*Adoption of Franklin*, [99 Mass. App. Ct. 787](http://masscases.com/cases/app/99/99massappct787.html) (June 28, 2021) (Milkey, J.)

Summary by Rebecca Amdemariam, CAFL Training Unit

The Appeals Court addressed two main issues in *Adoption of Franklin*: visitation or family time, and a parent’s standing to file a motion for relief from judgment after a termination decree has issued. Father here filed a timely appeal at the conclusion of trial and then filed a motion for relief from judgment months after the decision upon learning that the adoption plan for one of his three children had fallen through. This motion was denied upon which his other appeal is based.

During trial the plaintiff had filed a motion to challenge the Department’s unilateral suspension of visits. The trial judge did not hear this motion until the termination trial upon which the issue became moot. The Court found that DCF violated its regulations by unilaterally terminating visitation without court approval and that the judge compounded DCF’s error by consolidating father’s abuse of discretion motion into the termination trial and denying him a timely and separate hearing. However, the Court affirmed the termination decree and order denying the father’s motion for relief from judgment stating that, “Although we agree with the father that the department violated its regulation in terminating visitation without court approval and that the judge erred by postponing consideration of the father’s motion to restore visitation, it does not follow that the father is entitled to reversal of the decree terminating his parental rights.” As to the issue of standing, the court found the judge erred in denying the father’s motion for relief from justice based on standing and reiterated the rule that “where a parent is challenging a decree entered following a best interest trial, the parent retains standing to challenge the decree, whether on appeal or through an appropriate post-trial motion in the trial court, so long as the litigation remains live.” *Adoption of Douglas*, 473 Mass. 1024, 1026 (2016).

It was only with respect to visitation that the court remanded this case taking into consideration the changed circumstances of the child whose pre-adoptive plans had failed and the error of DCF’s unilateral termination of visits.