termination was in the children's best interest because of the mother's destructive and manipulative behavior was harmful to the children. Given the other factors considered by the trial court, including the children's need for permanency, the finding was not clearly erroneous.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Anthony H., 104 Conn. App. 744 (2007), cert. denied, 285 Conn. 920 (2008)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The mother contended that given the strong bond the children share with her, and because the older child did not have a preadoptive home, a termination was not in their best interest. The Appellate Court held that evidence of strong bond does not preclude a finding that a termination was in the best interest of the children. The evidence supported the trial court's finding because the mother had a poor understanding of the older child's specialized needs and the expert opined that the child would continue to sabotage his foster care placements as long as he believed that he could return to mother. Therefore, foreclosing the prospect of his return to the mother allows the child to achieve permanency. The additional time needed to show that the mother could establish herself and be stable in the community would be harmful to the children who cannot wait for permanency. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP42.pdf

In re Joseph L., 105 Conn. App. 515, cert. denied, 287 Conn. 902 (2008)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The Appellate Court held that the trial court's decision was amply supported by the record because although the parents and children shared a loving bond, the parents were unable to assume a responsible role in their children's lives based on their volatile relationship and their failure to comply with all the specific steps. The court also considered the children's need for permanency. The mother did not complete domestic violence counseling or secure a job, and the father was unable to maintain a job and continued his patterns of coercive control.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP105/105AP96.pdf

In re Halle T., 96 Conn. App. 815, cert. denied 280 Conn. 924 (2006)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court lacked sufficient evidence to find a termination was in the best interests of the child and the trial court made two incorrect factual findings. The Appellate Court held that the trial court's decision to terminate the father's parental rights was not clearly erroneous because the record demonstrated that the father was not able to rehabilitate during the two years that the child was in foster care. While he made some personal rehabilitation, his progress was insufficient to meet the child's significant needs. The child had fetal alcohol syndrome and suffered from numerous developmental disabilities. Assuming arguendo that the trial court improperly found that the father did not substantially comply with all the specific steps and that he did not comply with family therapy, the Appellate Court still would find that the trial court's ultimate conclusion regarding the child's best interest was proper. The child was bonded to the foster parents and needed permanency.

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP96/96ap398.pdf

In re Shaun B., 97 Conn. App. 203 (2006)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that DCF did not demonstrate a compelling reason to warrant termination. The Appellate Court held that the trial court's finding that a termination was in the child's best interest was not clearly erroneous. The evidence demonstrated that the mother suffered from recurrent major depression and moderate and borderline personality disorder and it was recommended that she undergo long-term, intensive, inpatient treatment in order to address her mental health issues. During a supervised visit she absconded with the child and fled to New York until she surrendered herself and the child. She was then was arrested and incarcerated. She was also unable to secure and maintain housing. The child, who had speech developmental problems, had overcome them primarily as a result of the stability and warmth of his foster family.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP425.pdf

In re Rachel J., 97 Conn. App. 748, cert. denied, 280 Conn. App. 941 (2006)
The trial court terminated the mother's parental rights finding that, under "Ground F", she committed a deliberate act that resulted in serious bodily injury of another child and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding that a termination was in the best interest of the child because the trial court acknowledged a bond between the mother and child. The Appellate Court held that given the history of physical, emotional and sexual abuse as well as the child's negative feelings towards her mother, the trial court's decision was not clearly erroneous. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap97/97AP474.pdf

In re Brendan C., 89 Conn. App. 511, cert. denied, 274 Conn. 917, 275 Conn. 910 (2005)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, that there was no ongoing parent child relationship and that it was in the best interest of the child. The Appellate Court affirmed. The father claimed that the trial court erroneously found it was in the child's best interest to grant the TPR based on the father's alleged mental impairment. The Appellate Court held that the trial court properly terminated his parental rights because he was unable to provide his child with the necessary care. The evidence sufficiently demonstrated that the father denied the domestic violence, had anger management issues that contributed to the child's negative behaviors and that the child had improved since being in foster care. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP89/89AP313.pdf

In re Christina M., 90 Conn. App. 565 (2005), aff'd, 280 Conn. 474 (2006)
The trial court terminated the parents' parental rights by finding that DCF made reasonable efforts to reunify, that the parents failed to rehabilitate and that it was in the best interest of the children. The Appellate Court affirmed. Without disputing the accuracy of the court's findings, the parents claimed that the trial court failed to take into account the parents' poverty and their cognitive limitations to perform the specific steps, as well as their perceived ability to care for the one child that remained in their custody. The Appellate Court addressed the three claims simultaneously and held that the trial court's decision was amply supported by clear and convincing evidence because the three children are in the same preadoptive home, and despite their love for their daughters, the evidence showed that the parents were unable to protect their daughters from the risks posed by unsafe housing, inadequate nutrition and inappropriate caretakers. "The

sad fact is that there is a difference between parental love and parental competence."
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR280/280CR1.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP90/90ap437.pdf

In re Alejandro L., 91 Conn. App. 248 (2005)
The trial court terminated the pro se mother's parental rights finding that she failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The Appellate Court held that the mother suffered from a serious and long standing drug addiction. She left the child unattended in her car twice, repeatedly used cocaine, failed to comply with substance abuse and mental health treatment and continued a relationship with the children's father, despite the fact that her drug counselors advised her to sever her relationship with him because he was an impediment to her obtaining and maintaining sobriety. The children were thriving in foster care and they required permanency and stability.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP91/91AP476.pdf

In re Jermaine S., 86 Conn. App. 819, cert. denied, 273 Conn. 938 (2005)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous. The trial court properly found that DCF proved by clear and convincing evidence that the father had abandoned the child and the mother had failed to rehabilitate and that terminating the parents' parental rights was in the best interest of the child. Given the child's need for permanency and having properly considered the seven statutory factors, the trial court conclusion was supported by the record. The child had been in foster care since his birth and he was placed with his half-brother. He had no present positive memories of his father and was bonded to the foster family who are willing to adopt. Upon the father's release from prison, his contact with his son was sporadic at best and he never provided any financial support to the child. The mother had not complied with specific steps and did not successfully complete counseling. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP86/86AP112.pdf

In re Tyqwane V., 85 Conn. App. 528 (2004)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that a termination was not in the children's best interest because they share a very strong bond, the psychological parent is unwilling to adopt the children, adoption is unlikely given their extreme emotional and behavioral problems and termination is contrary to their best interests insofar as they will permanently and irretrievably lose their only connection to a parent. The Appellate Court held that the trial court's judgment was not clearly erroneous as the testimony of the expert psychologist supported the trial court's judgment. The psychologist testified that the mother continued to demonstrate poor judgment and took no responsibility for the fact that the children had been in foster care. Despite the court's acknowledgement that the situation was "heartbreaking", the court properly found adoption to be in the children's best interest based on the children's need for permanency even though the children shared a loving bond with their mother and they lacked an adoptive family.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP85/85ap511.pdf

In re Vanna A., 83 Conn. App. 17 (2004)
The trial court terminated the mother's parental rights finding that the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly found termination was in the child's best interest. The Appellate Court held that the evidence amply supported the trial court's findings. The evidence demonstrated that the mother generally

complied with the majority of specific steps set forth by the court, but her continued involvement with the criminal justice system and inability to admit and take responsibility for abusing her child thwarted her rehabilitation. Although DCF offered many services, by her actions, the mother elevated her desires over the child's need for her as a mother.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP83/83ap290.pdf

In re Victoria B., 79 Conn. App. 245 (2003)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly weighed the seven dispositional best interest factors to find that a termination was the child's best interest. She asserted that the trial court placed too much emphasis on the relationship between the child and the foster parents. The Appellate Court held that the trial court properly weighed the factors and found that child required permanency and that the child viewed the foster parents as her psychological parents, the child made significant improvements since being placed with her foster family, and they wanted to adopt her. The evidence as a whole demonstrated that returning the child to her mother would be detrimental to her well-being.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP79/79ap501.pdf

In re Clark K., 70 Conn. App. 665 (2002)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights, finding that she caused the child to suffer a serious physical injury. The Appellate Court affirmed. The mother claimed, in part, that the evidence was insufficient to terminate her parental rights. The Appellate Court held that the trial court's findings were not clearly erroneous. As a condition of being released from jail following the child's serious injury, the mother was not permitted to have any contact with the children. The mother did not challenge that condition of her release. The trial court found that it would not be in the best interests of the children to reintroduce the mother into their lives after two years, nor would it be in their best interests to remain in the uncertainty of foster care. They had formed a close and loving attachment with the foster parents with whom they had been placed with for two years and who wished to adopt them. http://www.jud.ct.gov/external/supapp/Cases/AROap/70ap411.pdf

In re Jessica M., 71 Conn. App. 417 (2002)
The probate court terminated the mother's parental rights on the basis of her consent. The Commissioner of DSS appealed to the superior court. The superior court denied the termination of parental rights petition. The mother appealed. The Appellate Court affirmed. The mother claimed that DSS did not have standing to intervene in the termination proceeding and that the trial court improperly based its decision to deny the termination based solely on the mother's financial status. The Appellate Court held that DSS had standing in the termination case because the Commissioner of DSS constituted an aggrieved person since the probate court order affected DSS' right to reimbursement of assistance payments that were made to the mother. The Appellate Court concluded that the trial court properly considered the mother's financial condition as a factor in determining the children's best interest and the evidence supported the trial court's conclusion denying the termination. The evidence demonstrated that the children still wanted a relationship with their mother and the mother's petition to terminate her parental rights was motivated by her desire to avoid child support obligations. "Rather than allowing the petitioner to pull off a sham on the court and to divest herself of her responsibilities to her children, which would directly undermine our law, the court determined, on the basis of the entire record, that the petitioner had failed to meet her burden of proving

that termination of her parental rights was in the children's best interests."
http://www.jud.ct.gov/external/supapp/Cases/AROap/71ap383.pdf

In re Jonathon G., 63 Conn. App. 516 (2001)
The trial court terminated the father's parental rights by finding that there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father waited six years before acknowledging paternity, claimed, in part, that the trial court's findings regarding the seven dispositional findings were not supported by the evidence. The Appellate Court held that proof by clear and convincing evidence of the seven factors prior to the finding by the court that it is in the best interest of the child to terminate the father's parental rights is not required. The Court declined to analyze each of the court's findings because the record adequately supported the trial court's findings.
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap401.pdf

In re Ashley E., 62 Conn. App. 307 (2001), cert. denied, 256 Conn. 910 (2001)
The Appellate Court held that the trial court's judgment granting the TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. The court-ordered psychologist testified that a termination of the incarcerated father's parental rights was in the best interest of the child with severe developmental delays and that the father should not have the opportunity to establish a relationship with the child, as such a relationship would likely have a harmful effect on her. In response to the father's claim that the court ignored other evidence in support of denying the TPR, the Court ruled that the trial judge's function is to assess credibility, weigh testimony and accept all or none of the testimony.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Dorrell R., 64 Conn. App. 455 (2001)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. On appeal, the mother claimed that the trial court improperly found that DCF made reasonable efforts to reunify and that a termination of her parental rights was not in the child's best interest. The Appellate Court held that the trial court's decision was amply supported by the record based on the facts that the mother failed to rehabilitate from her substance abuse addiction, the child had special needs and had been in foster care for 6 years and though there was no adoptive home yet, the child's best hope rested in terminating the mother's rights so adoption would become more probable.
http://www.jud.ct.gov/external/supapp/Cases/AROap/64ap500.pdf

