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CONNECTICUT REPORTS

Vol. 336

CASES ARGUED AND DETERMINED

IN THE

SUPREME COURT

OF THE

STATE OF CONNECTICUT

IN RE ZAKAI F.*
(SC 20234)

Robinson, C. J., and Palmer, McDonald, D'Auria, Mullins, Kahn, and Ecker, Js.**

Syllabus

The respondent mother appealed to the Appellate Court from the judgment of the trial court, which denied her motion for reinstatement of guardianship rights with respect to her minor child, Z. The respondent had voluntarily agreed to relinquish temporary guardianship of Z to Z's maternal aunt, the petitioner. Subsequently, when the respondent requested

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79a-12, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons who have a proper interest therein and upon order of the Supreme Court.

Moreover, in accordance with federal law; see 18 U.S.C. § 2265 (d) (3) (2018); we decline to identify any party protected or sought to be protected under a protective order or a restraining order that was issued or applied for, or others through whom that party's identity may be ascertained.

** The listing of justices reflects their seniority status on this court as of the date of oral argument.

that the petitioner return Z to her care, the petitioner filed in the Probate Court a petition for immediate, temporary custody of Z and an application for the removal of the respondent as the guardian of Z. The Probate Court issued an order vesting the petitioner with immediate, temporary custody of Z. Thereafter, the case was transferred to the Superior Court, where the parties entered into a stipulated agreement, pursuant to which the court transferred guardianship of Z to the petitioner but ordered limited visitation between Z and the respondent. Subsequently, the respondent filed her motion for reinstatement. In denying the respondent's motion and granting a separate motion filed by Z's guardian ad litem to suspend overnight visitation with the respondent, the trial court found that the respondent was capable of adequately providing for Z and that there had never been a judicial adjudication of neglect or abuse of Z but nevertheless concluded, on the basis of a fair preponderance of the evidence, that reinstatement of the respondent's guardianship rights was not in Z's best interests. On appeal to the Appellate Court, the respondent claimed, inter alia, that the trial court violated her federal constitutional right to the care and custody of Z in denying her motion for reinstatement without finding that she was unfit and without finding by clear and convincing evidence that Z would be at a substantial risk of harm if guardianship were terminated. Thereafter, the Appellate Court affirmed the trial court's judgment, concluding that the respondent could not prevail on her unpreserved claim under the third prong of *State* v. *Golding* (213 Conn. 233) because the petitioner and Z, through his guardian ad litem, rebutted the constitutional presumption that reunification with the respondent was in Z's best interests. The Appellate Court also concluded that proof by a fair preponderance of the evidence was the applicable standard in a proceeding for reinstatement of guardianship. On the granting of certification, the respondent appealed to this court, claiming that she was entitled to a presumption that reinstatement was in the best interests of Z and to a heightened standard of proof. *Held* that a parent seeking reinstatement of guardianship pursuant to statute (§ 45a-611), who has demonstrated that the factors that resulted in the parent's removal as guardian have been resolved satisfactorily, is entitled to a rebuttable, constitutional presumption that reinstatement is in the best interests of the child, a third party seeking to rebut that presumption must do so by clear and convincing evidence, and, because it was unclear whether the trial court applied this presumption, and because that court applied the preponderance of the evidence standard, the judgment of the Appellate Court was reversed, and the case was remanded for further proceedings: this court previously concluded in *In re Juvenile Appeal* (*Anonymous*) (177 Conn. 648) that parents of a child committed to the state youth and children services agency are entitled to a presumption, in the absence of a continuing cause for commitment, that revocation of such commitment will be in the child's best interests, and it found that conclusion to be equally applicable to

reinstatement of guardianship proceedings; moreover, this court concluded, after weighing the factors set forth in *Mathews* v. *Eldridge* (424 U.S. 319), that due process requires a third party seeking to rebut the presumption that reinstatement of guardianship is in the child's best interests to do so by clear and convincing evidence, as the application of that heightened standard of proof in this context most appropriately balances the parent's interest in the companionship, care, custody and management of his or her child, and the interest of the child in safety and consistency, as well as not being dislocated from the emotional attachments that derive from the intimacy of daily association with his or her parent; furthermore, application of the clear and convincing standard in this context serves to reduce the risk of error, the cost of which is significant given the weight of the private interests at stake, and serves the interests of the state in protecting the welfare of the child, reducing the cost and burden of guardianship proceedings, and ensuring that such proceedings are conducted fairly.

Argued May 2, 2019—officially released July 22, 2020***

Procedural History

Petition by the maternal aunt for immediate, temporary custody of the respondent mother's minor child and application by the petitioner for the removal of the respondent as guardian of the child, brought to the Probate Court for the district of Derby, which issued an order vesting the petitioner with immediate, temporary custody of the child; thereafter, the case was transferred to the Superior Court in the judicial district of Ansonia-Milford, where the respondent filed a motion to vacate the order of immediate, temporary custody; subsequently, the case was transferred to the Superior Court in the judicial district of New Haven, Juvenile Matters, where the guardianship of the child was transferred to the petitioner pursuant to a stipulated agreement between the parties; thereafter, the court, *Conway*, *J.*, denied the respondent's motion to reinstate her guardianship rights, granted the motion filed by the guardian ad litem to suspend overnight visitation with the respondent, and rendered judgment thereon, from which the respondent appealed to the Appellate Court, *DiPentima*, *C.*

*** July 22, 2020, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

J., and *Alvord* and *Bear*, *Js.*, which affirmed the judgment of the trial court, and the respondent, on the granting of certification, appealed to this court. *Reversed*; *further proceedings.*

Benjamin M. Wattenmaker, assigned counsel, for the appellant (respondent mother).

Albert J. Oneto IV, assigned counsel, for the appellee (petitioner).

David B. Rozwaski, assigned counsel, for the minor child.

Joshua Michtom, assistant public defender, filed a brief for the Office of the Chief Public Defender as amicus curiae.

Louise Truax and *Leslie I. Jennings-Lax* filed a brief for the Connecticut Chapter of the American Academy of Matrimonial Lawyers as amicus curiae.

Stacy L. Schleif and *Jay E. Siklick* filed a brief for the Center for Children's Advocacy, Inc., as amicus curiae.

William Tong, attorney general, *Clare Kindall*, solicitor general, and *Michael Besso*, *Benjamin Zivyon*, *Evan O'Roark* and *Sara Nadim Swallen*, assistant attorneys general, filed a brief for the Commissioner of Children and Families as amicus curiae.

Opinion

McDONALD, J. In this certified appeal, we must determine whether there is a constitutional presumption that reinstatement of guardianship rights to a parent under General Statutes § 45a-611[1] is in the best

[1] General Statutes § 45a-611 provides in relevant part: "(b) In the case of a parent who seeks reinstatement, the court shall hold a hearing . . . . 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. . . ."

Although § 45a-611 (b) was the subject of technical amendments in 2018; see Public Acts 2018, No. 18-45, § 9; those amendments have no bearing on

interests of the child and, if so, whether a heightened standard of proof is required to rebut that presumption. The respondent mother,[2] Kristi F., appeals from the judgment of the Appellate Court, which affirmed the trial court's denial of her motion for reinstatement of guardianship rights with respect to her minor son, Zakai F., on the basis that reinstatement was not in Zakai's best interests. See *In re Zakai F.*, 185 Conn. App. 752, 755, 776–77, 198 A.3d 135 (2018). On appeal, the respondent contends that she is entitled to a presumption that reinstatement is in the best interests of the child and that she is also entitled to a heightened standard of proof.

We conclude that, under § 45a-611, once a parent demonstrates that the factors that resulted in the removal of the parent as guardian have been resolved satisfactorily, the parent is entitled to a presumption that reinstatement of guardianship rights is in the best interests of the child. We also conclude that the party opposing reinstatement must rebut this presumption by clear and convincing evidence. In the present case, because it is unclear whether the trial court applied this presumption, and because it did not determine that the petitioner had rebutted that presumption by clear and convincing evidence, we conclude that the trial court improperly denied the respondent's motion for reinstatement of guardianship. Accordingly, we reverse the judgment of the Appellate Court.

The record reveals the following relevant facts and procedural history. Zakai was born in early 2011 and resided with the respondent until approximately July,

the merits of this appeal. In the interest of simplicity, we refer to the current revision of the statute.

[2] We note that, although the respondent mother filed the motion at issue in this appeal, the original action commenced when the child's aunt brought a petition for immediate, temporary custody and an application for removal of guardianship. Therefore, we refer to the mother as the respondent and to the aunt as the petitioner throughout this opinion. This nomenclature is also consistent with that utilized by the Appellate Court.

2013, when the respondent voluntarily agreed that the petitioner, Nikki F., the respondent's sister and Zakai's maternal aunt, would care for Zakai. The parties agreed that the petitioner would temporarily care for Zakai while the respondent pursued employment opportunities and obtained appropriate housing and a reliable vehicle. The respondent reassumed custody and care of Zakai in late January or early February, 2014. Thereafter, Zakai was physically assaulted by the respondent's live-in boyfriend, Montreal C., while the respondent was at work. Although both Montreal and the respondent were initially criminally charged after the assault, the charges against the respondent were dropped.

Given the respondent's continued work commitments and Zakai's emotional and physical state following Montreal's abuse of Zakai, the respondent agreed that Zakai again would stay temporarily with the petitioner. Less than one week later, the respondent requested that the petitioner return Zakai to her care. The petitioner did not respond to the respondent's request but, instead, filed a petition for immediate, temporary custody and an application for removal of guardianship in the Probate Court for the district of Derby in February, 2014, alleging, among other things, that Montreal continued to live at the respondent's home despite a restraining order barring him from contact with Zakai. The Probate Court issued an ex parte order granting the petitioner immediate, temporary custody of Zakai but did not rule on the petitioner's motion for removal of guardianship.

In July, 2014, "the respondent filed a motion in the Probate Court for transfer of the case to the Superior Court. On July 16, 2014, the motion was granted, and the case was transferred to the family division of the Superior Court in Milford. [In August], 2014, the respondent filed a motion to vacate the Probate Court order granting the petitioner temporary custody of Zakai. On September 29, 2014, by agreement of the parties, the

court ordered that (1) a guardian ad litem be appointed for Zakai; (2) the respondent continue to engage in anger management counseling, therapy, and parenting classes; and (3) the respondent be afforded supervised visitation with Zakai at a location other than the home of the petitioner up to twice a week, subject to the requirements that the length of visitation be determined by the petitioner, visitation occur only at sites acceptable to the petitioner, and only persons acceptable to the petitioner be present during visitation.

"In the fall of 2014, the respondent was arrested after an incident in a public park involving the petitioner and a maternal uncle of Zakai, and she was charged with threatening and breach of [the] peace. A criminal protective order was issued barring any contact between the respondent and the petitioner but reserving for the family division of the Superior Court the issue of the appropriateness of the respondent's continued contact with Zakai. [In April], 2015, the court granted the petitioner's motion to have the case transferred to the juvenile division of the Superior Court in New Haven.

"On June 18, 2015, the court . . . ordered the Commissioner of Children and Families (commissioner) to conduct a guardianship study. The guardian ad litem moved for a [court-ordered] psychological evaluation of the parties, and that motion was granted on December 29, 2015." (Footnote omitted.) Id., 756–57.

In December, 2015, by agreement of the parties, the court modified the visitation schedule to allow a private agency to arrange two weekly visits between the respondent and Zakai. Thereafter, in January, 2016, the court increased the length of Sunday visits from two to four hours. Then, in March, 2016, the trial court granted an ex parte motion to suspend unsupervised visitation.[3]

[3] The motion alleged that the respondent and Montreal had been arrested on felony narcotics charges. The respondent testified, however, that the March, 2016 drug charges were not pursued. The trial court noted, it "may be that it was also in 2016 when [the respondent] was placed on probation

A hearing on the respondent's motion to vacate the order of temporary custody and the petitioner's motion to transfer guardianship was scheduled for September 21, 2016. Before the hearing, however, the court approved an agreement resolving all outstanding issues. By agreement of the parties, the court transferred guardianship of Zakai to the petitioner, ordered unsupervised daytime visits between the respondent and Zakai, and ordered that, until the protective order was resolved or modified, the petitioner would have a third party present in her home while exchanging custody of Zakai with the respondent. The stipulation also required that any further expansions of the visitation schedule, including overnight visits, would be arranged through family therapy.

