*Care and Protection of Yarrick*, 19-P-238, November 12, 2019 [[Slip Opinion](https://www.mass.gov/files/documents/2019/11/12/z19P0238.pdf)]

Summary by Katy Krywonis, CAFL Training Unit

Following a review and redetermination hearing, the trial judge found the mother fit, returned custody to her, and dismissed the C&P. The judge further found that the noncustodial father remained unfit. The judge wanted that unfitness finding to have continued legal effect after the C&P was dismissed, and attempted to say so in his written findings. The father appealed. The Appeals Court rejected the trial judge’s attempt to give the finding about the father preclusive effect because once the case was dismissed, that finding had no legal effect – it essentially disappeared. The Appeals Court reasoned that the finding that the father, who never had custody of Yarrick, continued to be unfit was not necessary to the disposition; the case could have been dismissed without making any findings about his fitness. The Appeals Court vacated that part of the judge’s order and dismissed the rest of the father’s appeal.