In re William R., 65 Conn. App. 538 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the best interest finding was erroneous because the record was devoid of any expert testimony showing how an adoption will affect the three children, and the court failed to consider the problems in the foster home and that the children wanted to return home. The Appellate Court held the record supported the trial court's decision to terminate because the evidence demonstrated that the children had been in foster care for four years and based on mother's twenty year history of substance abuse, the expert psychologist opined that the mother would require another two years of participation in the inpatient program to prepare her to parent the children safely. Moreover, the children were happy in the foster home and the mother for years failed to comply with DCF's rehabilitative services.
http://www.jud.ct.gov/external/supapp/Cases/AROap/65ap556.pdf

In re Sheena I., 63 Conn. App. 713 (2001)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, she committed an act of commission or omission and that a termination was in the best interest of the children. The mother claimed that the trial court improperly found the termination was in the children's best interest because it should have transferred guardianship to the grandmother or aunt to preserve the biological ties. The Appellate Court held that ample evidence supports the trial court's findings that termination was in the children's best interest because the mother was incapable of providing them with a stable and caring home environment. Due to the sexual and physical abuse they suffered while in the mother's care, the children required permanency in a permanent placement or adoption. Transfer of guardianship would not meet the children's best interests. In the dispositional phase of a termination proceeding, the trial court properly considers only whether the parent's parental rights should be terminated, not where or with whom a child should reside following termination. http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap441.pdf

In re Ashley S., 61 Conn. App. 658 (2001)
The trial court terminated the pro se mother's parental rights finding that the mother failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother listed thirty six issues on appeal. The Appellate Court held that the trial court properly found the termination to be in the children's best interest. The evidence demonstrated that children were closely bonded with their foster parents, who provided them with loving and structured home environments and the trial court properly concluded that the mother's love and biological connection was not enough to preclude termination of her parental rights because the mother could not provide them a nurturing, safe, and structured environment. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap194.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
In a coterminous petition, the trial court adjudicated the children neglected and terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the best interest finding was clearly erroneous. The Appellate Court held that the judgment was not clearly erroneous because based on the findings in the seven statutory best interest factors, DCF provided numerous services to the parents for over a decade and the parents continued to relapse. Although the parents consistently visited and the children had emotional attachments, neither parent was able to adjust their circumstances and remain sober so that rehabilitation was foreseeable.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Michael L., 56 Conn. App. 688 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court erred in finding a termination was in the children's best interest. The Appellate Court held that the evidence supported the trial court's judgment because she continued to use drugs and reunifying the children with their mother would be detrimental to the children. The children were traumatized by the prospect of reunification and one child had specialized needs and was thriving in foster care.

In re Amber B., 56 Conn. App. 776 (2000)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts to reunify, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed, in part, that the evidence as a whole, did not demonstrate it was in the best interest of his child to terminate his parental rights based on all his previous claims regarding insufficient evidence pertaining to the court's findings that DCF made reasonable efforts and that he failed to rehabilitate. The Appellate Court, after rejecting the prior claims, held "this last claim is a repository of all the claims we previously addressed. This claim, therefore, must fail."

In re Terrance C., 58 Conn. App. 389 (2000)
The trial court terminated the incarcerated father's parental rights on the ground of abandonment. The Appellate Court affirmed. The father claimed that the trial court improperly determined a termination as in the child's best interest and improperly applied the best interest factors. The Appellate Court held that the trial court's findings were supported by the record. Considering the father's lack of interest in his child, DCF made reasonable reunification efforts because DCF contacted the father about his child to no avail and also contacted the prison about the father's paternity options. Here, the father never acknowledged paternity until 3 years after the child was born, only asked to visit his child once since his birth and while he sent him some cards, he failed to show overall concern for the child. While the father's incarceration impacts his ability to provide all the general obligations of parenthood, incarceration is not an excuse not to take advantages of available resources to demonstrate concern for one's child.

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father claimed that the termination of parental rights decision violated his due process rights because the state failed to demonstrate a compelling state interest in terminating his parental rights when the State could have granted guardianship of the child to the maternal grandparents so that the child could be with his extended biological family. The Appellate Court held that the unpreserved claim failed under *Golding* because the father failed to prove the third prong of *Golding,* that a constitutional violation clearly existed and deprived him of a fair trial. The Appellate Court relied on the evidence that removing the child from his foster family to whom he is bonded would be detrimental to his well-being. The child would lose his sense of permanency and the grandparents would likely reunite the child with his mother upon her release from prison. "Forcing a child back into a potentially unhealthy and far less supportive atmosphere merely for the sake of having the child live in the same dwelling as relatives does not provide a constitutionally required alternative for Shane's family placement."

In re Quanitra M., 60 Conn. App. 96, cert. denied, 255 Conn. 903 (2000)
The trial court terminated the mother's parental rights finding a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF was required to prove the seven statutory best interest factors in Conn. Gen. Stat. § 17a-112(e) by clear and convincing evidence prior to determining whether a termination of parental rights is in the best interest of the children. The Appellate Court, applying rules of statutory construction, held that the factors serve as guidelines to the trial court and are not statutory prerequisites that need to be proven before the court can order a termination.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap521.pdf

In re Steven N., 57 Conn. App. 629 (2000)

The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF did not prevent the mother from maintaining a relationship with the children when DCF terminated the mother's visits with her children and that DCF provided reasonable efforts. The Appellate Court held that the trial court properly found that the mother's lack of a relationship with the children was due to the mother's psychiatric issues and her inability to recognize and overcome her mental health issues as well as her inability to learn how to parent the children safely. DCF terminated the visits because the mother was not in treatment for her mental health issues and the visitation was affecting the children negatively given the mother's behaviors and the lack of parental bond. Further, the Appellate Court held that the evidence demonstrated that DCF provided reasonable efforts by offering the mother family preservation, counseling and parenting classes, visitation and transportation assistance. The mother began, but never finished the programs.

In re Tyscheicka H., 61 Conn. App. 19 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly found a termination was in the best interest of the child instead of long term foster care or a transfer of guardianship because after the termination petition was filed she entered an inpatient substance abuse treatment facility and made progress there. She asserted that this would provide the child with the "best of both worlds," that is, a safe home and the maintenance of the connection between the child and her mother. The Appellate Court held that there was ample evidence to support the trial court's finding because although the mother made progress while she was inpatient, the evidence showed she needed more time at the inpatient facility. Moreover, the child had spent nearly four years in foster care and required permanency. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap59.pdf

In re Deana E., 61 Conn. App. 185 (2000)
The Appellate Court held that the trial court's judgment granting TPR petition was not clearly erroneous as the evidence supported the finding that the father abandoned the child and that terminating the father's parental rights was in the best interest of the child. The supporting evidence demonstrated that the children suffered from post-traumatic stress syndrome, along with psychological and behavioral problems. They were together and bonded to their foster family who may adopt them. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re Kasheema L., 56 Conn. App. 484 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly used an "all encompassing best interest standard" in reaching the decision to terminate her parental rights. The Appellate Court held that the trial court properly found that a termination was in the children's best interests by relying on the expert witness' testimony that the mother was still not able to care for her children because the mother's sobriety was too fragile and the risk of relapse was too great. Moreover, the evidence demonstrated that the children had suffered significant neglect by the mother and they were extremely fearful of being removed from their present homes because they were bonded to their foster parents they have been with for most of their lives.

In re Alissa N., 56 Conn. App. 203 (1999), cert. denied, 252 Conn. 932 (2000)

On appeal from probate court, the trial court denied the grandmother's petition to terminate the mother's parental rights and granted the grandmother guardianship. The Appellate Court affirmed. The grandmother claimed that the trial court improperly denied the termination as not being in the child's best interest. She specifically asserted that a denial of a termination petition is only legally permissible when "compelling reason exists to keep the parent in the child's life" and the denial must be for the purpose of parent assuming a fulltime caretaking role. The Appellate Court held that as a matter of law the trial court has broad discretion in assessing the best interest of the child in a termination case and the court is not limited by the legal constructs posed by the grandmother, but rather by the weighing of the statutory best interest factors. While the grandmother had solely provided for the child for over ten years, the evidence supported the trial court's decision to allow the mother to retain her parental rights so that she could continue to be a visiting resource for her special needs child. The trial court appropriately found that the child's need for permanency did not dictate a termination of parental rights. The trial court reasoned that the mother's presence in her child's life would not disrupt the permanency that the child has had with the grandmother since infancy.

In re Natalia G., 54 Conn. App. 800 (1999)
The trial court terminated the father's parental rights finding that DCF made reasonable efforts, the father failed to rehabilitate and a termination was in the child's best interest. The Appellate Court affirmed. The father claimed that the trial court erred in finding that DCF made reasonable efforts as part of the dispositional best interest finding because he was young and drug dependent and he was not offered appropriate and meaningful assistance. The Appellate Court held that DCF made reasonable efforts by referring him to psychological evaluations, substance abuse treatment and offering him visitation. The father failed to comply with any of the services and he was unable to identify the methods he believes DCF should have used to provide appropriate programs when he continued to use drugs, did not inform DCF of his whereabouts or participate in any services.

In re Denzel A., 53 Conn. App. 827 (1999)
The trial court allowed the grandmother to intervene and terminated the parents' parental rights. The Appellate Court affirmed. The grandmother claimed that a termination of parental rights was not in the child's best interest because the child should be placed with family. She argued that the child should remain committed so that she could establish a relationship with him and then assume guardianship rather than allowing him to be freed for adoption by strangers. Addressing the role of intervenors in TPR cases, the Appellate Court held that the purpose of the grandmother's intervention does not include the right to effect an adoption or custody, but "is solely for the purpose of affecting the termination itself." While the grandmother, at the time, was the only prospective adoptive parent, where and with whom the child should live "are not questions that relate to whether it is in his best interests to terminate his relationship with his parents." The Court further held that the trial court acted properly in terminating the parental rights based on the evidence regarding the statutory best interest factors.

In re Antony B., 54 Conn. App. 463 (1999)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly terminated her parental rights instead of a transferring guardianship of the children to the aunt and uncle who were serving as the children's foster parents. The Appellate Court held that the trial court's judgment was supported by the record because the expert psychologist testified it was in the children's best interest to have permanency and a transfer of guardianship does not afford as much permanency as a

termination of parental rights. Moreover, the children were bonded to their aunt and uncle and not as bonded to their mother and the mother failed to rehabilitate from her mental condition.

In re Tricia A., 55 Conn. App. 111 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the best interest finding was erroneous. The Appellate Court held that the record supported the trial court's judgment because the children viewed their foster parents as their psychological parents, had been in foster care for four years, and they no longer viewed their mother as a parent and did not feel safe with her.

In re Carissa K., 55 Conn. App. 768 (1999)
The trial court terminated the father's parental rights finding that he committed an act of commission or omission, he failed to rehabilitate and that a termination was in the best interest of his child. The Appellate Court affirmed. The court found that the father sexually abused the child and according to the terms of his probation he could have no contact with her for an additional three years. The Appellate Court held that there was clear and convincing evidence that a termination of parental rights was in the child's best interest because the evidence demonstrated that the child was flourishing in the foster home and the foster parents wanted to adopt her. The child was also doing well in school and in counseling and her negative behaviors decreased and permanency was urgent.

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the evidence was insufficient to find that a termination was in the child's best interest. The Appellate Court held that clear and convincing evidence supported the trial court's finding because was he incarcerated for most of the child's life and while incarcerated he committed 26 infractions which precluded an earlier release and an opportunity to be in a position to parent his child. Moreover, the father failed to demonstrate parental concern for her and was not able to provide the care she required. Nevertheless, the Appellate Court vacated part of the trial court's decision holding that the trial court abused its discretion by ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and without a showing of compelling need, the court's decision cannot be released.