Approximately nine months later, in June, 2017, the respondent filed a motion to reinstate her guardianship rights to Zakai. "Subsequently, the court again ordered the commissioner to conduct and complete a guardianship study pursuant to General Statutes § 46b-129 (n). The respondent subsequently filed a motion for overnight visitation on November 3, 2017, which was heard with her motion for reinstatement of guardianship. . . . [After several days of hearings on the motions, on] December 12, 2017, the court elected to hold in abeyance any definitive ruling on the motion to reinstate the respondent's guardianship rights and instead ordered that Zakai immediately commence overnight visits with the respondent. The court further ordered that the respondent exclusively was to care for Zakai during the overnight visits and that there was to be no contact between Zakai and any unrelated male adults."[4] Id., 758.

for the 2014 breach of [the] peace conviction . . . . [The respondent] testified [that] a condition of probation was urine testing and remaining substance abuse free." (Citation omitted.)

[4] In making its December, 2017 ruling to commence overnight visits with the respondent, the trial court explained that the respondent had struggled to sustain a lifestyle conducive to having Zakai return to her care. Specifically, the court noted the choices in child care the respondent had made that resulted in Montreal's abuse of Zakai and the death of her eldest infant

On February 2, 2018, the guardian ad litem filed a motion to suspend overnight visitation, alleging that the respondent had violated the court's December 12, 2017 order by allowing an unrelated male to stay at her home while Zakai was there. The guardian ad litem also represented that Zakai reported to his therapist that the respondent had hit him and his sister. Thereafter, the court reconvened the proceedings to hear testimony and receive other evidence regarding both the motion to suspend overnight visitation and the respondent's June, 2017 motion to reinstate her guardianship rights. The court heard additional testimony from numerous witnesses on February 15, February 28, and March 1, 2018.

On March 1, 2018, the court issued a memorandum of decision addressing the respondent's motion to reinstate guardianship and the guardian ad litem's motion to suspend overnight visitation. First, the court noted that, since the 2014 inception of this case, "there has never been a judicial adjudication of neglect or abuse as to Zakai, and no court has ever committed Zakai to the care and custody of [the Department of Children and Families]," and that Zakai's placement with the petitioner, initially in 2013 and then following the February, 2014 assault, was by family agreement. The court next explained that § 45a-611 (b) was the appropriate statutory framework within which to consider the respondent's motion for reinstatement of guardianship. See footnote 1 of this opinion. Under that statutory framework, the court found that "the reasons and events that prompted the agreed to 2016 transfer of guardianship have been sufficiently ameliorated. [The respondent] is capable of providing Zakai with appropriate housing,

daughter, who died while the respondent left her daughter in the care of the child's father. The court also noted that "[i]t took her a long time, and some would argue too long, to disengage from [Montreal]. *But she appears to have permanently done so for* [*more than one*] *year now*." (Emphasis added; internal quotation marks omitted.)

nutrition and clothing, and she is capable of meeting his educational, medical and physical safety needs. [The respondent] and Zakai share a loving parent-child like bond and, when [Zakai] feels he is in a safe environment, [the respondent] and [Zakai] enjoy quality time together." (Footnote omitted.)

The court then went on to consider whether reinstatement of guardianship was in Zakai's best interests. The court stated that, "[c]ommencing in February, 2014, [the respondent] has remained steadfast in her efforts to have Zakai return to her care. Since 2014, she has obtained and sustained appropriate housing, [and] stable and sufficient employment, and she has engaged in court-ordered anger management [and] mental health treatment and abided by the conditions of a protracted criminal protective order and conditions of probation. She sought out and, for at least [one and one-half years], paid for professional parenting/visitation services, and she has diligently and respectfully attended juvenile court proceedings and abided by the juvenile court's orders. By all accounts, [the respondent] successfully parents her younger daughter as a single mother."

The court weighed these findings against testimony and evidence regarding Zakai's emotional and physical debilitation before and after overnight visitation with the respondent and his need for permanency. Specifically, the court credited the testimony of Zakai's first grade teacher, Zakai's therapist, and the petitioner. Each of these witnesses testified that, on days that Zakai is scheduled to visit with the respondent, he demonstrates regressive, debilitating behavior, and that there has been a negative change in his behavior since the commencement of overnight visits with the respondent.[5]

[5] Zakai's first grade teacher testified that Zakai "consistently exhibited less than ideal behavior [on] the days he [was] scheduled to visit with [the respondent]" and that those behaviors "escalated in both intensity and frequency" since the court ordered increased visitation with the respondent. Zakai's teacher further testified that, on the days that Zakai was scheduled

The court explained that, given the degree of early childhood trauma Zakai has experienced, the amount of time he has spent in the petitioner's care, and the lack of security he feels when he is in the respondent's care, to abruptly remove him from the petitioner's care would be cruel and exacerbate his alarming behaviors. The court also noted that, "[p]roverbially speaking, Zakai is screaming for permanency; he wants and needs to know his one 'forever' home."

The court ultimately found that, based on a fair preponderance of the evidence, it was not in Zakai's best interests to return to the respondent's care. As such, the court denied the respondent's motion to reinstate guardianship and granted the guardian ad litem's motion to suspend overnight visitation. The court further ordered that any visits between the respondent and Zakai would occur at the sole discretion of the petitioner.

The respondent appealed from the judgment of the trial court to the Appellate Court. On appeal to the Appellate Court, the respondent claimed, among other things, that the trial court violated her fundamental right under the United States constitution to the care and custody of Zakai when it denied her motion for reinstatement of guardianship without finding that she was unfit and without finding by clear and convincing evidence that Zakai would be at a substantial risk of harm if the current guardianship were terminated.[6] *In re Zakai F.*,

to visit with the respondent, he asked to go to the school nurse and reported having gotten sick in the bathroom, when he was not sick. The petitioner also testified that Zakai threw temper tantrums and exhibited other problematic behavior on days that he was scheduled to visit with the respondent, and that he asked to go to the doctor to get a note that he is sick.

[6] In the Appellate Court, the respondent also claimed that the trial court had abused its discretion in determining that reinstatement of the respondent as guardian was not in Zakai's best interests. See *In re Zakai F.*, supra, 185 Conn. App. 755. The Appellate Court concluded that the trial court did not abuse its discretion. Id., 776–77. On appeal to this court, the respondent did not pursue her claim of abuse of discretion.

supra, 185 Conn. App. 760. The Appellate Court reviewed the respondent's unpreserved claim pursuant to *State* v. *Golding*, 213 Conn. 233, 239–40, 567 A.2d 823 (1989), as modified by *In re Yasiel R.*, 317 Conn. 773, 781, 120 A.3d 1188 (2015).[7] See *In re Zakai F.*, supra, 765–75.

The Appellate Court concluded that, although the first two prongs of *Golding* were satisfied, the respondent could not prevail under the third prong. See id. Specifically, it concluded that "the [trial] court properly considered evidence from both the petitioner and Zakai, through their attorney and guardian ad litem, rebutting the presumption that reunification with the respondent was in Zakai's best interest[s]. . . . Thus, because the court [correctly] determined that the petitioner and Zakai rebutted the constitutional presumption . . . the respondent has failed to satisfy the third *Golding* prong . . . ." Id., 769. The Appellate Court also concluded that proof by a fair preponderance of the evidence is the applicable standard to be applied in a proceeding for reinstatement of guardianship, and, thus, the trial court applied the correct standard. Id., 773–75. This certified appeal followed.[8]

[7] "Under *Golding*, it is well settled that a defendant may prevail on an unpreserved claim when: '(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 . . . exists and . . . deprived the defendant 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.' . . . *State* v. *Golding*, supra, 213 Conn. 239–40; see *In re Yasiel R.*, [supra, 317 Conn. 781] (modifying third prong of *Golding*)." *State* v. *McClain*, 324 Conn. 802, 809 n.5, 155 A.3d 209 (2017).

[8] We granted the respondent's petition for certification to appeal, limited to the following issue: "When a parent who has temporarily relinquished custody seeks reinstatement of guardianship rights under . . . § 45a-611, is there a constitutional presumption that reinstatement is in the best interests of the child, and, if so, does a heightened [standard] of proof apply pursuant to *Santosky* v. *Kramer*, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982)?" *In re Zakai F.*, 330 Conn. 957, 198 A.3d 584 (2018). Upon review of the record and the claims raised before the Appellate Court, we now conclude that the certified question is not an adequate statement of the issue

I

Resolution of the certified issue in this appeal requires us to first consider whether, when a parent seeks reinstatement of guardianship rights under § 45a-611, the parent is entitled to a constitutional presumption that reinstatement is in the best interests of the child, once the parent has established that the cause for removal no longer exists.[9] Both the respondent and the petitioner agree that such a presumption is required.[10]

We begin with the text of § 45a-611 (b), which provides in relevant part: "If the court determines that the

properly before this court. Specifically, the respondent had not temporarily relinquished custody, but, after the Probate Court granted the petitioner's request for an order of immediate, temporary custody in 2014, approximately two years later, the respondent agreed to a transfer of guardianship in 2016. Accordingly, we reformulate the certified question as follows: "When a parent who has agreed to a transfer of guardianship seeks reinstatement of guardianship rights under . . . § 45a-611, is there a constitutional presumption that reinstatement is in the best interests of the child, and, if so, does a heightened standard of proof apply pursuant to *Santosky* v. *Kramer*, supra, 455 U.S. 745?" See, e.g., *State* v. *Skipwith*, 326 Conn. 512, 516 n.4, 165 A.3d 1211 (2017) (court may reformulate certified question to conform to issue actually presented and to be decided on appeal); *State* v. *Ouellette*, 295 Conn. 173, 183–84, 989 A.2d 1048 (2010) (same).

[9] We agree with the Appellate Court that this issue was not preserved, but we nevertheless review it pursuant to *State* v. *Golding*, supra, 213 Conn. 239–40. See footnote 7 of this opinion. We conclude that the respondent has satisfied the first two prongs of *Golding*, and, therefore, we focus our analysis on the third prong. Under the third prong, we consider whether "the alleged constitutional violation . . . exists and . . . deprived the defendant of a fair trial . . . ." *State* v. *Golding*, supra, 240; see *In re Yasiel R.*, supra, 317 Conn. 781 (modifying third prong of *Golding*).

[10] The guardian ad litem for the minor child argues that, even if a constitutional presumption that reinstatement is in the best interests of the child is generally required, it is not required under the facts of the present case. He fails, however, to cite any legal authority in support of his position. Accordingly, we deem that claim to be inadequately briefed and decline to address it. See *Estate of Rock* v. *University of Connecticut*, 323 Conn. 26, 33, 144 A.3d 420 (2016) ("Claims are inadequately briefed when they are merely mentioned and not briefed beyond a bare assertion. . . . Claims are also inadequately briefed when they . . . consist of conclusory assertions . . . with no mention of relevant authority and minimal or no citations from the record . . . ." (Internal quotation marks omitted.)).

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. . . .'' Nothing in the language of the statute itself requires a presumption that reinstatement with a parent is in the best interests of the child.

Practice Book § 35a-20 also governs the procedure by which a parent can seek reinstatement of guardianship. Practice Book § 35a-20 (d) provides: ''The hearing on a motion for reinstatement of guardianship is dispositional in nature. The party seeking reinstatement of guardianship has the burden of proof to establish that cause for transfer of guardianship to another person or agency no longer exists. The judicial authority shall then determine if reinstatement of guardianship is in the child's or youth's best interest.'' Practice Book § 35a-20, like § 45a-611, does not address whether there is a presumption in place.

To date, this court has not explicitly addressed whether a parent seeking reinstatement of guardianship is entitled to a constitutional presumption that reinstatement is in the best interests of the child. We do, however, have guidance from our case law bearing on this question in an analogous context and find our decision in *In re Juvenile Appeal (Anonymous)*, 177 Conn. 648, 420 A.2d 875 (1979), instructive. In that case, a mother sought revocation of her child's commitment to the Commissioner of Children and Youth Services, pursuant to General Statutes (Rev. to 1977) § 17-62 (f).[11] See id., 650, 657.

