

**IMPOUNDED**  
**Commonwealth of Massachusetts**  
**APPEALS COURT**

NO: 2020-P-\_\_\_\_\_

ADOPTION OF CURT B.

DEPARTMENT OF CHILDREN AND FAMILIES  
Appellee,

v.

DUDLEY B.  
Appellant-Father

**FATHER’S MOTION TO STAY APPEAL  
AND FOR LEAVE TO FILE MOTION FOR NEW TRIAL**

Dudley B., the appellant-father (“Father”), respectfully requests that this Court stay the instant appeal and allow him to file a Motion for New Trial under Mass. R. Civ. P. 60(b) in the \_\_\_\_\_ County Juvenile Court.

In support of this motion, Father states as follows:

1. The Juvenile Court issued a decree terminating Father’s parental rights on \_\_\_\_\_, 2019. Father filed a timely notice of appeal on \_\_\_\_\_, 2019.

2. This appeal was docketed on \_\_\_\_\_, 2020, and Father's brief is currently due on \_\_\_\_\_, 2020.

3. While preparing the brief and reviewing the record, Father's appellate counsel determined that Father was deprived of his right to effective assistance of counsel when his trial counsel failed to properly prepare and present Father's case.

4. Specifically, Father's trial counsel failed to:

a. \_\_\_\_\_.

b. \_\_\_\_\_.

c. \_\_\_\_\_.

5. The performance of Father's trial counsel fell measurably below that of a reasonably fallible attorney. Further, his actions were not strategic, and they greatly prejudiced Father's case.

6. Father's Motion for New Trial and supporting affidavits are attached hereto as Exhibits A-H. The Motion sets forth in detail Father's trial counsel's conduct and how the failures of his trial counsel prejudiced his case.

7. Should this Court grant a stay of this appeal and leave to file the Motion for New Trial, Father will file the Motion immediately and request a hearing within two weeks. If the Motion is allowed,

Father will promptly notify this Court. If the Juvenile Court denies his Motion, Father will file a timely notice of appeal and ask this Court to consolidate the appeals, or, in the alternative, to allow him to fully brief the issues raised in the Motion for New Trial in his direct appeal.

8. A stay of the appeal, and leave to file the Motion for New Trial, serve the interests of justice because such orders will protect Father's state and federal constitutional due process rights.

**WHEREFORE**, Father respectfully requests that this Court (a) grant him leave to file the attached Motion for New Trial in the Juvenile Court, and (b) stay this appeal pending the Juvenile Court's resolution of the Motion.

Respectfully submitted,  
Dudley B.  
By his counsel,

Date: December \_\_, 2020

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[counsel's name]  
BBO# \_\_\_\_\_  
[counsel's address]  
(\_\_\_\_) \_\_\_\_-\_\_\_\_  
[Email address]