In re John G., 56 Conn. App. 12 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate, there was no ongoing parent child relationship, she abandoned the child and a termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the trial court improperly found a termination was in the child's best interest because DCF did not make reasonable efforts to reunify. The Appellate Court held that the evidence supported the trial court's finding because although DCF offered a number of services to the mother over the thirteen years that the child was in foster care, including, visitation at the school and rehabilitation center, a bus pass to facilitate transportation, a psychological evaluation and various other social worker services, the mother only visited the child, who suffered from cerebral palsy, only minimally (16 times in 6 years). The child had no positive memories of the mother and wanted to be adopted by his foster parents.

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The Appellate Court held that the evidence supported the trial court's finding termination was in the child's best interest because the evidence demonstrated that the child suffered from failure to thrive and reactive attachment disorder as a result of the care, or lack thereof, the child received from her parents. Reactive attachment disorder is a limitation in a child's ability to attach to and interact with the adults around her. The disorder results from disturbed caretaking. The father lacked an understanding of the child's medical and psychiatric condition and during testimony he was unable to name her special needs or her treating physicians. Moreover, the psychiatrist testified that the child should be adopted by her foster mother because the child's prognosis for overcoming her reactive attachment disorder was guarded, and once a child with an attachment disorder forms an attachment, it should not be disturbed. While the child was attached to her foster mother, it does not mean that she will be able to attach to another person.

In re Kristina D., 51 Conn. App. 446 (1999)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to prove a termination was in the children's best interest. The Appellate Court held that the trial court's finding was supported by the record. While the mother, who had a drug addiction, completed some substance abuse programs, she subsequently relapsed. The trial court also properly found that the mother was unable to remain sober outside of a structured counseling setting. Moreover, DCF provided reasonable efforts and the children were bonded to their foster parents and required permanency.

In re Galen F., 54 Conn. App. 590 (1999)
The trial court terminated the father's parental rights finding that the father failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial court improperly determined termination was in the child's best interest based on insufficient evidence. The Appellate Court held that the record amply supported the trial court's judgment because the father virtually failed to comply with the specific steps. He failed to visit the child regularly, engaged in domestic violence, was incarcerated and failed to attend substance abuse and parenting programs. Moreover, the child had an adverse negative relationship with the father and was bonded to his foster family.

In re Roshawn R., 51 Conn. App. 44 (1998)
The trial court terminated the father's parental rights on the grounds of abandonment, failure to rehabilitate and found that a termination was in the children's best interest. The Appellate Court affirmed. The father claimed that the evidence was insufficient to prove a termination was in the children's best interests because DCF did not provide reasonable efforts. The Appellate Court held that the trial court's findings were not clearly erroneous because the evidence supported the finding that based on the father's lifestyle of substance abuse and reoccurring incarcerations, DCF was prevented from providing services other than visitation which it did provide.

In re Marvin M., 48 Conn. App. 563, cert. denied, 245 Conn. 916 (1998)
The trial court terminated the parents' parental rights finding that they failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The Appellate Court

held that the ample evidence supported the trial court's determination that a termination was in the best interest of the children. The evidence demonstrated that DCF offered reasonable efforts and timely services, but due to the parents' long standing and ongoing cocaine abuse, the parents failed to comply with the court orders, tested positive for cocaine, and the children were bonded to their foster mother. The children needed to be able to establish a consistent relationship with a nurturing family, and giving the parents additional time to rehabilitate would not help.

In re Christina V., 38 Conn. App. 214 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found a termination was in the children's best interests. The Appellate Court held that there was ample evidence to support the trial court's determination because it properly weighed the dispositional factors and the mother acknowledged she was unable to provide her children with a home and the children had been in foster care for four years and any further delay would be unreasonable. The children were bonded to their foster parents. While the mother achieved some personal rehabilitation with respect to maintaining employment and being drug free, she continued to lack proper judgment, insight and understanding of her children's needs to act as a parent.

In re Bruce R., 234 Conn. 194 (1995), aff'ing, 34 Conn. App. 176 (1994), reversed trial court
The father petitioned the probate court to terminate his own parental rights via consent. On transfer from probate court to the Superior Court, the Superior Court terminated the father's parental rights. The mother appealed. The Appellate Court reversed the trial court holding that the trial court failed to consider the financial status of the parents in determining whether it was in the best interest of the children to terminate the father's parental rights. The father appealed. The Supreme Court affirmed the Appellate Court. The father claimed that the relevant statute does not require the court to consider the financial condition of the parents in determining whether a termination is in the best interest of the children. Upholding state and federal public policy regarding child support, the Supreme Court held that the legislative scheme requires the court in consensual termination of petition proceedings to find that: (1) that the consent is voluntarily and knowingly, and (2) that the termination would be in the child's best interest. Although the parents' financial condition is not dispositive, when the termination of parental rights is contested, the court must consider the financial condition in determining the child's best interest. "It would be anathema for our law to allow parents to terminate voluntarily their parental rights "solely for the purpose of evading or relieving [themselves] of responsibility to pay child support. [S]imply put, no parent may blithely walk away from his or her parental responsibilities."

In re Emmanuel M., 35 Conn. App. 276, cert. denied, 231 Conn. 915 (1994)
In this coterminous action, the trial court adjudicated the child neglect and terminated the parents' parental rights. The Appellate Court affirmed. The parents claimed that there was insufficient evidence. The Appellate Court summarily held that the trial court's decision was amply supported by the evidence in light of the parents' conflicting and fluctuating explanations and the child's serious injuries, including, a femur fracture, bruises, abrasions, a burn on his thigh, multiple scars over his entire body, a cigarette-sized burn on his wrist, blisters, strap marks, perforated right eardrum, scratches and candle wax in his left ear.

In re Felicia D., 35 Conn. App. 490 (1994)
The trial court terminated the mother's parental rights on the grounds of acts of commission or omission,

failure to rehabilitate and further found that a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the trial court improperly found a termination was in the children's best interest. The Appellate Court held that the record supported the trial court's decision. The record demonstrated that the mother continuously exposed the children to dangerous men in violation of the court-ordered specific steps and refused to acknowledge that it was possible that her husband who was convicted of risk of injury likely caused the injuries. Moreover the children were closer to their foster mothers than their biological mother and termination would result in a permanency for the children.

In re Kezia M., 33 Conn. App. 12 (1993)
The trial court terminated the father's parental rights by finding that the father abandoned the child, committed acts of commission or omission, that there was no ongoing parent child relationship and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed that there was no clear and convincing evidence that a termination was in the best interest of the child. The Appellate Court held that the judgment was amply supported by the record because the father never provided continuing day to day care, never intended to do so, the child was indifferent and hostile toward the father, and the child, who had been in the same foster home for five years, was bonded to the foster parents and had no emotional ties to the father.

In re Lori Beth D., 21 Conn. App. 226 (1990)
The probate court transferred the mother's petition to terminate the father's parental rights to the Superior Court. The Superior Court terminated the father's rights by finding that he abandoned his child. The Appellate Court affirmed. The father claimed that the court lacked clear and convincing evidence to terminate his parental rights. The Appellate Court held that the trial court properly considered the statutory factors and found the father had abandoned his child and that a termination was in the best interest of the child.

In re Teshea D., 9 Conn. App. 490 (1987)
The trial court terminated the mother's parental rights finding that she abandoned the child and that termination was in the child's best interest. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to find that a termination was in the best interest of the child because there was no expert testimony presented. The Court held that expert testimony is not a prerequisite to terminating a parent's parental rights. According to statute, a court may order an expert evaluation and may consider the results, but the court is not required to rely on expert testimony. The Appellate Court further held that the evidence supported a termination of parental rights because the mother had not visited the child for over half of the child's life, the child had no emotional ties to the mother, and the child was closer to her foster parents than her mother. The mother further claimed that the trial court failed to bifurcate the findings regarding the basis for the termination and the suitability of prospective adoptive parents. The Appellate Court held that the trial court properly terminated the mother's rights even though an adoption of the child was not imminent. Termination of parental rights is not contingent upon an ensuing adoption.

In re Angela C., 11 Conn. App. 497 (1987)
The trial court terminated the mother's parental rights finding a termination to be in the children's best interest. The Appellate Court affirmed. The mother claimed that the trial court erred because based on the testimony of the psychologist the evidence was insufficient to show a termination was in the best interest of the children. The Appellate Court held that the trial court was not required to accept the expert's opinion,

nor was the testimony of another expert required to support the trial court's judgment. The record demonstrated that the clear and convincing evidence supported the trial court's judgment.

In re Shavoughn K., 13 Conn. App. 91 (1987)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the children's best interests. The Appellate Court affirmed. The mother claimed that the evidence was insufficient to find a termination was in the children's best interest. The Appellate Court held that the trial court's determination was supported by the evidence because the children were in foster care for more than half of their lives, and hardly saw their mother and had no real bond to her. Furthermore, the mother never attended counseling for her personality disorder, was involved with the criminal justice system and failed to obtain adequate housing and visit the children consistently.

In re Rebecca W., 8 Conn. App. 92 (1986)
The trial court granted the mother's petition to terminate the father's parental rights. The Appellate Court affirmed. Rejecting the father's claim that the trial court lacks jurisdiction to grant a termination petition if a subsequent adoption is not alleged, the Appellate Court held that a parent's rights can be terminated without an ensuing adoption. The father also claimed that the evidence was insufficient to find that a termination was in the best interest of the child. The Court held that the evidence supported a termination of parental rights because the father had never met the child and was incarcerated for her whole life. Introducing the child to her father when she is five or six years old for the first time would be detrimental to the child's best interest.

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents claimed that the trial court did not properly consider the statutory factors. The Appellate Court held that the trial court's decision clearly considered the statutory factors and its finding that a termination was in the child's best interest was supported by the evidence despite the fact that the child shared a loving bond with her mother.

TEXT BOOK

In re Kasheema L., 56 Conn. App. 484 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly relied on scholarly works to determine that it was in the best interests of the children to terminate her parental rights. The Appellate Court held that the trial court's citation in footnotes to scholarly literature, "Beyond the Best Interest of the Child", was not improper because the trial court did, in fact, make its own findings as to the best interests of the children and the Supreme Court also cited the same literature as secondary authority in its opinions.

In re Angellica W., 49 Conn. App. 541 (1998)
In this TPR action transferred from Probate Court, the trial court terminated the mother's parental rights on the ground of abandonment and no ongoing parent child relationship. The Appellate Court affirmed. The mother claimed that the trial court improperly admitted into evidence the DCF social study that contained information about the mother's other children with whom DCF was involved because the information was not relevant and prejudicial. The Appellate Court held that the trial court did not abuse its discretion in determining that the evidence was relevant and that the probative value of the social study and the information contained therein outweighed any prejudicial effect.