In *In re Juvenile Appeal (Anonymous)*, the trial court ''[r]ecogniz[ed] that cause for commitment no longer

[11] We note that language similar to that of General Statutes (Rev. to 1977) § 17-62 (f) is presently codified at General Statutes § 46b-129 (n). We also note that § 46b-129 (n) is similar to § 45a-611.

existed from the time the petition for revocation was brought . . . [but] nevertheless concluded that separation of the child from her foster family at that time would be contrary to her best interests, and consequently denied the [mother's] petition for revocation." Id., 658. On appeal, this court examined the language of General Statutes (Rev. to 1977) § 17-62 (f) and recognized that it set forth a burden shifting scheme. See id., 659. Specifically, this court concluded that "[c]learly the burden is [on] the person applying for the revocation of commitment to allege and prove that cause for commitment no longer exists. Once that has been established, as in this case, 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." (Emphasis in original.) Id.

In explaining the burden shifting scheme, this court expressly held that a presumption that revocation of commitment would be in the child's best interests should apply. This court explained that, "[although] it is certainly true, as we have held, that parents have no natural right to the custody of their children that can prevail over a disposition [a]ffecting the child's best interests . . . parents are entitled to the presumption, [in the absence of] a continuing cause for commitment, that revocation will be in the child's best interests unless the state can prove otherwise." (Citations omitted.) Id., 659–60.

In adopting a presumption that revocation is in the best interests of the child in *In re Juvenile Appeal (Anonymous)*, this court relied on a prior decision of this court, *Claffey* v. *Claffey*, 135 Conn. 374, 64 A.2d 540 (1949). See *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 659–60. In *Claffey*, a mother sought to regain custody of her daughter from the paternal grand-

parents. See *Claffey* v. *Claffey*, supra, 374–75. This court explained that, "[a]t least, where the controversy is not between the father and the mother . . . the mother has a prior right to custody unless the circumstances are such that to give it to her would not be for the best interests of the child. . . . That, under normal circumstances, the interests of a young child . . . will be best served by growing up in the care of her mother does not admit of question." (Citation omitted.) Id., 377. This court's reliance on *Claffey* in *In re Juvenile Appeal (Anonymous)* demonstrates that the presumption that revocation is in the best interests of the child exists even when the other party involved is not a state actor.

Ultimately, this court in *In re Juvenile Appeal (Anonymous)* affirmed in part the decision of the Superior Court, concluding that "[t]here was ample evidence from which the court could have concluded that despite the absence of a continuing cause for commitment, the state had demonstrated that because of the length of the separation between [the] mother and [the] child, for whatever reason, and the intervening relationship that had developed between the child and her foster family, it would not at that time have been in the child's best interests to return to the custody of her mother. In the denial of the [mother's] motion for revocation of commitment, there was no error." *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 668.

Although the commitment at issue in *In re Juvenile Appeal (Anonymous)* was to a state actor; see id., 659–60; we find the court's conclusion requiring a presumption that revocation is in the best interests of the child equally applicable to reinstatement of guardianship proceedings in the present context. Indeed, in addressing the presumption, this court expressly stated that, "[i]n any controversy between a parent and [anyone not a parent—including relatives, friends or child care agencies] the parent . . . should have a strong

initial advantage, to be lost only [when] it is shown that the child's welfare plainly requires custody to be placed in the [other party]." (Footnote omitted; internal quotation marks omitted.) Id., 662; see id., 662 n.12; see also *In re Bennett* v. *Jeffreys*, 40 N.Y.2d 543, 548–49, 356 N.E.2d 277, 387 N.Y.S.2d 821 (1976). Furthermore, the cases relied on by this court in support of the presumption in *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 660–61, were cases involving private citizens, not state actors. See *Claffey* v. *Claffey*, supra, 135 Conn. 374, 377; *In re Spence-Chapin Adoption Service* v. *Polk*, 29 N.Y.2d 196, 198, 203, 274 N.E.2d 431, 324 N.Y.S.2d 937 (1971).

Accordingly, we conclude that a parent seeking reinstatement of guardianship under § 45a-611, who has demonstrated that the factors that resulted in the parent's removal as guardian have been resolved satisfactorily, is entitled to a presumption that reinstatement is in the best interests of the child.

In the present case, the Appellate Court explained: "Although we are cognizant of the respondent's claim that she, having never been adjudicated as an unfit parent, was entitled to a presumption that she would act in Zakai's best interest[s], such a presumption is not absolute, but may instead be rebutted by contradictory evidence of Zakai's best interest[s]." *In re Zakai F.*, supra, 185 Conn. App. 767. Despite the fact that it is not clear whether the trial court applied a presumption that reinstatement was in Zakai's best interests, the Appellate Court then concluded that, "because the court [correctly] determined that the petitioner and Zakai rebutted the constitutional presumption that it was in Zakai's best interest[s] to be returned to the respondent's care, the respondent has failed to satisfy the third *Golding* prong as to the constitutional presumption that, because she was a fit parent, the best interest[s] standard required that Zakai be returned to her." Id., 769.

On the basis of the foregoing, the Appellate Court correctly recognized that, once a parent has demonstrated that the cause for removal no longer exists, she is entitled to a presumption that reinstatement is in the best interests of the child. See id., 767, 768. It is unclear, however, that the trial court applied this presumption. Although the trial court weighed the respondent's progress against testimony and evidence regarding Zakai's emotional and physical debilitation before and after overnight visitation with the respondent and his need for permanency, it never explicitly applied a presumption. Indeed, this court has never previously addressed whether a parent seeking reinstatement of guardianship is entitled to a constitutional presumption that reinstatement is in the best interests of the child. Accordingly, because it is unclear whether the trial court applied a presumption, and in light of our conclusion in part II of this opinion that the trial court did not apply the correct standard of proof, the Appellate Court improperly affirmed the judgment of the trial court.

II

The presumption we have adopted in part I of this opinion allows a parent to file a motion for reinstatement of guardianship, and, as long as the parent can show that the reasons that led to the transfer of guardianship have been ameliorated, the parent is entitled to a rebuttable presumption that reinstatement is in the best interests of the child. Having now adopted this presumption, we also conclude, consistent therewith, that the burden must shift to the nonparent to rebut the presumption that reinstatement is in the best interests of the child. The question that remains is what standard of proof must be met for the nonparent to rebut the presumption.

"The trial court's determination of the proper legal standard in any given case is a question of law subject to our plenary review." *Fish* v. *Fish*, 285 Conn. 24, 37,

939 A.2d 1040 (2008). "Where no standard of proof is provided in a statute, due process requires that the court apply a standard which is appropriate to the issues involved." *In re Juvenile Appeal (83-CD)*, 189 Conn. 276, 296, 455 A.2d 1313 (1983). Here, § 45a-611 does not provide a standard of proof to be applied in a proceeding concerning the reinstatement of guardianship of a minor, and this court has never addressed which standard of proof is applicable. In this civil case, there are only two choices: the preponderance of the evidence or the clear and convincing evidence standard.

The United States Supreme Court has made clear that "its decisions concerning constitutional burdens of proof have not turned on any presumption favoring any particular standard. To the contrary, the [c]ourt has engaged in a straightforward consideration of the factors identified in [*Mathews* v. *Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)] to determine whether a particular standard of proof in a particular proceeding satisfies due process." *Santosky* v. *Kramer*, 455 U.S. 745, 754, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982). The balancing test set forth in *Eldridge* involves weighing the following three factors: "the private interests affected by the proceeding; the risk of error created by the [s]tate's chosen procedure; and the countervailing governmental interest supporting [the] use of the challenged procedure." Id.; see also *Mathews* v. *Eldridge*, supra, 335. We evaluate each factor in turn.

A

We first consider the private interests affected by the proceeding. "The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be condemned to suffer grievous loss. . . . Whether the loss threatened by a particular type of proceeding is sufficiently grave to warrant more than average certainty on the part of the [fact finder] turns on both the nature of the private

interest threatened and the permanency of the threatened loss." (Citations omitted; internal quotation marks omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 758.

The nature of the threatened loss in the present case could not be more profound: it is the fundamental right to family integrity. See, e.g., id., 758–59; *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 284. The "right to family integrity . . . encompasses the reciprocal rights of both [the] parent and [the] children . . . the interest of the parent in the companionship, care, custody and management of his or her children . . . and of the children in not being dislocated from the emotional attachments that derive from the intimacy of daily association . . . with the parent . . . ." (Citations omitted; internal quotation marks omitted.) *Pamela B.* v. *Ment*, 244 Conn. 296, 310, 709 A.2d 1089 (1998). In other words, parents and children share a compelling interest in remaining together as a family unit. See, e.g., *In re Christina M.*, 280 Conn. 474, 486–87, 908 A.2d 1073 (2006) ("[i]n cases involving parental rights, the rights of the child coexist and are intertwined with those of the parent" (internal quotation marks omitted)); see also, e.g., *Santosky* v. *Kramer*, supra, 455 U.S. 760 ("the child and his parents share a vital interest in preventing erroneous termination of their natural relationship").

It is well established 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." *Troxel* v. *Granville*, 530 U.S. 57, 65, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000). "The rights to conceive and to raise one's children have been deemed 'essential' . . . 'basic civil rights of man' . . . and '[r]ights far more precious . . . than property rights' . . . . 'It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.' . . . The integrity of the

family unit has found protection in the [d]ue [p]rocess [c]lause of the [f]ourteenth [a]mendment . . . the [e]qual [p]rotection [c]lause of the [f]ourteenth [a]mendment . . . and the [n]inth [a]mendment [to the United States constitution] . . . .'' (Citations omitted.) *Stanley* v. *Illinois*, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972); see also *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 284.

In addition to their fundamental right to family integrity, children have an additional interest in safety and consistency. See *Osborne* v. *Ohio*, 495 U.S. 103, 109, 110 S. Ct. 1691, 109 L. Ed. 2d 98 (1990). When there never has been a finding of abuse or neglect, the child's safety interest should not necessarily be afforded equal weight with the shared constitutional interest in family integrity. This court has previously concluded in a related context that it is only when serious physical harm or immediate danger is present that the child's and the parent's shared interests in family integrity diverge. See *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 287–88 (only when ''serious physical illness or serious physical injury'' or ''immediate physical danger'' is present does ''the child's interest[s] no longer [coincide] with [those] of the parent, thereby diminishing the magnitude of the parent's right to family integrity . . . and therefore the state's intervention as parens patriae to protect the child becomes so necessary that it can be considered paramount'' (citation omitted; internal quotation marks omitted)). When, as in the present case, there has been no finding of parental unfitness or abuse or neglect, it is inappropriate to afford the child's general interest in safety equal weight to the shared constitutional interest in family integrity.[12] Cf. *Santosky* v. *Kramer*, supra, 455

[12] The concurring and dissenting justice asserts that the trial court's finding that ''Zakai [did] not feel safe and secure in the [respondent's] care'' provides a sufficient basis to conclude that the shared constitutional interests of Zakai and the respondent in family integrity are not aligned. Indeed, the concurring and dissenting justice also notes that the ''very nature of a proceeding for reinstatement of guardianship necessarily involves a situation

U.S. 760 ("At the [fact-finding stage], the [s]tate cannot presume that a child and his parents are adversaries. . . . [U]ntil the [s]tate proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship." (Citation omitted.)). Indeed, in a reinstatement of guardianship proceeding, prior to being entitled to the presumption, the parent must have already demonstrated that the factors that resulted in removal—including the child's safety—have been resolved satisfactorily. See General Statutes § 45a-611 (b).

To the extent that the child's interest in safety is implicated, we note that the Supreme Court of Nebraska has explained that applying a heightened standard of proof in reinstatement of guardianship proceedings will actually promote the safety of children by encouraging parents experiencing difficulties to seek out temporary guardians, "safe in the knowledge that they will be able to regain custody in the future." *In re Guardianship of D.J.*, 268 Neb. 239, 248, 682 N.W.2d 238 (2004); see also *Boddie* v. *Daniels*, 288 Ga. 143, 146–47, 702 S.E.2d 172 (2010) ("[G]uardianships are intended to encourage parents experiencing difficulties to temporarily turn over the custody and care of their children—safe in the

in which a parent has not been the primary caretaker for the child for some period of time," and the child has likely established "emotional connections and bonds with the individual who has been providing daily care to the child . . . ." The concurring and dissenting justice reasons that, "the longer the child is apart from his or her parent, the more that his or her interests may diverge from that of the parent." On the other hand, however, the concurring and dissenting justice contends that the failure to reinstate guardianship is not permanent. These two statements are seemingly at odds with each other. Although a parent technically may continue to seek reinstatement of guardianship pursuant to § 45a-611, if the child's emotional connections with the guardian grow stronger with each passing day, the parent will never be successful at reinstating guardianship. This creates an effectively permanent deprivation, which requires heightened safeguards to protect the interests involved. See, e.g., *Santosky* v. *Kramer*, supra, 455 U.S. 758–61; *Lassiter* v. *Dept. of Social Services*, 452 U.S. 18, 27, 101 S. Ct. 2153, 2160, 68 L. Ed. 2d 640 (1981).

knowledge that they will be able to regain custody in the future. This policy would be frustrated if guardianships were [difficult to terminate and constitutional parental rights were not protected], because parents would be less likely to voluntarily petition for a guardian to be appointed to care for their minor children. Therefore, children would unnecessarily be placed in jeopardy in many circumstances." (Internal quotation marks omitted.)). Adopting the lower, preponderance of the evidence standard likely would serve as a significant disincentive for responsible parents to seek out temporary guardians in times of need for fear that they will not be able to reestablish guardianship of their child. Moreover, despite the fact that the reasons that resulted in the removal of the parent as guardian had been resolved satisfactorily, evidence that a child's safety was nonetheless implicated would likely be among the strongest evidence a nonparent would have to rebut the presumption that reinstatement is in the best interests of the child by clear and convincing evidence.[13]

A child's interests in family integrity and safety may be in equipoise in certain proceedings, such as a neglect proceeding, because the safety interest of the child is squarely implicated and the court has available to it different options, short of removal, that correspond to the risk to the child and the parent's ability to meet the child's needs. See *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 287–88; see also *Pamela B.* v. *Ment*, supra,

[13] The concurring and dissenting justice states that we do not appropriately balance the interests of the child with those of the parent, suggesting that by adopting a heightened standard of proof, we create an insurmountable obstacle to the party opposing reinstatement. We disagree. The presumption we adopted in part I of this opinion is a rebuttable one. Numerous factors, most notably the safety of the child, could be sufficient to rebut the presumption by clear and convincing evidence. This strikes the appropriate balance between the fundamental right to family integrity and a recognition that circumstances may still exist that render reinstatement not in the best interests of the child.

244 Conn. 313–14 ("[a]lthough a child's physical and emotional well-being outweighs the interest in preserving the family integrity, the disruption of a child's family environment should not be extended beyond what is unequivocally needed to safeguard and preserve the child's best interests"). The child's interests in family integrity and safety are not in equipoise, however, during proceedings to reinstate guardianship when there has been no finding of abuse or neglect because, as discussed, the child's safety interest may not be implicated, and the denial of reinstatement results in continued removal of the child from the parent's custody and does so in the absence of imminent danger to the child.[14] Accordingly, we conclude that the nature of the interests weighs in favor of a heightened standard of proof.

Turning to the permanency of the deprivation, we note that, although a denial of reinstatement of guardianship under § 45a-611 does not necessarily work a permanent deprivation of all parental rights, it deprives the parent of the most essential attributes of parenthood, such as the right to control the child's care, education, health, religion, and association for the duration of the guardianship.[15] See *Roth* v. *Weston*, 259 Conn. 202,

[14] The express statutory protection for the safety of children contained in § 45a-611 (b)—that the court determine that the grounds for removal no longer exist—is not included in the third-party custody statute that was at issue in *Fish* v. *Fish*, supra, 285 Conn. 24. In *Fish*, this court held that a third party must, among other things, demonstrate that parental custody would be detrimental to the child. Id., 89. There is no such requirement in a reinstatement proceeding. As a result, reinstatement proceedings are also distinguishable from third-party custody proceedings.

[15] Although the extent of deprivation is one factor to consider, a bright-line rule pursuant to which only permanent termination of parental rights cases would be subject to a clear and convincing standard is inappropriate. As the United States Supreme Court has explained, "[u]nlike the [c]ourt's [right to counsel] rulings, its decisions concerning constitutional burdens of proof have not turned on any presumption favoring any particular standard. To the contrary, the [c]ourt has engaged in a straightforward consideration of the factors identified in [*Mathews* v. *Eldridge*, supra, 424 U.S. 335] to determine whether a particular standard of proof in a particular proceeding satisfies due process." *Santosky* v. *Kramer*, supra, 455 U.S. 754.

216–17, 789 A.2d 431 (2002); see also General Statutes § 45a-604 (5) (" '[g]uardianship' means guardianship of the person of a minor, and includes: (A) The obligation of care and control; (B) the authority to make major decisions affecting the minor's education and welfare, including, but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment; and (C) upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the body of the minor"). As the present case demonstrates, a court denying reinstatement of guardianship may also deny visitation, thereby denying the parent of the ability to make important decisions regarding the child's upbringing and also depriving the parent and the child of a meaningful relationship, creating a de facto and permanent termination of rights. See footnote 16 of this opinion.

The United States Supreme Court has required "an intermediate standard of proof—clear and convincing evidence—when the individual interests at stake in a state proceeding are both particularly important and more substantial than mere loss of money." (Internal quotation marks omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 756. Connecticut law implements the clear and convincing standard in a variety of contexts, including those that involve only monetary disputes. See, e.g., *Goldstar Medical Services, Inc.* v. *Dept. of Social Services*, 288 Conn. 790, 819, 955 A.2d 15 (2008) (clear and convincing standard is appropriate standard of proof in common-law fraud cases); *Notopoulos* v. *Statewide Grievance Committee*, 277 Conn. 218, 226, 890 A.2d 509 (clear and convincing standard is required to determine whether attorney violated Rules of Professional Conduct), cert. denied, 549 U.S. 823, 127 S. Ct. 157, 166 L. Ed. 2d 39 (2006); *Black* v. *Goodwin, Loomis & Britton, Inc.*, 239 Conn. 144, 163–64, 681 A.2d 293 (1996) (clear and convincing evidence standard of proof is required

to establish collusion); *Papallo* v. *Lefebvre*, 172 Conn. App. 746, 754, 161 A.3d 603 (2017) (clear and convincing standard of proof is required to establish fiduciary fair dealing). It would strain rationality if a parent could lose her constitutional right to parent her child by a mere preponderance of the evidence when a party must prove fraud for the purpose of recovering monetary damages, or a lawyer's ethical lapse—claims certainly less weighty than the fundamental right to parent a child—by a heightened, clear and convincing standard.

The United States Supreme Court has recognized that even a temporary deprivation of a constitutional right may require a heightened standard of proof. See *Santosky* v. *Kramer*, supra, 455 U.S. 759 ("In [government initiated] proceedings to determine juvenile delinquency . . . civil commitment . . . deportation . . . and denaturalization . . . [the United States Supreme] Court has identified losses of individual liberty sufficiently serious to warrant imposition of an elevated burden of proof. Yet juvenile delinquency adjudications, civil commitment, deportation, and denaturalization, at least to a degree, are all *reversible* official actions." (Citations omitted; emphasis in original.)). For example, in *Addington* v. *Texas*, 441 U.S. 418, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979), the United States Supreme Court held that the clear and convincing standard was required in a civil commitment proceeding despite the fact that the appellant had the right to periodic review of his condition and immediate release when he was no longer deemed to be a danger to himself or others. See id., 422, 433.

This court has similarly recognized the importance of decisions temporarily affecting parental rights. We have explained that "[e]ven a temporary custody order may have a significant impact on a subsequent permanent custody decision . . . [by] establish[ing] a foundation for a stable long-term relationship that becomes

an important factor in determining what final custodial arrangements are in the best interests of the child." (Internal quotation marks omitted.) *In re Shamika F.*, 256 Conn. 383, 403, 773 A.2d 347 (2001). As a result, this court has recognized that a temporary deprivation of a parent's right to the care and custody of her child is such a serious harm that it has deemed interlocutory orders affecting that interest to be final judgments. See, e.g., *Sweeney* v. *Sweeney*, 271 Conn. 193, 208–11, 856 A.2d 997 (2004) (pendente lite order related to religious and educational upbringing of minor child); *In re Shamika F.*, supra, 405–406 (order of temporary custody pursuant to neglect statute); *Madigan* v. *Madigan*, 224 Conn. 749, 756–58, 620 A.2d 1276 (1993) (order of temporary physical custody in dissolution action).

The petitioner and the concurring and dissenting justice contend that, because a reinstatement of guardianship proceeding does not necessarily lead to a permanent termination of parental rights, given that the parent may file additional motions for reinstatement, due process does not require that we favor the parent's interests over those of the child. We are not persuaded. First, adopting the heightened, clear and convincing standard does not favor parental rights over those of the child because both the parent and the child share a compelling interest in family integrity. Moreover, before a parent is entitled to the presumption, she must first demonstrate that the factors that resulted in her removal as guardian have been resolved satisfactorily. In many cases, this means that the parent is fit. If other circumstances, however, implicate the child's interest in safety, the nonparent will have strong evidence to rebut the presumption that reinstatement is in the best interests of the child. As such, the clear and convincing standard most appropriately balances these interests. Additionally, the fact that the parent may reapply for reinstatement in the future is often an illusory right given that

the amount of time the child and the parent have been separated will only continue to grow, and the child likely will continue to bond more and more with the guardian. Thus, the fact that a parent may again seek reinstatement of guardianship does not diminish the constitutional significance of the deprivation of the interest at stake because "[a] lost opportunity to spend significant time with one's child is not recoverable."[16] *Taff* v. *Bettcher*, 243 Conn. 380, 387, 703 A.2d 759 (1997). Accordingly, we conclude that the first factor of the balancing test set forth in *Eldridge* strongly weighs in favor of the heightened, clear and convincing standard of proof.

B

We next consider the second factor in the *Eldridge* balancing test, specifically, "both the risk of erroneous deprivation of private interests resulting from [the] use of a 'fair preponderance' standard and the likelihood that a higher evidentiary standard would reduce that

[16] We note that the facts of this case render the trial court's decision tantamount to a permanent deprivation of the respondent's parental rights. Not only did the court deny reinstatement of guardianship to the respondent, but it also terminated visitation—vesting any mother-son visits in the sole discretion of the petitioner, who had a strained relationship with the respondent. As a result, the circumstances that might allow the respondent to successfully regain guardianship of Zakai are almost completely beyond her control. The effect of the trial court's decision is to indefinitely—perhaps permanently—deprive the respondent of guardianship rights. Indeed, the trial court explicitly considered permanency as an important part of its decision. The court explained that "Zakai is screaming for permanency; he wants and needs to know his one 'forever' home." Even if circumstances change in a manner that might warrant reinstatement, the respondent has already lost her constitutional interest in family integrity for several years. The time Zakai and the respondent will be separated will only continue to increase, further solidifying the "permanency" of Zakai's arrangement with the petitioner and decreasing the chance that the respondent will be able to reinstate guardianship. As such, this case is effectively a permanent transfer of guardianship under General Statutes § 45a-616a. Significantly, to establish a permanent guardianship, the court must find by *clear and convincing* evidence that the establishment of a permanent guardianship is in the best interests of the child. See General Statutes § 45a-616a (a).

risk. . . . [Because] the . . . proceeding is an adversary contest between the [third party] and the . . . parents, the relevant question is whether a preponderance standard fairly allocates the risk of an erroneous [fact-finding] between these two parties." (Citation omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 761.