TRANSCRIPT

"In the absence of a written memorandum of decision, to provide an adequate record for appellate review, the appellant must provide the trial court with a signed copy of the transcript containing the trial court's oral decision. Practice Book § 64-1(a) When the record does not contain either a memorandum of decision or a transcribed copy of an oral decision signed by the trial court stating the reasons for its decision, this court frequently has declined to re- view the claims on appeal because the appellant has failed to provide the court with an adequate record for review.... If there is an unsigned transcript on file in connection with an appeal, the claims of error raised by the plaintiff may be reviewed if this court determines that the transcript adequately reveals the basis of the trial court's decision." (Internal citations and quotations omitted.) *See, In re Diamond J., 121 Conn. App. 392, cert. denied, 297 Conn. 927 (2010).*

In re Lukas K., 300 Conn. 463 (2011)
Affirming the Appellate Court, the Supreme Court held that the out-of-state incarcerated father was not deprived of due process by the trial court's denial of his request for a transcript and a continuance. Applying the *Mathews v. Eldridge* balancing test, the Court reasoned that these are important procedural safeguards, however, the father did not offer a credible claim that he could rebut the evidence if the trial court had granted his request. Moreover, the request for a continuance and transcript would be consistent with an orderly administration of justice. The mother filed a TPR petition against the father and the father who was incarcerated since the child's birth, had no foreseeable release date and no parent child relationship with the child.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re Diamond J., 121 Conn. App. 392, cert. denied, 297 Conn. 927 (2010)
The trial court granted DCF's motion to modify the child's disposition from protective supervision to commitment. The Appellate Court affirmed. The Appellate declined to review the mother's appellate claims because she failed to provide the Appellate Court with a signed transcript of the trial court's oral decision and also failed to file a motion for articulation. The Appellate Court concluded that the hearing transcript, without a motion for articulation, did not clearly identify the basis for the trial court's decision to modify the disposition and it was incumbent upon the mother as the appellant to provide the court with an adequate record for review.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP341.pdf

In re David L., 54 Conn. App. 185 (1999)
The trial court adjudicated the child neglected pursuant to the mother's nolo plea and committed the child to DCF. The noncustodial father did not claim the child was not neglected by the custodial mother and did not offer a dispositional plan for the child. The Appellate Court affirmed. The father claimed that the trial court erred by not allowing him to contest the neglect adjudication to prove that he did not neglect the child. Despite DCF's assertion that the record was inadequate for review because the father neither

provided the Court with a copy of a written memorandum of decision or a signed transcript of the oral decision, the Appellate Court reviewed the father's claim finding that it could determine the trial court's reasoning from the hearing transcript alone. The Appellate Court then dismissed his claim and held his claim was moot because there was no practical relief that could be granted to the father for his requested remedy: a finding that he was not at fault for neglecting the child.

In re Thomas L., 11 Conn. App. 573 (1987)
The Appellate Court declined to review the parents' insufficiency claim regarding the judgment terminating their parental rights on the ground of no ongoing parent child relationship because the parents failed to provide a transcript of the proceedings. The Court does not decide issues in a vacuum.

TREATMENT PLAN

Earl B. v. Commissioner of Children and Families, 288 Conn. 163 (2009), reversed
The trial court dismissed the child defendant's administrative appeal challenging his treatment plan and continued placement at CJTS. The Supreme Court reversed. The delinquent child requested an administrative hearing challenging DCF's treatment plan to extend his commitment and place him at CJTS for another 2 years. The hearing officer denied his request construing his request as a request for parole pursuant to Conn. Gen. Stat. §§ 46b-140(j) and 17a-7. DCF claimed that the issue was moot because it had placed the child in a residential treatment program and also claimed that the statutory scheme did not permit a hearing. The Supreme Court held that the issue was not moot because it was capable of repetition, yet evading review. The Court further held that the trial court erred in dismissing his appeal of DCF's administrative decision to deny him a hearing regarding the treatment plan. Pursuant to Conn. Gen. Stat. § 17a-15, the child is entitled to a treatment plan hearing and neither Conn. Gen. Stat. §§ 17a-7 or 46b-140 pertain to treatment plans.
Majority: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318.pdf
Dissent: http://jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP318E.pdf

Kevin S. v. Department of Children & Families, 49 Conn. App. 706 (1998)
The trial court dismissed the father's administrative appeal of DCF's denial of his treatment plan request as moot because DCF filed a TPR petition. The Appellate Court affirmed. The father claimed that the trial court should have dismissed DCF's TPR petition as unlawful because the father filed a request for a DCF treatment plan hearing before DCF filed the termination petitions. The Appellate Court held that the father's administrative appeal from DCF's administrative decision denying him a treatment plan hearing was rendered moot by DCF's actual filing of the termination of parental rights petition. The Court reasoned that even if the father prevailed in the administrative appeal, the hearing officer had no authority to compel DCF to withdraw termination petitions, nor is there any statutory requirement that DCF hold a treatment plan hearing prior to filing a TPR petition. Thus, the Court could not offer the father any practical relief. Further, the Appellate Court held that the trial court did not deprive the father of his due process rights by denying him a treatment plan hearing. The father's due process rights were protected because the issue raised during an administrative treatment plan hearing is the same issue raised at a TPR trial, but with greater due process protections because the burden of proof at a TPR trial is clear and convincing proof.

UNCARED FOR

"Under § 46b-129 (j), prior to awarding custody of the child to the department pursuant to an order of commitment, the trial court must both *find* and *adjudicate* the child on one of three grounds: uncared for, neglected or dependent. The grounds are distinct, each statutorily defined. See General Statutes § 46b-120 (7), (9) and (10), as amended. Adjudication on any of these grounds thus requires attendant findings, on the record, in support thereof." *See, In re Allison G., 276 Conn. 146 (2005).*

"[A] child or youth may be found 'uncared for' who is homeless or whose home cannot provide the specialized care which his physical, emotional or mental condition requires." General Statutes § 46b-120. . . . There is no dispute that Kelly has specialized needs necessitated by her physical condition. The trial court found that the respondent was not capable of providing the necessary care. The evidence fully supports that conclusion. Actual incidents of abuse or neglect are not required in determining that a child is uncared for under the "specialized needs" section of the statute. *See, In re Kelly S., 29 Conn. App. 600 (1992).*

In re Allison G., 276 Conn. 146 (2005), reversed
The trial court adjudicated the child uncared for, but sua sponte dismissed the neglect allegation, and committed the child to DCF. DCF appealed. The Appellate Court dismissed the appeal finding that the issue was moot. The Supreme Court reversed the Appellate Court. The Supreme Court held that DCF was aggrieved by the trial court's decision to dismiss the neglect count and that the matter was not moot. DCF claimed that although it achieved its favored disposition, commitment, it was nonetheless aggrieved because there were prejudicial collateral consequences that could result from a failure to obtain a neglect adjudication and the case was not moot because the practical relief to be afforded was the neglect adjudication itself. The parents claimed that DCF was not aggrieved because it achieved the relief/disposition it requested and that the matter was moot. The Supreme Court held that DCF was aggrieved, in part, because a neglect adjudication had future ramifications in further hearings, including permanency plan hearings and termination of parental rights matters. This decision highlighted the overlap between aggrievement and mootness and further expounded in detail upon the legal construct of a neglect petition, including the legal significance of adjudications and dispositions as it relates to the child protection statutory scheme. The Supreme Court also determined the case was not moot because there were no subsequent proceedings that rendered the case moot and because practical relief was available by way of obtaining a full evidentiary hearing and a possible neglect adjudication.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR276/276CR3.pdf

In re Kelly S., 29 Conn. App. 600 (1992), reversed
In this coterminous action, the trial court adjudicated the infant child as neglected and uncared for as well as terminated the mother's parental rights finding that she committed acts of commission or omission and that there was no ongoing parent child relationship. The Appellate Court reversed in part. The mother claimed, in part, that the trial court improperly based its decision on probabilities rather than actual incidents of neglect. Although the child was removed from the mentally ill mother's care at birth from the hospital, the

trial court could properly find the child neglected or uncared for. The Appellate Court held that actual incidents of neglect are not necessary for a trial court to find a child uncared for based on the child's specialized needs and the mother's mental deficiencies and inability to provide the necessary care for the child's special needs. Here, the mother suffered from a long history of mental illness and the child had significant developmental delays and a serious medical condition. Reversing the TPR part of the trial court's judgment, the Appellate Court held that the trial court could not find that the mother committed acts of commission or omission or that there was no ongoing parent child relationship.

In re Carl O., 10 Conn. App. 428 (1987)
The trial court adjudicated the infant uncared for as having specialized needs and committed the infant to DCF's care and custody. The Appellate Court affirmed. The parents claimed that the trial court erred in finding that the child was uncared for because he had specialized needs just because he was an infant. The Appellate Court held that the evidence supported the trial court's adjudication based on the child's infancy as well as his extremely sensitive nature and that the parents were not capable of caring for the child due to their own mental disabilities.

UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT

''The purposes of the UCCJEA are to avoid jurisdictional competition and conflict with courts of other states in matters of child custody; pro- mote cooperation with the courts of other states; dis- courage continuing controversies over child custody; deter abductions; avoid relitigation of custody decisions; and to facilitate the enforcement of custody decrees of other states. . . . The UCCJEA addresses inter-jurisdictional issues related to child custody and visitation.'' (Internal citations omitted; quotation marks omitted.*) See, In re Iliana M., 134 Conn. App. 382 (2012).*

The UCCJEA is the enabling legislation for the court's jurisdiction. ''The UCCJEA, as adopted in chapter 815p of our General Statutes, provides Superior Courts with exclusive jurisdiction to make a child custody determination by initial or modification decree if: '(1) This state is the home state of the child on the date of the commencement of the child custody proceeding; (2) This state was the home state of the child within six months of the commencement of the child custody proceeding, the child is absent from the state, and a parent or a person acting as a parent continues to reside in this state; (3) A court of another state does not have jurisdiction under subdivisions (1) or (2) of this subsection, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships; (4) A court of another state which is the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under a provision substantially similar to section 46b-115q or section 46b-115r, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships; (5) All courts having jurisdiction under subdivisions (1) to (4), inclusive, of this subsection have declined jurisdiction on the ground that a court of this state is the more appropriate forum to determine custody under a provision substantially similar to section 46b-115q or section 46b-115r; or (6) No court of any other state would have jurisdiction under subdivisions (1) to (5), inclusive, of this subsection. . . .
' General Statutes § 46b-115k (a). 'Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.' General Statutes § 46b-115k (b). Furthermore, § 46b-115k (c) provides: 'Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.'" (internal citations, quotations omitted). *See, In re Iliana M., 134 Conn. App. 382 (2012).*

In re DeLeon J., 290 Conn. 371 (2009)

The trial court denied the mother's motion to reinstate her guardianship. On transfer, the Supreme Court reversed. The mother claimed that the trial court violated her due process rights by failing to provide her with adequate notice of the time and date of the hearing. The record clearly demonstrated that the sole purpose of the December 10, 2007 hearing was for the court to determine whether it had jurisdiction over the matter pursuant to the UCCJEA because the child was living out of state with his father. The parties were to submit briefs and present arguments on that date. The court never indicated that it would rule on

the motion to reinstate guardianship. The Supreme Court first concluded that the trial court had continuing jurisdiction under the statute because the mother continued to reside in CT although the child was living with the father out of state. The Supreme Court also held that the trial court violated the mother's procedural due process rights by improperly expanding the scope of the hearing to deny the mother's motion on the merits without providing prior notice to the mother.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR34.pdf

In re Shamika F., 256 Conn. 383 (2001)
The trial court terminated the father's parental rights. The Appellate Court dismissed the father's appeal because his appeal of the TPR judgment was based on alleged jurisdictional errors regarding the UCCJA that occurred at the time the order of temporary custody (OTC) was granted three years earlier. This decision outlines the arguments presented and the reasoning of the trial court's decision under the UCCJA, but the Supreme Court did not render any holdings regarding the father's claims under the UCCJA. The Supreme Court affirmed the Appellate Court's dismissal. The Supreme Court held that an OTC is a final judgment for purposes of appeal and the father cannot collaterally attack the OTC after the TPR judgment, but rather must appeal the OTC immediately. The Court concluded that the trial court's alleged lack of jurisdiction was not obvious and when deciding whether to permit a collateral attack for lack of subject matter jurisdiction, the Court considered whether (1) the father had the opportunity to litigate the question of jurisdiction in the original action, and, (2) if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so. A collateral attack to the court's subject matter jurisdiction was not permissible because he had ample opportunity, three years, to appeal and public policy supported not allowing him to attack the judgment so late.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/256cr49.pdf