A significant concern arises when a third party is involved in reinstatement of guardianship proceedings, which demonstrates that the preponderance standard creates a risk of erroneous deprivation of the right to family integrity. Before appointing a guardian, the state must use reasonable efforts to keep the child with the parent. See General Statutes § 45a-610; see also General Statutes § 17a-111b (a) (commissioner has statutory duty to seek to reunify child and parent except under very limited circumstances). By contrast, when a third party is opposing reinstatement of guardianship, neither the state nor the third party has any obligation to aid in the reunification of the family. The parent is not afforded the same protections to which she would have been entitled if the state, rather than a third party, had opposed reinstatement. These protections are important because, if no attempts are made to reunify the parent and the child, the child will continue to spend more time with the guardian and, as the concurring and dissenting justice notes, the child will develop stronger emotional bonds with the guardian, further reducing the parent's ability to reunify the family.[17] These protections are even more important during a proceeding to reinstate guardianship to a parent when there has been no finding of unfitness because, as the United States Supreme Court has noted, "until the [s]tate proves parental unfitness, the child and his parents share a vital interest in pre-

[17] We recognize that, in this case, the trial court did take steps to increase visitation between Zakai and the respondent. Section 45a-611, however, does not require the court, the state, or the third party to take any such steps to aid in the reunification.

venting erroneous termination of their natural relationship. Thus, at the [fact-finding stage], the interests of the child and his natural parents coincide to favor [the] use of [error reducing] procedures." (Footnote omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 760–61. For these reasons, we also respectfully disagree with the concurring and dissenting justice's assertion that the existence of the presumption that reinstatement is in the best interests of the child alone provides sufficient protection to a parent's fundamental interest in family integrity.

The present case also implicates a concern that was raised in *Santosky*. Reinstatement of guardianship proceedings employ the best interests of the child analysis; see General Statutes § 45a-611 (b); which leaves the reinstatement determination unusually open to the subjective assessment of the trial judge. See *Roth* v. *Weston*, supra, 259 Conn. 223 ("[the best interest] standard delegates to judges authority to apply their own personal and essentially unreviewable lifestyle preferences to resolving each dispute" (internal quotation marks omitted)). As noted in the amicus brief filed by the Office of the Chief Public Defender, this subjective analysis "that considers a child's best interests when a parent is fit to care for that child runs the very real risk of infringing the . . . right [of the parents and the children] to family integrity on the basis of poverty . . . ." In similar contexts, this court has recognized this risk. See, e.g., *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 292 ("[there is a] 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 [or foster parents]" (internal quotation marks omitted)). Given that this subjective assessment will often negatively affect parents of lower socioeconomic status; see *State* v. *Anonymous*, 179 Conn. 155, 167–68, 425 A.2d 939 (1979); requiring the heightened, clear

and convincing standard will appropriately balance the interests of the parent and the child and protect parents, especially those of lower socioeconomic status, from the erroneous deprivation of their parental rights.

Given the weight of the private interests at stake, the cost of any error in reinstatement of guardianship rights in a fit parent is significant. "Increasing the burden of proof is one way to impress the [fact finder] with the importance of the decision and thereby perhaps to reduce the chances that inappropriate [deprivations of guardianship] will be ordered." (Internal quotation marks omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 764–65. As we have explained, "[t]he 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." *Miller* v. *Commissioner of Correction*, 242 Conn. 745, 794, 700 A.2d 1108 (1997). Implementing the intermediate level, clear and convincing standard would help to reduce the risk of erroneous decisions. See id., 795 ("clear and convincing evidence standard should operate as a weighty caution upon the minds of all judges, and it forbids relief whenever the evidence is loose, equivocal or contradictory" (internal quotation marks omitted)). Accordingly, we conclude that the second factor of the balancing test set forth in *Eldridge* weighs in favor of the clear and convincing standard of proof.

C

Finally, the third factor requires that we consider the countervailing governmental interest supporting the use of the challenged procedure, namely, "the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews* v. *Eldridge*, supra, 424 U.S. 335. Although the state is not a direct party in a guardianship

proceeding between two private parties and has no direct interest in reinstatement proceedings under § 45a-611, the state does have an interest in protecting the welfare of the child and a fiscal and administrative interest in reducing the cost and burden of such proceedings. See *Santosky* v. *Kramer*, supra, 455 U.S. 766; *Fish* v. *Fish*, supra, 285 Conn. 86. The courts also have an interest in balancing the interests of the state and the parents by ensuring that the proceeding is conducted fairly. We conclude that the clear and convincing evidence standard adequately serves these interests.

As the United States Supreme Court has explained, because "the [s]tate has an urgent interest in the welfare of the child, it shares the parent's interest in an accurate and just decision at the [fact-finding] proceeding. . . . As parens patriae, the [s]tate's goal is to provide the child with a permanent home. . . . Yet [although] there is still reason to believe that positive, nurturing parent-child relationships exist, the parens patriae interest favors preservation, not severance, of natural familial bonds. . . . [T]he [s]tate registers no gain [toward] its declared goals when it separates children from the custody of fit parents." (Citations omitted; emphasis omitted; footnote omitted; internal quotation marks omitted.) *Santosky* v. *Kramer*, supra, 455 U.S. 766–67. Thus, when a parent who has never been found to be unfit seeks reinstatement of guardianship, the state's interest favors protecting the interest of the parent and the child in family integrity.

The state's administrative and fiscal burdens do not weigh in favor of a lesser standard of proof. Our trial judges are well versed in the application of the clear and convincing standard of proof in other related contexts. See, e.g., General Statutes § 45a-610 (removal of parents as guardians); see also, e.g., General Statutes §§ 17a-111b, 17a-112 and 45a-717 (termination of parental rights); General Statutes § 45a-650 (appointment of conservator).

Balancing these three factors, we conclude that due process requires application of the clear and convincing standard of proof to rebut the presumption that reinstatement of guardianship is in the best interests of the child under § 45a-611.[18] Cf. *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 662 ("[i]n any controversy between a parent and a [third party] the parent . . . 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 [third party]" (emphasis added; footnote omitted; internal quotation marks omitted)).[19] As we have explained, "[t]he goals of strengthening the family and enhancing long-term parental capacity for child care despite temporary difficulties would be seriously undermined if parents in need of help could not safely entrust their children, even for short emergencies, to someone who could give them better interim care. Such temporary arrangements under circumstances of extraordinary need should not

[18] This conclusion is consistent with the legislative history of the removal statute, § 45a-610. For example, during hearings on the bill adopting the clear and convincing standard for removal of a parent as guardian, Raphael Podolsky, an attorney with the Legal Services Training and Advocacy Project, testified that the clear and convincing standard was used because the deprivation of parental rights in a temporary removal, although not permanent, could be of a substantial duration. See Conn. Joint Standing Committee Hearings, Judiciary, Pt. 2, 1983 Sess., p. 764 ("Because this bill builds in a hearing provision, *a temporary removal may be for a very extensive period of time. You're not just talking* [*thirty*] *days, you may be talking months and months and months.* And it seems to me when you're talking those terms, that you really ought to be using [the] clear and convincing [standard]." (Emphasis added.)). Viewing the standard in terms of reinstatement, Representative Richard D. Tulisano noted the concern that a parent seeking reinstatement should not face a high standard of proof. See id., p. 757 (if parent voluntarily gives up guardianship, "[i]n order to come back and take the child back, we don't want the parent put in a situation where they would have to show that the temporary guardian has to be removed, has to show clear [and] convincing [evidence]").

[19] Given our conclusion that due process requires the application of the clear and convincing standard of proof, we need not address the respondent's request that we use our supervisory authority to adopt a heightened standard of proof.

put parents in the position of risking permanent loss of their children due to the intervention of the state." Id., 660–61. A party who opposes the reinstatement of a parent's constitutional rights to rear a child must be required to overcome the presumption by more than a mere preponderance of the evidence—the lowest and most basic level of evidentiary proof at trial. Indeed, in order to trigger the presumption, the parent must have already demonstrated that the factors that resulted in her removal as guardian have been resolved. Accordingly, we conclude that the clear and convincing standard appropriately balances the shared interest of the parent and the child in family integrity and, to the extent implicated, the child's additional interest in safety.

Courts from other jurisdictions have similarly required a clear and convincing standard of proof when a parent who has never been found to be unfit seeks reinstatement of guardianship rights. See, e.g., *In re Parental Responsibilities of E.S.*, 264 P.3d 623, 627 (Colo. App. 2011); *Tourison* v. *Pepper*, 51 A.3d 470, 471–72 (Del. 2012); *Boddie* v. *Daniels*, supra, 288 Ga. 146; *Hunter* v. *Hunter*, 484 Mich. 247, 265, 771 N.W.2d 694 (2009); *In re Guardianship of D.J.*, supra, 268 Neb. 249; *In re Guardianship of Reena D.*, 163 N.H. 107, 114–15, 35 A.3d 509 (2011); see also, e.g., *In re Guardianship of L.L.*, 745 N.E.2d 222, 230 (Ind. App.) (applying "clear and cogent evidence" standard), transfer denied sub nom. *Froelich* v. *Clark*, 753 N.E.2d 17 (Ind. 2001).[20] Although we decline to go as far, the Supreme Court of Arkansas has held that all a fit parent needs to do to terminate a third-party guardianship created by con-

[20] We recognize that there are some jurisdictions that have applied the preponderance of the evidence standard. See, e.g., *In re D.I.S.*, 249 P.3d 775, 786 (Colo. 2011); *In re Guardianship of David C.*, 10 A.3d 684, 686 (Me. 2010); *In re Guardianship of Barros*, 701 N.W.2d 402, 409 (N.D. 2005), overruled on other grounds by *In re G.L.*, 915 N.W.2d 685 (N.D. 2018). Because we conclude that the preponderance of the evidence standard does not adequately protect the fundamental right to family integrity, we are not persuaded by these jurisdictions and decline to adopt their reasoning.

sent is to revoke his or her consent to the guardianship. *In re Guardianship of W.L.*, 467 S.W.3d 129, 133–34 (Ark. 2015). Thus, we conclude that a third party seeking to rebut the presumption that reinstatement of guardianship rights to a parent who has never been found to be unfit is in the best interests of the child must do so by clear and convincing evidence.

In the present case, the respondent voluntarily relinquished temporary guardianship of Zakai. After spending years in the custody of the petitioner, the trial court ultimately concluded that the factors that resulted in the removal of the respondent as guardian had been resolved and that the respondent had demonstrated that she was capable of providing for Zakai. Throughout this case, there has never been a judicial adjudication of parental unfitness or neglect or abuse of Zakai. The trial court, however, went on to conclude—by a preponderance of the evidence—that, on the basis of Zakai's emotional and physical debilitation before and after visitation with the respondent, and the length of time Zakai has been in the petitioner's care, reinstatement of guardianship was not in Zakai's best interests.[21]

Because the trial court applied the preponderance of the evidence standard and not the clear and convincing evidence standard, the respondent's constitutional due process rights were violated, and, as such, she has satisfied the third prong of *Golding*. Accordingly, the Appellate Court improperly affirmed the judgment of the trial court, and the case must be remanded for further proceedings. See *Deroy* v. *Estate of Baron*, 136 Conn. App. 123, 127, 43 A.3d 759 (2012) ("[w]hen an incorrect legal standard is applied, the appropriate remedy is to reverse

[21] Although we do not take a position on whether the petitioner would be able to rebut the presumption by clear and convincing evidence, we note that Zakai's "less than ideal behavior" is unfortunate but that "some level of stress and discomfort may be warranted when the goal is reunification of the child with the parent." (Internal quotation marks omitted.) *Boddie* v. *Daniels*, supra, 288 Ga. 146.

the judgment of the trial court and to remand the [case] for further proceedings"); see also *St. Joseph's Living Center, Inc.* v. *Windham*, 290 Conn. 695, 765, 966 A.2d 188 (2009) (*Schaller, J.*, concurring in part and dissenting in part) (same).

The judgment of the Appellate Court is reversed and the case is remanded to that court with direction to reverse the judgment of the trial court and to remand the case to that court for further proceedings according to law.

In this opinion ROBINSON, C. J., and PALMER and D'AURIA, Js., concurred.

MULLINS, J., with whom KAHN and ECKER, Js., join, concurring in part and dissenting in part. I agree with and join part I of the majority opinion, but I respectfully disagree with part II of the majority opinion.

I

The majority's decision is based on the premise that, "[w]hen, as in the present case, there has been no finding of parental unfitness or abuse or neglect, it is inappropriate to afford the child's general interest in safety equal weight to the shared constitutional interest in family integrity." From this premise, the majority concludes that the constitutional presumption that guardianship should be reinstated in the parent must be overcome by clear and convincing evidence that reinstatement is not in the best interests of the child. I would conclude, consistent with our prior case law, that children have independent interests in safety *and stability*. *In re Juvenile Appeal (83-CD)*, 189 Conn. 276, 287, 455 A.2d 1313 (1983) ("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." (Emphasis omit-

ted.)). Therefore, it is not only the child's general interest in safety that is appropriate to consider, but the important interest of stability must also be considered. Thus, I fundamentally disagree with the majority's premise and conclusion.