In re Iliana M., 134 Conn. App. 382 (2012)
The trial court denied the parents' motion to dismiss the order of temporary custody ("OTC") finding that it had subject matter jurisdiction pursuant to the UCCJEA, Conn. Gen. Stat. §§ 46b-115k(a)(3) and 46b-121(a). The Appellate Court affirmed. The child was born in Massachusetts and DCF invoked a 96 hour hold and brought the child to Connecticut where it filed a motion for order of temporary custody. The parents filed a motion to dismiss. The trial court granted the motion to dismiss finding that the home state under the UCCJEA was Connecticut, but that pursuant to 46b-121(a), the child was not "within the state." The same day of the trial court's ruling, DCF then invoked a second 96 hour hold and filed a second OTC. The parents filed a second motion to dismiss and the trial court denied the second motion to dismiss finding that the court now had jurisdiction because the child was "within the state." The parents claimed that: 1) the trial court lacked subject matter jurisdiction under the UCCJEA, and 2) DCF's conduct was inequitable. First, the Appellate Court held that based on the trial court's factual findings that the parents were residents of Connecticut, the trial court properly found under the UCCJEA that the Connecticut court had subject matter jurisdiction to make the initial child custody determination. Both the child and the parents had a "significant connection with this state". Notably, at the time of the child's birth, the parents gave Connecticut addresses to the Massachusetts hospital. Although Massachusetts could have made the initial child custody order, the Court ruled it did not have priority over a Connecticut court. Secondly, the Appellate Court held that the doctrine of unclean hands does not apply. "To seek equity, one must do equity, and they [the parents] have not."
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP267.pdf

VACATUR

> "Judicial precedents ... should stand unless a court concludes that the public interest would be served by a vacatur." [V]acatur is appropriate when it is in the public interest to prevent a judgment, otherwise unreviewable because of mootness, from spawning legal consequences. Although our law of vacatur is scanty, we have vacated moot appeals relating to termination of parental rights on multiple occasions in service of the public interest. When we exercise our power to vacate a judgment in the public interest, we have the power to explain why we deem it necessary to do so. It is appropriate to exercise that power in the present case to make clear that the opinion of the Appellate Court should not be followed in future cases. In short, we disagree with that court's conclusion that the trial court's finding that the respondent was unable or unwilling to benefit from reunification efforts was clearly erroneous. (Internal citations and quotation marks omitted.) *See, In re Jorden R., 293 Conn. 539 (2009), reversing, 107 Conn. App. 12 (2008).*

In re Jorden R., 293 Conn. 539 (2009), reversed
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts, the mother was unwilling or unable to reunify, she committed an act of commission or omission and that termination was in the best interest of the child. The Appellate Court reversed the trial court. The Supreme Court reversed the Appellate Court and vacated the Appellate Court's judgment because the Appellate Court incorrectly answered an important question of public interest. At the Appellate Court, the mother only appealed the trial court's finding that the mother was 'unable or unwilling' to benefit from reunification efforts, and did not also appeal the trial court's finding that DCF made reasonable efforts to reunify. Either finding is sufficient to support a termination decision and the failure of the mother to appeal both findings rendered the claim moot because the Appellate Court could then afford the mother no practical relief. DCF need only prove either that it made reasonable efforts to reunify or that the parent is unable or unwilling. In this case, the trial court found that DCF proved both. Hence, a parent must appeal both findings to prevent the claim from being moot. The Supreme Court vacated the Appellate Court's decision that the trial court erroneously found the mother was 'unwilling or unable' to benefit from reunification efforts. The Supreme Court issued a vacatur to provide instruction to trial court in applying the reasonable efforts statute, Conn. Gen. Stat. § 17a-112 (j)(1). The Supreme Court held that the Appellate Court erred in holding that the trial court's finding that the mother was 'unwilling or unable' was clearly erroneous. To the contrary, the trial court's findings were amply supported by the record. The five week old infant suffered life threatening injuries stemming from abuse and the evidence indicated that the father caused the injuries. The evidence also demonstrated that the father abused the mother, the mother observed the father treat the infant poorly, and the father abused cocaine. Yet, after the infant nearly died, the mother exhibited poor judgment by secretly maintaining a relationship with the man she believed had nearly killed her baby and who continued to abuse her demonstrating the mother' inability to benefit from reunification services.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR293/293cr149.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP107/107AP195.pdf

In re Jessica M., 250 Conn. 747 (1999) vacating, 49 Conn. App. 229 (1998)
The trial court denied DCF's petitions to terminate the parents' parental rights. DCF appealed and the

Appellate Court affirmed the denial of the termination petitions. DCF appealed to the Supreme Court. During the pendency of the appeal, DCF filed new termination of parental rights petitions. The Superior Court granted the termination of parental rights against the mother and the father consented. Neither party appealed the judgment terminating their parental rights. DCF moved to vacate the original Superior Court decision denying the termination as well as the Appellate Court judgment affirming the denial of the termination, claiming the appeal to the Supreme Court was moot. The Supreme Court held that the appeal was moot through no fault of the parties and granted the vacatur. **Dissent:** McDonald, J., with whom Berdon, J.

In re Candace H., 259 Conn. 523 (2002), vacating, 63 Conn. App. 493 (2001)
The trial court adjudicated the child neglected and denied the mother's visitation motion. The mother appealed. The Appellate Court affirmed, reversed and remanded. The mother then voluntarily consented to the termination of her parental rights. DCF moved to vacate the Appellate Court judgment. The Supreme Court dismissed the appeal and vacated the Appellate Court's judgment. The Supreme Court held that the mother's voluntary relinquishment of her parental rights rendered the appeal moot, and vacating the Appellate Court decision was appropriate as it was in the public's interest. The Supreme Court concluded that the appeal was moot and that it did not fit within the exception to the mootness doctrine of being capable of repetition yet evading review.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/259cr33.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap397.pdf

In re Alex M., 59 Conn. App. 389 (2000)
The trial court declined to entertain DCF's motion to extend the child's commitment because it was untimely filed. DCF appealed. The trial court then granted DCF's petition to terminate the parents' parental rights. DCF filed a motion to vacate the trial court's decision to not hear the extension petition. The Appellate Court held the order declining to hear the extension motion was moot and denied DCF's motion to vacate the trial court's decision. The Appellate Court reasoned that the trial court's order was not a decision on the merits and there would be no practical impact on the parties because the parents' rights were already terminated in a separate action.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap446.pdf

VAGUENESS

"A statute . . . [that] forbids or requires conduct in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process. . . . Laws must give a person of ordinary intelligence a reasonable opportunity to know what is prohibited so that he may act accordingly. The void for vagueness doctrine is a procedural due process concept that originally was derived from the guarantees of due process contained in the *fifth* and *fourteenth amendments to the United States constitution*. . . . The constitutional injunction that is commonly referred to as the void for vagueness doctrine embodies two central precepts: the right to fair warning of the effect of a governing statute or regulation and the guarantee against standardless law enforcement. . . . If the meaning of a statute can be fairly ascertained a statute will not be void for vagueness since [m]any statutes will have some inherent vagueness, for [i]n most English words and phrases there lurk uncertainties. . . . For statutes that do not implicate the especially sensitive concerns embodied in the *first amendment*, we determine the constitutionality of a statute under attack for vagueness by considering its applicability to the particular facts at issue. . . .The proper test for determining [whether] a statute is vague as applied is whether a reasonable person would have anticipated that the statute would apply to his or her particular conduct. . . . The test is objectively applied to the actor's conduct and judged by a reasonable person's reading of the statute . . . . [O]ur fundamental inquiry is whether a person of ordinary intelligence would comprehend that the defendant's acts were prohibited . . . ." (Citations omitted; internal quotation marks omitted.) See, *Frank v. Department of Children and Families*, *134 Conn. App. 288 (2012), cert. pending*

"The purpose of the vagueness doctrine is two-fold: (1) it requires statutes to provide fair notice of the conduct to which they pertain, and (2) it requires statutes to establish minimum guidelines to govern law enforcement. Civil statutes may survive a vagueness challenge by a lesser degree of specificity than in criminal statutes, because the consequences of imprecision are qualitatively less severe." (Internal citations and quotation marks omitted.) *See, Hogan v. Department of Children and Families, 290 Conn. 545 (2009).*

Frank v. Department of Children and Families, 134 Conn. App. 288 (2012), cert. pending

A teacher appealed DCF's administrative decision to substantiate emotional abuse and to place the teacher on the child abuse registry, Conn. Gen. Stat. § 17a-101k. The trial court affirmed the hearing officer's determination. The teacher appealed to the Appellate Court. The Appellate Court reversed. The teacher claimed that Conn. Gen. Stat. § 46b-120(3) which defines an abused child and as interpreted by DCF's regulations was unconstitutionally vague as applied to his conduct because he could not have known that his joking behavior of giving the student a nickname and squeezing his cheeks without any intent to harm the student, would constitute emotional abuse. The Appellate Court held that statute was unconstitutionally vague as applied to the teacher and the hearing officer applied an improper subjective rather than objective standard. The hearing officer should have determined whether the teacher's conduct constituted emotional abuse to *any* child, not just to the particularly sensitive student. The facts demonstrated that the teacher joked with all the students in the class and upon learning that the child had a trauma history and was

sensitive to the teacher's conduct, the teacher stopped the joking behavior. The hearing officer did not find that the teacher had any intent to ridicule or harass the student. None of the other students were negatively affected by the teacher's behavior and the school's own investigation did not conclude the teacher's behavior was abusive.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP134/134AP227.pdf

In re Jazmine B., 121 Conn. App. 376, cert. denied, 297 Conn. 924 (2010)
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. Claiming *Golding* review, the father claimed, in part, that the trial court improperly found that he failed to rehabilitate because the statute was unconstitutionally vague as applied to him. He specifically contended that he was not put on notice because DCF or the specific steps did not inform him that the failure to attend sex offender treatment would result in a termination of his parental rights. The Appellate Court held that the failure to rehabilitate statute was not unconstitutionally vague because the evidence demonstrated that DCF referred the father to sexual offender treatment and this put the father on sufficient notice that failure to attend could result in the termination of his parental rights.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP121/121AP336.pdf

Hogan v. Department of Children and Families, 290 Conn. 545 (2009), reversed in part
The trial court found that DCF's administrative decision to place a former DCF employee on the child abuse registry was unsupported by the evidence in the record and remanded the case to DCF for further reconsideration. The trial court further rejected the former employee's constitutional claims. Both the former employee and DCF appealed. The Supreme Court, on transfer, affirmed in part and reversed in part. The former employee claimed: (1) the evidence was insufficient to support the hearing officer's finding, (2) the registry statute itself was unconstitutionally vague, (3) overbroad, (4) violated the separation of powers doctrine and (5) constituted a bill of attainder. The Supreme Court rejected all of the former employee's claims. First, the Supreme Court first held that the hearing officer did not act arbitrarily, illegally or abuse its discretion in placing him on the child abuse registry. Regarding the void for vagueness claim, the Court held that the registry scheme is not unconstitutionally vague given that the statutory provisions, the DCF policy manual and caselaw regarding abuse and neglect standards, give fair notice and "preclude arbitrary enforcement in violation of due process." To require DCF to delineate every act that would place someone on the registry would be impracticable.
http://jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR40.pdf

In re Juvenile Appeal (83-CD), 189 Conn. 276 (1983)
The trial court granted an order of temporary custody of the mother's children to DCF. The children were under an OTC for three years, and after the autopsy report of the child's death showed the cause of death was natural, DCF did not return the other children to their mother. The Supreme Court reversed. The mother claimed that the order of temporary custody statute violated her due process right to family integrity and was unconstitutionally vague. The mother further claimed that the trial court improperly applied a 'probable cause' standard of proof to determine whether temporary removal of the children was necessary. The Supreme Court reversed the judgment holding that the statute was constitutional, but that the trial court erred in applying the 'probable cause' standard. The statute was constitutional because when read together with another temporary custody statute containing the requirement that "serious physical illness or serious physical injury" or "immediate physical danger", the State must prove that the child is "at risk of harm" to justify removal. The statute is justified by a compelling state interest to protect children and is narrowly drawn to express that legitimate state interest. The Supreme Court further held that due process

requires the burden of proof to be on the State and the standard of proof to be a 'fair preponderance of the evidence,' and that the trial court erred by applying the 'probable cause' standard. Moreover, the trial court erroneously granted the order of temporary custody when no immediate risk of danger to the children was shown. The trial court's conclusion that the children were "presumptively neglected" impermissibly shifted to the defendant the burden of proof to show that the children were not neglected, and was, therefore, error. **Concurring:** Peters, Parskey, Grillo, Shea, JJ.

State v. Anonymous, 179 Conn. 155 (1979)
In this coterminous action, the trial court adjudicated the child neglected and terminated the mother's parental rights. The Supreme Court affirmed. The mother asserted numerous due process violations based on vagueness. (1) The mother claimed that the termination statute violated her due process rights because it was unconstitutionally vague. The Supreme Court held that the statute provided fair warning because the statutory requirements were sufficiently clear and explicit. "The evil that has to be avoided is any conduct on the part of the parent that would deny the child in question the care, guidance or control that would foster his well-being." (2) The mother claimed that the statute impermissibly delegates unfettered discretion to state officials and social workers because the social workers draft the termination petitions and accompanying social studies. While the social worker filed the termination petition and the social study, the Court rejected this claim because the statute and hearing provide sufficient safeguards to prevent arbitrary and capricious actions as the social worker is subject to cross-examination and the judge is the final arbitrator. Thus, the filing of termination petition and social study is not an impermissible grant of discretion that violates the mother's due process rights. (3) She further asserted that the statute is vague because it promotes termination of parental rights based on economic class. The Court held the statute was not unconstitutionally vague because this claim was based on mere supposition and the mother's rights were terminated based on her actions and omission toward her child, not her economic status.

In re Shyliesh H., 56 Conn. App. 167 (1999)
The trial court terminated the father's parental rights finding that he failed to rehabilitate and that a termination was in the best interest of the child. The Appellate Court affirmed. The father claimed under *Golding,* that the failure to rehabilitate statute was unconstitutionally vague. The Appellate Court held that the statute was not void for vagueness. Hence, the father's unpreserved claim failed because the father failed to prove the third prong of *Golding*, that a constitutional violation clearly existed and deprived him of a fair trial. The Appellate Court reasoned that the statute as written and as interpreted by caselaw provides fair warning of the conduct necessary for personal rehabilitation and further provides minimum guidelines for enforcement of the statute through the implementation of specific steps. Despite the father's assertion that the statute is susceptible to "multifarious interpretations" that statute explicitly requires that a parent be given "specific steps" to fulfill so that reunification can occur and these give the parent fair warning of what is required of him/her to achieve personal rehabilitation.

In re Michael L., 56 Conn. App. 688 (2000)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate and a termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that the statutory ground of failure to rehabilitate was unconstitutionally vague on its face and as applied to her. The Appellate Court held that the mother failed to satisfy the third prong of *Golding,* that an "alleged constitutional violation clearly exists and clearly deprived her of a fair trial." The statute was not unconstitutionally vague on its face based on the ruling in *State v. Anonymous* that the statute as written and

interpreted provides fair warning of the conduct necessary for personal rehabilitation. Furthermore, the statute is not vague as applied to her because the mother was provided with specific steps to guide her toward rehabilitation and every six months had treatment plan reviews to assist in rehabilitation and reunification.

In re Shane P., 58 Conn. App. 244 (2000)
The trial court terminated the father's parental rights finding that he abandoned the child. The Appellate Court affirmed. The father claimed that the abandonment statute was unconstitutionally vague because it failed to put an incarcerated person on notice of what s/he must do to avoid a termination of parental rights. The claim was unpreserved and the father sought review under *Golding*. The Appellate Court held that the father's claim was without merit because it failed to meet the third prong of *Golding,* that a constitutional violation clearly existed and deprived him of a fair trial, because the statute was not unconstitutionally vague. The Court held the statute as written and interpreted by caselaw provided fair warning of what constitutes abandonment of a child and further ruled that a "statute is not unconstitutional merely because a person must inquire further as to precise reach of its prohibitions, nor is it necessary that the statute list the exact conduct prohibited . . . . The constitution requires no more than reasonable degree of certainty." Although a parent's incarceration alone does not constitute abandonment, "[t]he restrictions on movement that are inherent to incarceration, however, do not excuse a failure to make use of available, albeit limited, resources for communication with [his child]." Here, after the father's arrest, he had no contact with his son for five months. His subsequent requests for visits were sporadic and riddled with ambivalence and he never recognized the child's birthday or holidays.

VENUE

"A claim of improper venue may be waived by the parties, unlike subject matter jurisdiction, which cannot be conferred on the court by consent." Venue requirements are created for the convenience of the litigants and may be waived by failure to assert the statutory privilege in timely fashion. . . .Venue simply concerns the location where the matter may be tried." *See, In re Shonna K., 77 Conn. App. 246 (2003).*

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K*, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen and that the issue of whether the SCJM retains jurisdiction is not an issue of subject matter jurisdiction, but rather a question of venue. In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Here, pursuant to Conn. Gen. Stat. § 17a-11, it was undisputed that the child was not admitted to DCF through its voluntary services program. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction.
Concurring: Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue. Because in its objection to the child's application for a temporary injunction, DCF did not raise the issue of venue, DCF waived any claim regarding improper venue.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

VERBAL ACTS

"Out-of-court statements are admissible as "verbal acts" when statements are introduced purely to show that they were made, not for their truth." *See, In re Jason S., 9 Conn. App. 98 (1986).*

In re Jason S., 9 Conn. App. 98 (1986)
The trial court adjudicated the child neglected. The Appellate Court affirmed. The child made out-of-court statements to numerous professionals about the mother's boyfriend abusing him, and the child also testified. The mother claimed that the child's out-of-court statements were not verbal acts. The Appellate Court held that the child's statements were inadmissible hearsay because they were not verbal acts. Rather, the child's statements about the abuse were offered for the truth of the matter and not merely to show they were made. The Court ruled that the child's statements had no value to the court apart from the truth of their content. Nonetheless, in light of the additional clear evidence of abuse, namely the child's own testimony and the mother's admission that her boyfriend urinated on the child, the Appellate Court held the error was harmless and thus not reversible.

In re Juvenile Appeal (85-2), 3 Conn. App. 184 (1985)
Affirming the trial court's judgment terminating the parents' parental rights on the ground of acts of commission or omission, the Appellate Court held that the trial court did not err when it admitted as evidence the children's statements as verbal acts. The children's statements, such as a threat by one child to "make love" to his five year old sister and recounting being sodomized by his father were statements demonstrating the children possessed knowledge beyond their years. The statements were relevant to the conditions in which the children lived and to an inference of the parents' acts of commission or omission.

VISITATION

In re Melody L., 290 Conn. 131 (2009)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify, the mother failed to rehabilitate and a termination was in the best interest of the children. Both the mother and the children appealed. The Supreme Court, on transfer, affirmed. The children claimed that the trial court erred in denying their motion for visitation with their mother pending the outcome of the appeal by failing to apply the best interest of the child standard. The Supreme Court concluded that by affirming the termination of parental rights judgment of the trial court, the visitation issue was moot because there was no practical relief (i.e. visitation pending the appeal) that the Court can grant.
Concurring: Schaller, J. Majority Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138.pdf; Concurring Opinion:
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR290/290CR138A.pdf

In re Candace H., 259 Conn. 523 (2002), vacating, 63 Conn. App. 493 (2001)
The trial court adjudicated the child neglected and denied the mother's visitation motion. The mother appealed. The Appellate Court affirmed, reversed and remanded. The mother then voluntarily consented to the termination of her parental rights. DCF moved to vacate the Appellate Court judgment. The Supreme Court dismissed the appeal and vacated the Appellate Court's judgment. The Supreme Court held that the mother's voluntary relinquishment of her parental rights rendered the appeal moot, and vacating the Appellate Court decision was appropriate as it was in the public's interest. The Supreme Court concluded that the appeal was moot and that it did not fit within the exception to the mootness doctrine of being capable of repetition yet evading review.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/259cr33.pdf; Appellate Court:
http://www.jud.ct.gov/external/supapp/Cases/AROap/63ap397.pdf

Michaud v. Wawruck, 209 Conn. 407 (1988), reversed
The biological parent sued the adoptive parents seeking specific performance of an Open Adoption and Visitation Agreement. The trial court granted judgment on behalf of the adoptive parents concluding that the agreement did not provide the biological parent with an enforceable right to visitation after the adoption process was finalized. The Supreme Court reversed. The Supreme Court held that the Open Adoption and Visitation Agreement between a biological mother and adoptive parent did not violate public policy so long as the visitation continued to be in the best interest of the child consistent with Conn. Gen. Stat. § 46b-59.

In re Juvenile Appeal, 177 Conn. 648 (1979), reversed
The trial court denied the mother motion for immediate visitation pending an appeal on the judgment terminating her parental rights. Reversing the trial court's TPR judgment, the Supreme Court held that the trial court erroneously concluded that there was no "meaningful" relationship between the mother and child when the statute clearly required proof that there was "no relationship". The Supreme Court further held that while it was unfortunate that the mother and child did not see each other for two years pending the appeal, the trial court did not abuse its discretion in denying the motion. Given the reversal, visitation must immediately be reinstated.