I believe that it is not only appropriate, but required, for a trial court to take into account the interests of both the parent and the child in family integrity and the additional interests of the child in safety and stability, even when there has been no finding of parental unfitness. In my view, it does not follow that, in the absence of findings of parental unfitness or abuse or neglect, the interests of the parents and of the child are *ipso facto* aligned. Indeed, there may be no finding of parental unfitness; nevertheless, a child may not be safe or feel safe in that parent's care.

In a reinstatement proceeding, the child has had guardianship transferred to another person, either voluntarily or involuntarily, for some period of time. Typically, that child has started to form bonds with his or her day-to-day caretakers while out of his or her parents' care. In this very case, at the time the trial court denied the motion of the respondent, Kristi F., for reinstatement of guardianship, the child had been out of his parent's care for approximately five years of his seven year life. During this time, multiple attempts at reunification proved unsuccessful due to the respondent's inability to prioritize the child's emotional and physical health. It is this period of separation of the family unit that gives rise to the need to consider the child's independent interests in safety and stability, separate from the parent's and the child's shared right to family integrity. Indeed, the longer the period of separation and the stronger the bonds the child makes with his or her caregiver, the more the interest of the child in stability may diverge from the interests of the parents. I do not mean to suggest that the parent's interests are unimportant, only that

the child's interests are also significant and may diverge from those of the parent during that period of separation.

It is imperative for the trial judge not to presume that the interests of the parents and the child align—and thus the child's right to safety is somehow less important, as the majority posits—simply because there is no finding of parental unfitness. Rather, the trial judge should consider the equally important interests the child has in safety and stability when determining what disposition is in the best interests of the child. The constitutional presumption that reinstatement is in the best interests of the child adequately protects the right to family integrity. Requiring that presumption to be overcome by the heightened, clear and convincing evidence standard does not adequately protect the child's potentially divergent interests in safety and stability in a reinstatement proceeding. Therefore, I would conclude that, combined with the presumption that reinstatement of guardianship to the parents is in the best interests of the child, the fair preponderance of the evidence standard properly balances the interests of the parents and the child. Accordingly, I would affirm the judgment of the Appellate Court.

II

Although I generally agree with the facts as presented in the majority opinion, I summarize the relevant facts and procedural history here to provide background to my opinion. Zakai F. was born in early 2011 and resided with his mother, the respondent, for approximately two years. In 2013, the respondent and the petitioner, Nikki F., who is the respondent's sister and Zakai's maternal aunt, agreed that the petitioner would care for Zakai.

In early 2014, the respondent reassumed custody and care of Zakai. Shortly thereafter, the respondent's live-in boyfriend, Montreal C., physically assaulted and seriously injured Zakai. Montreal was ultimately prose-

cuted for the assault. See *In re Zakai F.*, 185 Conn. App. 752, 756, 198 A.3d 135 (2018).

After Zakai's assault, the respondent agreed that Zakai again would stay with the petitioner. About four or five days later, the respondent requested that the petitioner return Zakai to her care. The petitioner did not return Zakai and instead filed a petition for immediate temporary custody and an application for removal of guardianship in the Probate Court, alleging that, even after a restraining order was issued, barring Montreal from contact with Zakai and prohibiting him from being at the respondent's home, Montreal continued to live at the respondent's home. The petitioner further alleged that the respondent had been involved with the Department of Children and Families (department) in 2009 because the respondent's eldest daughter had died from injuries caused by the daughter's father. The Probate Court issued an ex parte order granting the petitioner immediate temporary custody of Zakai, but the court did not rule on the petitioner's motion for removal of guardianship. As a result, Zakai continued living with the petitioner.

Subsequently, the case was transferred to the family division of the Superior Court. On September 29, 2014, by agreement of the parties, the court ordered that (1) a guardian ad litem be appointed for Zakai, (2) the respondent continue to engage in anger management counseling, therapy, and parenting classes, and (3) the respondent be afforded supervised visitation with Zakai. Thereafter, the case was transferred to the juvenile division of the Superior Court in New Haven. That court allowed for unsupervised visits between the respondent and Zakai and increased the length of Sunday visits from two to four hours.

Then, in March, 2016, the attorney for Zakai filed an ex parte motion to suspend unsupervised visitation. The attorney for Zakai alleged, as grounds for the motion,

that the respondent and Montreal had been arrested on felony charges.[1] The trial court granted the ex parte motion, thereby suspending unsupervised visitation.

In September, 2016, prior to a scheduled hearing on the respondent's motion to vacate the order of immediate, temporary custody and the petitioner's motion to transfer guardianship, the court accepted and approved an agreement resolving all outstanding issues. Pursuant to this agreement, the court transferred guardianship of Zakai to the petitioner, ordered unsupervised daytime visits between the respondent and Zakai, and ordered that, until the protective order was resolved or modified; see footnote 1 of this opinion; the petitioner would have a third party present in her home while exchanging custody of Zakai with the respondent. The stipulation also required that any further expansions of the visitation schedule, including overnight visits, would be arranged through family therapy.

Thereafter, in 2017, the respondent filed a motion to reinstate her guardianship rights to Zakai and one for overnight visitation. After a hearing, in December, 2017, the court issued its order and "elected to hold in abeyance any definitive ruling on the motion to reinstate the respondent's guardianship rights and instead ordered that Zakai immediately commence overnight visits with the respondent. The court further ordered that the respondent exclusively was to care for Zakai during the overnight visits and that there was to be no contact between Zakai and any unrelated male adults." Id., 758.

In making its December, 2017 ruling to commence overnight visits with the respondent, the trial court explained: "Clearly, up until the last [one and one-half years], [the respondent] has struggled to achieve and

[1] The respondent was also arrested in 2014 and charged with threatening and breach of the peace for an incident at a public park involving Zakai's maternal uncle and the petitioner. A criminal protective order was issued, barring any contact between the respondent and the petitioner.

sustain a lifestyle conducive to having Zakai return to her care. It took her a long time, and some would argue too long, to disengage from [Montreal]. But she appears to have permanently done so for [more than one] year now. The remaining obstacle—one of the remaining obstacles—that needs to be navigated now is whether [the respondent's] choices . . . [including whom she allows to care] for and to have contact with [Zakai], are sound and safe choices. . . . The terrible, heartbreaking death of [the respondent's] eldest infant daughter, who died while [the respondent] left [her] in the . . . care [of the child's father] and then, subsequently, Zakai's beating by [Montreal], again a caregiver chosen by [the respondent] when she went to work to pay the bills. These traumatic, tragic events occurred due in large part to choices and exercises in judgment by [the respondent]. Zakai cannot afford to have history repeat itself. . . . [The respondent] must understand that the court, in its orders today, is trying to facilitate the strengthening of the mother-child bond but at the same time ensure that Zakai remains safe, both physically and emotionally." (Internal quotation marks omitted.)

Thereafter, the respondent and Zakai began to have weekend, overnight visits, in addition to Tuesday visits. The overnight visits initially consisted of one overnight and then, in January, 2018, the overnight visits extended from Friday, after school, through midday Sunday.

Less than two months after unsupervised, overnight visits commenced, on February 2, 2018, counsel for Zakai filed a motion to suspend overnight visitation. As grounds for the motion, counsel represented that Zakai reported that the respondent allowed an unrelated male to be in the home during Zakai's overnight visits, in violation of the explicit terms of the December, 2017 order.[2]

[2] The majority relies on the fact that, at the time that the trial court issued its order in December, 2017, the trial court found that the respondent had ceased contact with Montreal for more than one year. Although I agree that

Counsel for Zakai also represented that Zakai reported to his therapist that the respondent had hit him and his sister, that Zakai reported to the petitioner that the respondent told him not to tell anyone about a male being in the home during his overnight visits, and that Zakai stated that he did not want to continue having overnight visits with the respondent.

On February 15, 2018, the court reconvened the proceedings to hear testimony and to receive other evidence regarding both the motion filed by the counsel for Zakai to suspend overnight visitation and the respondent's June, 2017 motion to reinstate her guardianship rights. The court heard additional testimony from numerous witnesses on February 15, February 28, and March 1, 2018.

On March 1, 2018, the court issued its memorandum of decision. The trial court found that "the reasons and events that prompted the agreed to 2016 transfer of guardianship have been sufficiently ameliorated. [The respondent] is capable of providing Zakai with appropriate housing, nutrition and clothing, and she is capable of meeting his educational, medical and physical safety needs. [The respondent] and Zakai share a loving

the trial court made that finding in December, 2017, I disagree with the majority's implication that this was a fact in favor of reinstating guardianship. Montreal was charged with assaulting Zakai in 2014, and the conditions for visitation were that he not be at the house while Zakai was visiting. Nevertheless, the respondent allowed Montreal to be at the house during Zakai's visits and did not cease contact with him until March, 2016, approximately two years later. Therefore, the respondent continued having contact with Montreal for more than two years after he was charged with assaulting Zakai. The majority fails to note that, after making this observation, the court also found that "one of the remaining obstacles" was the respondent's choices, particularly as it relates to who cares for and has contact with Zakai. Instead of being a fact that weighs in favor of the respondent's reinstatement as guardian, as the majority posits, I would conclude that this fact demonstrates the respondent's difficulty in making decisions that are in the best interests of Zakai. In fact, only approximately two months after being granted overnight visitation, the respondent had another unrelated male in her home in direct violation of the visitation order.

parent-child like bond and, when [Zakai] feels he is in a safe environment, [the respondent] and [Zakai] enjoy quality time together." (Footnote omitted.) The court then explained that "[t]he more daunting issue is determining what is now in Zakai's best interests."

The court explained that, in December, 2017, "progression to overnight visits appeared to be in Zakai's best interest[s]. And, although some period of adjustment to spending overnights with [the respondent] may have been foreseeable, the emotional and physical debilitation Zakai is now exhibiting is unacceptable." As the majority notes in its opinion: "[T]he court credited the testimony of Zakai's first grade teacher, Zakai's therapist, and the petitioner. Each of these witnesses testified that, on days that Zakai is scheduled to visit with the respondent, he demonstrates regressive, debilitating behavior, and that there has been a dramatic negative change in his behavior since the commencement of overnight visits with the respondent."

The court recognized that, "[c]ommencing in February, 2014, [the respondent] has remained steadfast in her efforts to have Zakai return to her care . . . [and that] [a]ll of [the respondent's] laudable accomplishments obviously factored heavily into [the] court's December, 2017 order to immediately commence [overnight visits]." Nevertheless, the court explained: "The difficulty, sadly, is that the court's December, 2017 orders are subjecting Zakai to unjustifiable and debilitating emotional stress. . . . Zakai loves [the petitioner] and [his] cousins, and [the petitioner] is a mother figure to Zakai and his cousins are like siblings to him. Zakai acknowledges [the respondent] as his mother, and there is a parent-child like bond, but it is hampered by the reality that Zakai does not feel safe and secure in [the respondent's] care. Over years of contact and visits, with the gradual increase in the amount and degree of contact between [the respondent] and [Zakai] and

[by] reintroducing Zakai to [the respondent's] home and the people important to [the respondent], it was assumed [that] Zakai would achieve an adequate sense of safety and security when with [the respondent]. Unfortunately, he has not. To the contrary, by increasing Zakai's time in [the respondent's] care and having [overnight visits] in [the respondent's] home, Zakai feels less safe. . . . Proverbially speaking, Zakai is screaming for permanency; he wants and needs to know his one 'forever' home." (Footnotes omitted.) The court, therefore, concluded that it was not in Zakai's best interests to return to the respondent's care and, accordingly, denied the respondent's motion for reinstatement of guardianship and granted the motion filed by the attorney for Zakai to terminate overnight visits.

These facts highlight the divide between my position and the majority's position. The fact that there is no finding of unfitness simply does not mean that the interests of the respondent and of Zakai are aligned. The court's specific finding that Zakai does not feel safe in the respondent's care supports the conclusion that their interests are not aligned. It is the fact that these separate interests exist that leads to my view that both interests must be taken into account. I agree with the majority that the shared interest in family integrity is why there should be a presumption in favor of reinstatement. Where I part ways with the majority is over what standard of proof must be met in order for the nonparent to rebut the presumption.