In re Kiara R., 129 Conn. App. 604 (2011)
The trial court declined to hold an evidentiary hearing regarding the mother's emergency motion to restore her visitation rights after DCF unilaterally suspended her visitation with her child that was committed to DCF. The trial court ruled that the mother must first request an administrative hearing. During the pendency of the appeal, the trial court granted the mother's motion to revoke commitment and the child was reunited with her mother. DCF filed a motion to dismiss. The Appellate Court dismissed the mother's appeal as moot. The mother claimed that the visitation issue was "capable of repetition, yet evading review." The Appellate Court held the matter was not "capable of repetition, yet evading review" because there is nothing about permanency plans that make them inherently limited in duration and others who are aggrieved by DCF's decisions regarding visitation or permanency plans are not substantially likely to also have their appeals rendered moot.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP129/129AP468.pdf

In re Justin F., 116 Conn. App. 83, cert. denied, 293 Conn. 913 (2009)
In this highly contested case involving pro se parents, the trial court denied the parents' motion to revoke the commitment and issued specific steps and numerous visitation orders. The Appellate Court affirmed. The parents made numerous claims regarding visitation. (1) The parents claimed that the trial court improperly issued the ex parte interim order without affording them a hearing, and the Appellate Court held the appeal of interim ex parte visitation orders were rendered moot by subsequent visitation orders. (2) They claimed that the trial court improperly transferred the visitation motions to the child protection session and the Appellate Court held this claim not reviewable because the transfer decision was not a final judgment. (3) They claimed that the trial court's ex parte order ceasing visits was an abuse of discretion, and the Appellate Court held that the trial court did not abuse its discretion because it acted in the best interest of the children. (4) They claimed that the trial court abused its discretion by denying their motion to hold DCF in contempt for failing to comply with court-order visitation. The Appellate Court held DCF did not willfully violate a court order because the record demonstrated that of three contested visits, two were cancelled by the parents and the third one was missed due to miscommunications between the parties. (5) They claimed that the trial court improperly ceded the visitation schedule to DCF and that the visitation statute, Conn. Gen. Stat. § 17a-10a was unconstitutional. The Court declined to analyze the constitutionality of the statute and the Court did not fault the trial court for invoking Conn. Gen. Stat. § 17a-10a "in an effort to bring all the resources of the department into play to set a course in the best interests of the children." DCF also claimed on appeal that the trial court improperly ordered unsupervised visitation in violation of its due process rights. For the same reasons as above, DCF's visitation claims were also rendered moot. http://www.jud.ct.gov/external/supapp/Cases/AROap/AP116/116AP396.pdf

In re Anna Lee M., 104 Conn. App. 121 (2007), cert. denied, 284 Conn. 939 (2007)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and that the termination was in the best interest of the children. The Appellate Court affirmed. The mother claimed that DCF failed to provide reasonable efforts to reunify by failing to provide an alternative supervised visitation setting after the visitation provider discontinued the visits. The visitation program terminated her visits because they could not keep the children safe from the mother's verbally aggressive behavior and her failure to follow the visitation rules. The record demonstrated that at DCF's request, the visitation center resumed visitation once a month, but the mother's inappropriate conduct continued and the visits were again terminated. Further, there was no alternative supervised visitation center that could provide a higher level of supervision and care.

http://www.jud.ct.gov/external/supapp/Cases/AROap/AP104/104AP471.pdf

In re Alexander T., 81 Conn. App. 668 (2004), cert. denied, 268 Conn. 924 (2004)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother was unable or unwilling to benefit from services and that the mother failed to rehabilitate. The Appellate Court affirmed. The mother claimed that DCF's cessation of visits precluded a finding that it made reasonable efforts. The Appellate Court held that DCF's decision was not unreasonable in light of the relevant circumstances, including the mother's failure to visit the children for nine months, failure to sign releases and failure to comply with the specific steps. The mother repeatedly failed to comply with drug treatment, drug screenings, counseling and visitation.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP81/81ap180.pdf

In re Daniel C., 63 Conn. App. 339 (2001)
The trial court terminated the parents' parental rights finding that DCF made reasonable efforts, the parents failed to rehabilitate and terminating their parental rights was in the best interest of the children. The Appellate Court affirmed. The parents claimed that the trial court abused its discretion in denying their motion for contempt against DCF for failing to comply with a visitation order. The Court held that DCF's unilateral cancellation of a court-ordered visit violated the strict language of the court order, but that such conduct was not a willful violation because the parents were abusing alcohol and engaging in domestic violence. The intent of DCF's conduct was not to willfully violate the court order, but to protect the children. http://www.jud.ct.gov/external/supapp/Cases/AROap/ap221.pdf

In re Steven N., 57 Conn. App. 629 (2000)
The trial court terminated the mother's parental rights finding that DCF provided reasonable efforts to reunify. The Appellate Court affirmed. The mother claimed that the trial court improperly found that DCF did not prevent the mother from maintaining a relationship with the children when DCF terminated the mother's visits with her children and that DCF provided reasonable efforts. The Appellate Court held that the trial court properly found that the mother's lack of a relationship with the children was due to the mother's psychiatric issues and her inability to recognize and overcome her mental health issues as well as her inability to learn how to parent the children safely. DCF terminated the visits because the mother was not in treatment for her mental health issues and the visitation was affecting the children negatively given the mother's behaviors and the lack of parental bond. Furthermore, the Appellate Court held that the evidence demonstrated that DCF provided reasonable efforts by offering the mother family preservation, counseling and parenting classes, visitation and transportation assistance. The mother began, but never finished the programs.

In re Felicia B., 56 Conn. App. 525 (2000), cert. denied, 252 Conn. 952 (2000)
The trial court terminated the father's parental rights and denied the intervening relatives motion to transfer guardianship as well as denied their motion for visitation. The Appellate Court affirmed. The Appellate Court held that the trial court properly determined it was in the children's best interest to deny guardianship and visitation because the relatives would not be able to protect the children because they did not believe the father sexually abused the children.

In re Amy H., 56 Conn. App. 55 (1999), vacated, in part
The trial court terminated the father's parental rights finding that he failed to rehabilitate. The Appellate Court affirmed. The father claimed that the trial erred in ordering, sua sponte, that no visitation occur

between the father and child pending the outcome of an appeal. The Appellate Court held that the father could not challenge the no visitation order because he never moved for a stay of execution of the termination of his parental rights, pursuant to P.R. § 61-11. Hence, the father's visitation rights were extinguished when parental rights were terminated. Nevertheless, the Appellate Court vacated part of the trial court's decision holding that the trial court abused its discretion by ordering the release of its confidential decision. The Appellate Court further held that based on the confidential nature of the information regarding the parents' psychological evaluation contained in the memorandum of decision and without a showing of compelling need, the court's decision cannot be released.

In re Jennifer P., 17 Conn. App. 427 (1989), cert. denied, 211 Conn. 801 (1989), reversed
The foster parent filed a motion for visitation. The trial court concluded that the foster parent did not have standing to request visitation of a child in DCF custody. The Appellate Court reversed. The Appellate Court held that Conn. Gen. Stat. § 46b-59, a third party visitation statute, applied and a foster parent had standing. The court remanded the case for a hearing regarding whether the visitation was in the best interest of the child.

VOLUNTARY SERVICES

In re Matthew F., 297 Conn. 673 (2010), reversed
The trial court granted the child's motion for services requiring DCF to pay for residential placement. The child was committed just prior to his eighteenth birthday, but the motion for services was filed after he turned eighteen. DCF appealed. On transfer, the Supreme Court reversed. DCF claimed that the Superior Court for Juvenile Matters ("SCJM") lacked jurisdiction to hear the motion because it was filed after the child reached eighteen, and there was no statutory authority to compel DCF to provide services to someone over the age of eighteen. The Supreme Court, relying on *In re Shonna K*, held that the SCJM is not per se divested of jurisdiction when a person turns eighteen. The "fundamental objective is to ascertain and give effect to the apparent intent of the legislature." In light of the particular facts, however, the statutory scheme did not provide the SCJM with jurisdiction to preside over the child's motion for services. Here, pursuant to Conn. Gen. Stat. § 17a-11, it was undisputed that the child was not admitted to DCF through its voluntary services program. Pursuant to Conn. Gen. Stat. § 46b-129(j), his commitment could continue until he was twenty one, provided that he was enrolled in one of the statutorily enumerated educational institutions. However, there was no evidence presented that he was enrolled in any of the institutions listed, the statute did not provide a basis for the trial court's jurisdiction. **Concurring:** Rogers, C.J., Palmer, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92.pdf;
Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR297/297CR92A.pdf

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement as long as she complied with the terms of voluntary services. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue. Because in its objection to the child's application for a temporary injunction, DCF did not raise the issue of venue, DCF waived any claim regarding improper venue. Distinguishing *In re Elisabeth H.,* the Appellate Court further held that the matter was not moot because although the child turned eighteen, the court may still provide her practical relief based on the agreement between the parties preceding the application for temporary injunction. Moreover, the record does not reflect whether the placement is appropriate.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Shawn S., 262 Conn. 155 (2002)
The trial court accepted the parents' nolo pleas, adjudicated the children uncared for and ordered them committed to DCF. The parents appealed. The Appellate Court dismissed the appeals holding that the parents failed to exhaust their administrative remedies. The Supreme Court affirmed. The parents claimed that the commitment order violated their statutory right to voluntary services pursuant to Conn. Gen. Stat. §

17a-129 and also violated their constitutional rights. The Supreme Court held that the Appellate Court incorrectly applied the exhaustion doctrine because the doctrine does not apply to parties who are already before the court responding to an action it did not bring. Nonetheless, the Court lacked subject matter to hear the appeal because the parents lacked standing to appeal because they were not aggrieved by the order of commitment. The parents had waived their right to contest the commitment because they agreed to the commitment.
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

WAIVER

"In termination of parental rights cases, our Supreme Court clearly has instructed that waiver is . . . the intentional relinquishment . . . of a known right. . . . The court also has explained, albeit in the criminal context, that [a]lthough a defendant need not have the skill and expertise of an attorney to competently and intelligently choose to proceed pro se, a record that affirmatively shows that [he] was literate, competent, and understanding, and that he was voluntarily exercising his informed free will sufficiently supports a waiver." (Internal citations and quotation marks omitted.) See, *In re Zowie N.*, 135 Conn. App. 470 (2012)

"It is generally recognized that, if a person in possession of any right waives that right, he will be precluded thereafter from asserting it or from claiming anything by reason of it. That is, once a right is waived it is gone forever, and it cannot be reclaimed or recaptured, and the waiver cannot be retracted, recalled, or expunged, even in the absence of any consideration therefore or of any change of position by the party in whose favor the waiver operates. . . . [O]nce a waiver of the provisions of a statute is made in a pending case, it is waived for the purposes of all further proceedings in the same action." (internal citations and quotation marks omitted.) *See*, *In re Zowie N.*, 135 Conn. App. 470 (2012)

In re Baby Girl B., 224 Conn. 263 (1992)
Affirming the trial court's granting of the mother's motion to open the TPR judgment, the Supreme Court held that pursuant to Conn. Gen. Stat. § 52-212a, the trial court has limited jurisdiction to open the judgment within four months of the judgment, unless there has been a waiver or consent of the court's jurisdiction. By filing a Motion to Amend the TPR petition, DCF waived its objection to the court's jurisdiction to reopen the judgment after the four month period. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerated this holding. **Dissent:** Borden, Norcott, JJ.