III

I agree with the majority that the question of the appropriate standard of proof to be applied requires a balancing of the three "factors identified in [*Mathews* v. *Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)] to determine whether a particular standard of proof in a particular proceeding satisfies due process." *Santosky* v. *Kramer*, 455 U.S. 745, 754, 102 S. Ct. 1388,

71 L. Ed. 2d 599 (1982). Namely, we must consider "the private interests affected by the proceeding; the risk of error created by the [s]tate's chosen procedure; and the countervailing governmental interest supporting [the] use of the challenged procedure." Id.

A

Like the majority, I first consider the private interests affected by the proceeding. In a proceeding concerning the reinstatement of guardianship, there are two private interests at stake—those of the parent and those of the child. Both must be accounted for in deciding which standard of proof should apply.

On the parental side, it is well established 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]." *Troxel* v. *Granville*, 530 U.S. 57, 65, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000). Indeed, it is this fundamental right of parents to the care, custody and control of their children that the majority and I recognized by adopting the presumption that reinstatement of guardianship is in the best interests of the child.

"It must be stressed, however, that the right to family integrity is not a right of the parents alone, but encompasses the reciprocal rights of both [the] parents and [the] children. It is the interest of the parent in the companionship, care, custody and management of his or her children . . . and of the children in not being dislocated from the emotional attachments that derive from the intimacy of daily association . . . with the parent . . . ." (Citations omitted; internal quotation marks omitted.) *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 284; see also *Smith* v. *Organization of Foster Families for Equality & Reform*, 431 U.S. 816, 844, 97 S. Ct. 2094, 53 L. Ed. 2d 14 (1977) ("the importance of the familial relationship, to the individuals involved and to the society, stems from the emotional attachments

that derive from the intimacy of daily association, and from the role it plays in 'promot[ing] a way of life' through the instruction of children").

On the child's side, more specifically, this court has explained that "[t]he child . . . 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." (Emphasis omitted.) *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 287.[3] If the family is intact, a child's interest in having

[3] The majority cites to *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 287–88, and provides a parenthetical stating that "only when 'serious physical illness or serious physical injury' or 'immediate physical danger' is present does 'the child's interest[s] no longer [coincide] with [those] of the parent, thereby diminishing the magnitude of the parent's right to family integrity . . . and therefore the state's intervention as parens patriae to protect the child becomes so necessary that it can be considered paramount' " This misconstrues this court's conclusion in *In re Juvenile Appeal (83-CD)*. The portion of the opinion to which the majority cites and quotes is a discussion of the statutory provision for summary temporary custody by the department under then General Statutes § 17a-38 (e). This court explained that, in the context of a statute that allows the department to take a child who lives with his or her parents into custody without a court order, "[i]ntervention is permitted only where 'serious physical illness or serious physical injury' is found or where 'immediate physical danger' is present. It is at this point that the child's interest no longer coincides with that of the parent, thereby diminishing the magnitude of the parent's right to family integrity . . . and therefore the state's intervention as parens patriae to protect the child becomes so necessary that it can be considered paramount." (Citation omitted.) *In re Juvenile Appeal (83-CD)*, supra, 287–88.

To the extent that the majority suggests that "serious physical illness," "serious physical injury" and "immediate physical danger" are *some* of the reasons why the interests of the child and the parent would diverge, I agree. These are certainly not the only circumstances under which those interests may diverge, and I do not believe *In re Juvenile Appeal (83-CD)* can be read that broadly. The majority tries to expand the court's comment on § 17a-38 (e) to be a statement that a child's interest can never diverge from the parent's interest in family integrity unless there is "serious physical illness or serious physical injury" or "immediate physical danger." That is simply not the issue that this court decided in *In re Juvenile Appeal (83-CD)*. That is the standard for determining whether the department can remove a child under an order of temporary custody. However, "serious physical illness," "serious physical injury" and "immediate physical danger" are certainly not the only reasons why the interests of the child and the

a stable family environment often aligns with a parent's right to the care, custody and control of his or her child. Once a family is not intact, however, as is the case in a reinstatement proceeding, the parent's right to family integrity and the child's right to stability are not always or necessarily aligned.

The very nature of a proceeding for reinstatement of guardianship necessarily involves a situation in which a parent has not been the primary caretaker for the child for some period of time. Often times, as in the present case, the child has been living outside of his or her parent's care for a lengthy period of time. It is, therefore, likely that, during that period of time, the child has established emotional connections and bonds with the individual who has been providing daily care to the child and to whom guardianship was transferred. It is also likely that the longer the child is apart from his or her parent, the more that his or her interests may diverge from that of the parent. As the United States Supreme Court has explained, "[n]o one would seriously dispute that a deeply loving and interdependent relationship between an adult and a child in his or her care may exist even in the absence of [a] blood relationship." *Smith* v. *Organization of Foster Families for Equality & Reform*, supra, 431 U.S. 844; see also *Roth* v. *Weston*, 259 Conn. 202, 225, 789 A.2d 431 (2002) ("[w]e can envision circumstances in which a nonparent and a child have developed such substantial emotional ties that the denial of visitation could cause serious and immediate harm to that child").

My position should not be understood as minimizing parental rights. Indeed, I agree with the majority that the presumption that reinstatement of guardianship is in the best interests of the child is warranted precisely

parent may diverge. I need look no further than the circumstances of the present case, in which the child has been out of the respondent's care for the vast majority of his young life and feels unsafe in her care.

because of the importance of parental rights and family integrity. I recognize, however, that this court has previously explained that, although "the rights of parents qua parents to the custody of their children is an important principle that has constitutional dimensions . . . we recognize that even parental rights are not absolute. We must reject the claim of the so-called 'parental rights' theory under which 'the parent has rights superior to all others except when he is proved unfit.' H. Clark, Law of Domestic Relations [(1968) § 17.5, p. 591]." (Citations omitted.) *In re Juvenile Appeal (Anonymous)*, 177 Conn. 648, 661, 420 A.2d 875 (1979). This court has also explained: "If, for example, there has been an unusually protracted period of separation between [the] parent and [the] child, even a fit parent may possibly be found to have contributed to or acquiesced in a situation in which custody must be yielded to another." Id.

"It is undisputed that children require secure, stable, long-term, continuous relationships with their parents or [other caretakers]. There is little that can be as detrimental to a child's sound development as uncertainty over whether he is to remain in his current 'home' . . . especially when such uncertainty is prolonged." *Lehman ex rel. Lehman* v. *Children's Services Agency*, 458 U.S. 502, 513–14, 102 S. Ct. 3231, 73 L. Ed. 2d 928 (1982). Relying on this principle, the Supreme Court of California explained: "The child has a liberty [interest] . . . in a normal family home . . . with his parents if possible . . . or at least in a home that is stable . . . . This concern has been characterized as important . . . and even compelling . . . ." (Citations omitted; internal quotation marks omitted.) *In re Sade C.*, 13 Cal. 4th 952, 988, 920 P.2d 716, 55 Cal. Rptr. 2d 771 (1996), cert. denied sub nom. *Gregory C.* v. *Dept. of Children's Services*, 519 U.S. 1081, 117 S. Ct. 747, 136 L. Ed. 2d 685 (1997).

Notwithstanding the foregoing recognition by this court and other courts that a parent's rights are not absolute, especially when there has been a protracted period of

separation, the majority concludes that the child's interests should not be given equal weight to the parent's interest in family integrity. This view neglects the perspective of the child and the child's experience during the separation. Instead, I rely on the principle that this court has long adhered to, namely, "that parents have no natural right to the custody of their children that can prevail over a disposition [a]ffecting the child's best interests . . . ." (Citations omitted.) *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 659–60.

The facts of the present case demonstrate why recognition of the child's independent right to safety and stabilityin the emotional attachments that the child has formed through daily association is essential in the context of reinstatement of guardianship. Here, Zakai, who was only seven years old when the trial court denied the respondent's motion for reinstatement of guardianship, had been in the care of the petitioner for approximately five years. The trial court found that Zakai viewed the petitioner as a mother figure and viewed the cousins with whom he lived as siblings. The trial court found that "to abruptly remove [Zakai] from [the petitioner's] care and home . . . would be cruel, [and would] inflict devastating loss and pain on Zakai . . . ."[4]

I would conclude that the preponderance of the evidence standard allows a trial court, when faced with a motion for reinstatement of guardianship under General Statutes § 45a-611,[5] to more fairly recognize the rights of

[4] The majority asserts that the heightened, clear and convincing standard is required in the present case because "[r]einstatement of guardianship proceedings employ the best interests of the child analysis . . . which leaves the reinstatement determination unusually open to the subjective assessment of the trial judge." (Citation omitted.) It is not clear to me how the clear and convincing standard counteracts the subjective assessments of the judge any more or less than the preponderance of the evidence standard. In any event, a trial court's determination of the best interests of the child is subject to review and must be sufficiently supported by factual findings.

[5] Although § 45a-611 (b) was the subject of technical amendments in 2018; see Public Acts 2018, No. 18-45, § 9; those amendments have no bearing on the merits of this appeal. In the interest of simplicity, I refer to the current revision of the statute.

the child and to give those rights the appropriate consideration in determining best interests. See *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 298–99 (recognizing that right of parents to family integrity and child's interests in family integrity and safety are "in relative equipoise" in temporary custody proceedings).

Having established that the rights of the parent and the child are at stake in a proceeding to reinstate guardianship, I must also consider the permanency of the loss threatened by the proceeding. I recognize that the denial of a motion for reinstatement of guardianship deprives the parent, for the duration of the guardianship, of the fundamental right to "the companionship, care, custody, and management of his or her children . . . ." *Stanley* v. *Illinois*, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972). This deprivation is by no means insignificant. Unlike a petition for termination of parental rights, however, when the clear and convincing evidence standard applies, and the "[s]tate has sought not simply to infringe upon [the parents' rights to their child], but to end it," failure to reinstate guardianship is not permanent. *Lassiter* v. *Dept. of Social Services*, 452 U.S. 18, 27, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981); see also *Santosky* v. *Kramer*, supra, 455 U.S. 759 ("[f]ew forms of state action are both so severe and so irreversible" as termination of parental rights).

Indeed, an order temporarily removing a parent as guardian under General Statutes § 45a-610 or by stipulated agreement, as in the present case, is neither final nor irrevocable. Instead, it is reviewable upon petition by the parent for reinstatement of guardianship pursuant to § 45a-611.[6] That is precisely what happened here; a procedure that would have been unavailable if the par-

[6] By contrast, a parent may be permanently removed as guardian pursuant to General Statutes § 45a-616a. If a parent is removed pursuant to § 45a-616a, § 45a-611 (d) provides that the parent may not petition for reinstatement of guardianship rights. In light of the permanent nature contemplated by those proceedings, my conclusions and analysis in the present case are not applicable to proceedings originating under § 45a-616a.

ent's rights had been terminated. Moreover, there are no express restrictions in § 45a-611 limiting how often a parent may petition for reinstatement. Thus, the denial of the motion to reinstate guardianship does not terminate a parent's parental rights; nor does it preclude the parent from filing another motion to reinstate in the future.

This court has repeatedly explained that a preponderance of the evidence standard is acceptable in nonpermanent custody proceedings. For example, this court has "concluded that a fair preponderance of the evidence is the [correct] standard of proof for a neglect petition because any deprivation of rights [at that stage] is reviewable and nonpermanent and, thus, warrants a slightly less exacting standard of proof." (Internal quotation marks omitted.) *In re Shamika F.*, 256 Conn. 383, 401 n.22, 773 A.2d 347 (2001).

In a similar context, this court also has explained that an award of temporary custody "represents a lesser intrusion into familial relationships than does the termination of parental rights because it does not result in a final and irrevocable severance of parental rights or 'a unique kind of deprivation' that forces parents to confront the state in a termination proceeding." *Fish* v. *Fish*, 285 Conn. 24, 72, 939 A.2d 1040 (2008); see also *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 299–300 (concluding that fair preponderance of evidence standard was appropriate because, in part, orders contemplated by abuse and neglect custody proceedings are reviewable upon petition for revocation of custody, and, thus, there is lesser deprivation of parent's rights than in termination proceeding).