In re Shonna K., 77 Conn. App. 246 (2003), reversed
A child filed a temporary injunction requesting DCF provide her with a clinically appropriate placement. The trial court dismissed the application for a temporary injunction for lack of subject matter jurisdiction. The Appellate Court reversed. The child claimed that the trial court improperly denied her temporary injunction because it erroneously determined that it lacked subject matter jurisdiction because she turned eighteen. The Appellate Court held that the Superior Court for Juvenile Matters ("SCJM") maintained jurisdiction over the eighteen year old child and her application for temporary injunction because based on caselaw, statutes and legislative history, the SCJM does not have separate and distinct jurisdiction from the other Superior Courts. The Court concluded that the question was one of venue. Because in its objection to the child's application for a temporary injunction, DCF did not raise the issue of venue, DCF waived any claim regarding improper venue.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP77/77ap374.pdf

In re Shawn S., 262 Conn. 155 (2002)
The trial court accepted the parents' nolo pleas, adjudicated the children uncared for and accepted their express agreement to a commitment. The parents appealed. The parents claimed that the commitment order violated their statutory right to voluntary services pursuant to Conn. Gen. Stat. § 17a-129 and also violated their constitutional rights. The Appellate Court dismissed the appeals holding that the parents failed to exhaust their administrative remedies. The Supreme Court affirmed. The Supreme Court held that the Appellate Court incorrectly applied the exhaustion doctrine, but that the Court lacked subject matter to hear the appeal nonetheless because the parents did not have standing to appeal because they were not aggrieved by the order of commitment. While the parents clearly have a personal and legal interest in the matter, the parents did not prove that their legal interest was injured by the trial court's decision. The parents had waived their right to contest the commitment because they agreed to the commitment. "The fact that the respondents expressed their unhappiness at having their children committed does not change the fact that the commitment was a disposition to which the respondents agreed."
http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR262/262cr9.pdf

In re Zowie N., 135 Conn. App. 470 (2012)
The trial court terminated the pro se father's parental rights. The Appellate Court affirmed. The pro se father claimed that the trial court violated his statutory right to counsel pursuant to Conn. Gen. Stat. § 45a-717(b) because the trial court did not advise the pro se father of his right to counsel at the start of the termination of parental rights trial. The Appellate Court held that based up the record, the trial court properly advised the pro se father of his right to counsel when he first appeared without counsel after being served with the petitions (at the plea date). Insofar as the pro se father claims he has a constitutional right to counsel, the Appellate Court also ruled, in a footnote, that according to *State v. Anonymous*, the pro se father does not have a constitutional right to counsel in termination of parental right cases. The Appellate Court further held that, based on review of the transcripts, the pro se father waived his statutory right to counsel on numerous occasions despite the withdrawing attorney's request for substitute counsel as well as the court strongly advising against pro se representation and warning that it was in the father's best interest to accept counsel. Although the father claimed on appeal that he reinvoked his statutory right to counsel on the first day of the termination of parental rights trial, the Appellate Court further held that the trial court did not abuse its discretion in denying a second motion for continuance so that the pro se father could have court-appointed counsel after previously waiving his right to counsel and knowingly and voluntarily choosing to represent himself.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP362.pdf

In re Deana E., 61 Conn. App. 185 (2000)
Affirming the judgment terminating the father's rights on abandonment grounds, the Court also rejected the father's claim that his due process rights were violated because he was not given proper notice of the TPR petitions. The father and his counsel were present at the trial and fully participated. The father thus waived any claim of lack of personal jurisdiction because he submitted to the court's jurisdiction. **Concurring:** Spear, J.
Majority Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96.pdf; Concurring Opinion: http://www.jud.ct.gov/external/supapp/Cases/AROap/ap96a.pdf

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed, in part, that

the trial court improperly denied her motion to dismiss. The Appellate Court held that pursuant to the "waiver rule" because the mother proceeded to present her case and offered evidence after the denial of her motion to dismiss at the conclusion of DCF's case, the mother waived the right to appeal the denial of the motion to dismiss.

In re Donna M., 33 Conn. App. 632, cert. denied, 229 Conn. 912 (1994), reversed
The trial court adjudicated the child neglected and committed her to DCF's custody. The Appellate Court reversed. The mother claimed that the trial court improperly ordered her to undergo an evaluation and admitted the report. The Appellate Court held that the mother waived her right to appeal the trial court's order because she failed to object to the trial court's ordering of the psychological evaluations. Nonetheless, the Appellate Court reversed the judgment holding that the trial court violated the mother's due process right to adequate notice by granting DCF's motion to amend the neglect petition midtrial. The amendment was fundamentally unfair because it occurred after substantial evidence was presented and it changed the basic nature of the original allegations.

WAIVER OF FEES AND COSTS

In re Jeisean M., 74 Conn. App. 233 (2002), reversed
The trial court terminated the mother's parental rights. The mother sought to appeal and completed an application for waiver of fees and costs. The trial court denied her application on the alleged basis that the appeal was frivolous. The mother filed a motion to review with the Appellate Court. The Appellate Court granted the mother's motion for review and reversed the trial court's denial of her application. As a matter of first impression, the Appellate Court held that the trial court improperly considered the merits of the mother's proposed appeal in denying her application for waiver of fees and costs. Trial courts are not permitted to consider the merits of an indigent person's appeal and the only factors to be considered are whether the person has a right to appeal and whether the person is indigent. Based on the Practice Book rule at the time, the trial court may consider the proposed issues on appeal only in determining the extent to which fees or costs should be waived.
http://www.jud.ct.gov/external/supapp/Cases/AROap/AP74/74ap73.pdf

WAIVER OF ONE-YEAR REQUIREMENT

This statutory requirement found formerly in Conn. Gen. Stat. § 17a-112(c) has been eradicated. It permitted a trial court to waive the requirement that one year expire prior to the filing of a termination of parental rights petition if it finds from the totality of the circumstances surrounding the child that such waiver is necessary to promote the best interest of the child.

In re Romance M., 229 Conn. 345 (1994)
The trial court terminated the mother's parental rights regarding three children, but not the fourth child because DCF did not prove that the court should waive the requirement that grounds for termination existed for at least one year. The Appellate Court affirmed. The Supreme Court affirmed. The Supreme Court declined to review DCF's claim that the trial court should have granted the waiver because the claim was moot after the Supreme Court upheld the termination of the mother's parental rights. The Supreme Court also declined to review the mother's claim that the first TPR petition did not meet the one year requirement because the issue was not raised at trial.

In re Baby Girl B., 224 Conn. 263 (Conn. 1992)
The Supreme Court affirmed the trial court's granting of the mother's untimely motion to open the TPR judgment as well as the denial of the TPR because the abandonment and no ongoing grounds were not met. The trial court made no findings regarding waiving the one year requirement and trial court implicitly ruled it would not have found a waiver appropriate. **Note:** statutory change to Conn. Gen. Stat. § 52-212a eviscerating this holding. **Dissent:** Borden, Norcott, JJ.

In re Ashley E., 62 Conn. App. 307 (2001)
Although the trial court erred in applying the amended TPR statute instead of the one that was in effect when the petition was filed, the error was harmless because the court implicitly found that the circumstances constituting abandonment existed for more than a year. Based on the facts clearly demonstrating abandonment, the court's error likely would not have affected the result reached.
http://www.jud.ct.gov/external/supapp/Cases/AROap/ap235.pdf

In re Antonio M., 56 Conn. App. 534 (2000)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify and that the mother committed an act of commission or omission. The trial court waived the one year requirement. The Appellate Court affirmed. The Court rejected the parent's claim that there was insufficient evidence that the mother's boyfriend physically and sexually abused the child. The Court held that the evidence demonstrated that the mother both allowed and denied the child's injuries that occurred in her care. Furthermore, the trial court did not abuse its discretion in waiving the one year requirement because the trial court properly found that a waiver was in the child's best interest because the mother did not benefit from services and the child did not want to see her.

In re Saba P., 13 Conn. App. 605 (1988), cert. denied, 207 Conn. 811 (1988)
The trial court terminated the mother's parental rights. The Appellate Court affirmed. The mother claimed that the requisite finding that termination grounds must exist for at least one year must commence with the date the child is committed to DCF. The Appellate Court held, based on sufficient evidence, that grounds for termination existed for more than one year. The Appellate Court further concluded that the statutory requirement of one year did not have a fixed starting date. The statute did not say "one year from the date of placement" or "one year from the date of commitment." It only required that the ground exist for not less than one year. **Dissent:** Bieluch, J.

In re Christine F., 6 Conn. App. 360, cert. denied, 199 Conn. 808 (1986)
The trial court terminated the parents' parental rights finding that the child was "denied by reason of an act or acts of parental commission or omission, the care, guidance or control necessary for her physical, educational, moral or emotional well-being." The Appellate Court affirmed. The parents claimed that the trial court improperly waived the one year requirement. The Appellate Court held that based on the evidence that the child was sexually abused, the trial court properly waived the requirement that one year expire prior to filing a termination of parental rights petition because neither parent was able or capable now or in the future to provide even the most basic essential structure necessary for care and protection of the child.

WITNESS

In re Lukas K., 300 Conn. 463 (2011)
Affirming the Appellate Court, the Supreme Court held that the out-of-state incarcerated father was not deprived of due process by the trial court's denial of his request for a transcript and a continuance for the purposes of recalling witnesses. Applying the *Mathews v. Eldridge* balancing test, the Court reasoned that these are important procedural safeguards, however, the father did not offer a credible claim that he could rebut the evidence if the trial court had granted his request. Moreover, the request for a continuance and transcript would be consistent with an orderly administration of justice. The mother filed a TPR petition against the father and the father who was incarcerated since the child's birth, had no foreseeable release date and no parent child relationship with the child. In the underlying appeal, 120 Conn. App. 465, the Appellate Court held that the trial court did not violate the father's procedural due process rights when it denied him the opportunity to participate at trial using videoconference technology. The father could have testified telephonically and his attorney was present throughout the trial.
Supreme Court: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR300/300CR50.pdf; Appellate Court: http://www.jud.ct.gov/external/supapp/Cases/AROap/AP120/120AP227.pdf

In re James L., 55 Conn. App. 336 (1999)
The trial court terminated the mother's parental rights on the ground of abandonment after finding that she tried to sell her baby in exchange for rent. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly denied her motion for a new trial on the basis of newly discovered evidence, namely that the witness in the termination trial recanted her testimony in the criminal trial. The Appellate Court held that the trial court did not abuse its discretion in denying the motion for a new trial because while the newly discovered evidence of the witness' recantation tended to discredit the witness' testimony at the termination trial, the evidence was not "new evidence" that they could not have discovered as a result of due diligence. The mother's criminal attorney discovered the evidence as a result of vigorous cross-examination and as such, the evidence could have been discovered by the mother in her termination trial. Furthermore, the trial court properly concluded that the mother failed to demonstrate that the alleged new evidence of the witness' perjury would have led to a different result in the termination proceeding. In doing so, the Court noted the legal distinction between a petition for a new trial and a motion for a new trial.

In re Jessica S., 51 Conn. App. 667 (1999), cert. denied, 251 Conn. 901 (1999)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts and that the mother failed to rehabilitate and that it was in the best interest of the child. The Appellate Court affirmed. The mother claimed that the trial court improperly refused to sequester witnesses who testified on behalf of DCF because their presence in the courtroom was unnecessary. The Appellate Court found that the trial court did not abuse its discretion and the mother failed to allege that the any witness benefited from the testimony of the other witnesses.

In re Lauren R., 49 Conn. App. 763 (1998)
The trial court terminated the mother's parental rights finding that DCF made reasonable efforts to reunify, the mother failed to rehabilitate and the mother committed an act of commission or omission. The

Appellate Court affirmed. The mother claimed, in part, that the trial court erred by failing to draw an adverse inference against DCF for not calling a psychologist as a witness. The Appellate Court held that the trial court acted within its discretion in refusing to draw the adverse inference because: (1) either party could have called the court-ordered psychologist to testify, (2) the mother failed to prove that the witness was available to testify and that the testimony was not cumulative, and (3) DCF was not obligated to call the witness if it felt it proved its case in chief.

In re Tabitha P., 39 Conn. App. 353 (1995)
The trial court terminated the mother's parental rights finding that she failed to rehabilitate. The Appellate Court affirmed. The mother claimed, in part, that the trial court improperly failed to credit the testimony of her "joint" witnesses. The Appellate Court held that the trial court did not disregard the testimony given it referred to the testimony in its decision. Here, the trial court stated that the mother did not present any witnesses even though some of the witnesses were stipulated joint witnesses on behalf of the mother and DCF. The Court concluded that even if the trial court failed to recognize that these witnesses were, in part, testifying for the mother, this did not change the content of their testimony because the trial court found that based on all the evidence, the mother had failed to rehabilitate.

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