The majority cites to a number of cases in which the clear and convincing standard was used in civil cases and concludes that "[i]t would strain rationality if a parent could lose her constitutional right to parent her child by a mere preponderance of the evidence when a party must prove fraud for the purpose of recovering

monetary damages, or a lawyer's ethical lapse—claims certainly less weighty than the fundamental right to parent a child—by a heightened, clear and convincing standard." I disagree.

First, because the denial of reinstatement of guardianship is not permanent, a parent's rights are not lost. Indeed, as I explained previously in this opinion, orders of temporary custody and neglect petitions involve taking a child out of a parent's care, and the preponderance of evidence standard is used, not the clear and convincing evidence standard. Second, the presumption that reinstatement is in the best interests of the child is not insignificant. It is a presumption that does not exist in any of the civil cases to which the majority points. Third, and perhaps most significant, the child's interests in and right to safety and stability makes the majority's analogy to other civil cases that apply the clear and convincing standard an inept comparison. If the child's interests were not appropriate to consider, when, as in the present case, there has been no finding of parental unfitness, I might agree with the majority that the clear and convincing evidence standard should apply. However, in my view, the child's interests are undoubtedly an important consideration, even when the parent seeking reinstatement has not been deemed unfit. Thus, the preponderance of the evidence standard, which allows the court to more fairly consider the child's separate right to safety and stability in the day-to-day relationships he or she has formed, particularly after a protracted period of separation from the parent, is the appropriate standard.

In sum, a reinstatement of guardianship proceeding is a situation in which the guardianship of the child already has been vested in someone other than the parent for a period of time. Given the potentially diverging private interests of both the parent and the child that are at stake, and the nonpermanent nature of the

deprivation that occurs in a reinstatement proceeding, I would conclude that this factor weighs in favor of a conclusion that proof by a preponderance of the evidence is the appropriate standard.

B

I next consider the second factor in the *Eldridge* balancing test. Ultimately, the question is whether the fair preponderance standard fairly allocates the risk of an erroneous finding regarding the child's best interests between the parties whose interests are at stake—the parent and the child. See *Santosky* v. *Kramer*, supra, 455 U.S. 761.

As I explained in part I of this opinion, I would conclude that both the parent and the child have compelling and sometimes diverging interests to be protected in a proceeding to reinstate guardianship. In considering whether a fair preponderance of the evidence standard fairly allocates the risks, I am mindful that the majority concludes that a parent is entitled to a constitutional presumption that reinstatement of guardianship to the parent is in the best interests of the child. Thus, the presumption and the resulting burden shift to the party opposing reinstatement already recognizes the parent's rights.

The majority goes even further in protecting the parent's rights, equating the interests of the respondent in the present case with that of a "fit parent." I disagree that the concept of a "fit parent" is applicable to the present case. The cases in which we have recognized the concept of a "fit parent" involve *intact* families in which the parent had custody and guardianship of the child but was trying to defend the intact family against action by an outside party.

For instance, in *Roth* v. *Weston*, supra, 259 Conn. 202, a father who had custody and guardianship of his minor children appealed from the judgment of the trial court

granting visitation to the children's maternal grandmother and aunt, against his wishes. See id., 204–206. This court concluded that visitation over the objection of a fit parent may be allowed only when a third party can demonstrate "that the parent's decision [denying] visitation will cause the child to suffer real and substantial emotional harm . . . provided the petitioner has established a parent-like relationship with the child." Id., 226.

Roth dealt with a fit parent in an intact family. The calculus is different when we are dealing with a family that is not intact. As noted previously, this court has stated that, when there is a protracted period of separation, "even a fit parent may possibly be found to have contributed to or acquiesced in a situation in which custody must be yielded to another." *In re Juvenile Appeal (Anonymous)*, supra, 177 Conn. 661. Thus, I would conclude that, although a court will consider the fitness of the parent in determining whether reinstatement is in the best interests of the child, the concept of a fit parent insofar as it presumes that the rights of the child and parent are aligned is not applicable in reinstatement of guardianship proceedings.

The California Court of Appeal rejected a similar claim regarding parental fitness, explaining: "[A] parent's constitutional right against judicial interference with the parent's day-to-day child rearing decisions applies to a fit parent who has custody of the child. Here, the parents did not have custody of the minor; a guardianship had been established, and the guardians had provided the minor with day-to-day custody and care for several years. Because the parents were not participating in the day-to-day parenting of the minor, they were not entitled to the constitutional protection afforded to parents acting in that role. The test for determining whether to terminate the guardianship was the best interest of the child. Substantial evidence sup-

ports the trial court's decision that to terminate the guardianship would have been detrimental to the minor and, thus, not in her best interest." *Guardianship of L.V.*, 136 Cal. App. 4th 481, 484, 38 Cal. Rptr. 3d 894 (2006).

This court has also long recognized that the rights of a fit parent are not absolute. "It is well established as a general rule that the welfare and best interests of the child are controlling elements in the determination of all disputes as to the custody; and the statutes recognizing a right to the custody of the child in either the father or [the] mother must stand aside [when] the recognition of such a right would materially interfere with the paramount right of the child to have [his or her] welfare considered and conserved by the court. The welfare of the child under the [foregoing] rule may require that [his or her] custody be denied the parent and awarded to others." (Internal quotation marks omitted.) *In re Appeal of Kindis*, 162 Conn. 239, 242–43, 294 A.2d 316 (1972).

"Determining the best interest of the minor does not necessarily require a finding that the parent is unfit." *In re Guardianship of Barros*, 701 N.W.2d 402, 408 (N.D. 2005), overruled on other grounds by *In re G.L.*, 915 N.W.2d 685 (N.D. 2018). Of course, this makes sense, and the present case is nearly a paradigmatic example of why. Here, although there was no finding that the respondent was unfit, the trial court made findings on the basis of the evidence that "Zakai acknowledges [the respondent] as his mother, and there is a parent-child like bond, but it is hampered by the reality that Zakai does not feel safe and secure in [the respondent's] care." (Footnote omitted.) The trial court also found that Zakai was being subjected to "unjustifiable and debilitating emotional stress" with increased overnight visitations with the respondent. Thus, notwithstanding the fitness of the parent, in the best interests analysis, we must account for the rights of the child, lest we risk subjecting

children, like Zakai, to "unjustifiable and debilitating emotional stress."

Indeed, the statutory framework established by the legislature in § 45a-611 demonstrates that the legislature realized that, even if a parent has resolved the issues that caused guardianship to be placed with another individual, that does not end the inquiry. The court nevertheless must still determine ultimately whether reinstatement is in the best interests of the child. See General Statutes § 45a-611 (b). In doing so, our courts cannot ignore the mandates of the statute and our prior case law, which require consideration of the rights of the child.

The majority also relies on the fact that the transfer of guardianship in the present case was voluntary and, therefore, that we should require a higher standard of proof to rebut the presumption that reinstatement of guardianship is in the best interests of the child. I disagree. The statutory scheme of § 45a-611 does not provide for one standard of proof to be used when a transfer of guardianship is voluntary and another standard of proof to be used when a transfer of guardianship is not voluntary. To the contrary, the legislature adopted one statutory scheme, regardless of whether the transfer of guardianship was voluntary or involuntary.[7] That statutory scheme provides that guardianship should be reinstated only if the parent has ameliorated the reasons that caused the transfer of guardianship and *if reinstatement of guardianship is in the best interests of the child*. See General Statutes § 45a-611 (b). Accordingly,

[7] The facts of this case demonstrate why having a different standard for voluntary agreements to remove guardianship versus involuntary removal of guardianship would prove difficult. In the present case, although the petitioner and the respondent ultimately entered into an agreement to remove guardianship from the respondent and transfer it to the petitioner, the agreement came only after a lengthy and difficult, contested process. A review of the evidence reveals that, had the respondent not agreed to transfer guardianship, the court likely would have found that the conditions for removal of guardianship under § 45a-610 had been proven.

I would not adopt a heightened standard of proof for § 45a-611 based on the fact that the respondent in the present case agreed to the transfer of guardianship.

C

Finally, I consider "the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews* v. *Eldridge*, supra, 424 U.S. 335. This court previously has recognized the state's "continuing parens patriae interest . . . in the [well-being] of children . . . ." *In re Juvenile Appeal (83-DE)*, 190 Conn. 310, 318–19, 460 A.2d 1277 (1983).

Adopting a presumption in favor of reinstating guardianship rights to the parent while allowing the presumption to be rebutted by a preponderance of the evidence serves to strengthen the family while also protecting children. The presumption the majority adopts in part I of its opinion operates to shift the burden of production and persuasion to the nonmoving party once a parent has demonstrated that the reasons for transfer of guardianship have been ameliorated. This burden shift is a significant procedural protection for parents. If we were to adopt the presumption in favor of reinstating guardianship rights to the parent while allowing the presumption to be rebutted only by clear and convincing evidence—the most exacting civil standard of proof—it would unduly favor the rights of the parent over the rights of the child. This court has explained: "Where two important interests affected by a proceeding are in relative equipoise, as they are in [a temporary custody proceeding], a higher standard of proof would necessarily indicate a preference for protection of one interest over the other. . . . We see no reason to make such a value determination . . . ." (Citation omitted.) *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 298–99.

A review of case law from other jurisdictions reveals that other courts have also determined that a preponderance of the evidence is the correct standard to be applied to rebut a presumption in favor of reinstatement of guardianship. Indeed, the Colorado Supreme Court explained: "We are persuaded . . . that the *Troxel* [v. *Granville*, supra, 530 U.S. 57] presumption and the court's statutory role in considering what is in the child's best interests can be accommodated through the guardian bearing the burden of proof by a preponderance of the evidence." *In re D.I.S.*, 249 P.3d 775, 786 (Colo. 2011); see also *In re Guardianship of David C.*, 10 A.3d 684, 686 (Me. 2010) ("although a parent seeking to terminate a guardianship in order to regain custody bears the burden of proving that termination is in his or her child's best interest . . . the party opposing the termination of the guardianship bears the burden of proving, by a preponderance of the evidence, that the parent seeking to terminate the guardianship is currently unfit to regain custody of the child"); *In re Guardianship of Barros*, supra, 701 N.W.2d 409 (concluding that "evidentiary burden placed on the nonparent . . . is a preponderance of the evidence" in termination of guardianship proceeding).[8]

The preponderance of the evidence standard ensures that the proceeding is conducted fairly by giving sufficient weight to the child's interests and by evenly allocating the risk of an erroneous determination by balanc-

[8] I acknowledge that there are cases that the majority points to in which some other states have applied the clear and convincing standard. See part II C of the majority opinion. Given that our legislature has expressed its intention that the best interests of the child be paramount; see General Statutes § 45a-605 (a) ("[t]he provisions of sections 45a-603 to 45a-622, inclusive, shall be liberally construed in the best interests of any minor child affected by them, provided the requirements of such sections are otherwise satisfied"); I would join the states that apply the preponderance of the evidence standard. I also believe that the preponderance of the evidence standard more evenly balances the scales between the rights of the parents and those of the child, particularly in light of the presumption.

ing the presumption that reinstatement is in the best interests of the child with a lower standard of proof to overcome the presumption. The standard also appropriately reflects the fact that the threatened loss is not permanent. There is no indication that the fair preponderance standard would increase the fiscal burden on the state in light of the fact that courts in this state are already familiar with the fair preponderance standard in family law cases.

I also disagree with the position of the respondent and the majority that allowing a party to rebut the presumption that reinstatement of guardianship to the parent is in the best interests of the child by a preponderance of the evidence does not sufficiently protect the presumption. As Justice Borden explained in his concurring opinion in *Ireland* v. *Ireland*, 246 Conn. 413, 717 A.2d 676 (1998), applying a preponderance of the evidence standard is sufficient in a burden shifting scheme. See id., 441–42 (*Borden*, *J.*, concurring). In responding to criticism that "the burden allocation scheme [adopted in that case] will be dispositive only in those relatively rare cases in which the evidence adduced regarding the best interests of the child with respect to relocation is in equipoise"; (internal quotation marks omitted) id., 441 (*Borden*, *J.*, concurring); Justice Borden explained that "the emphasis on that truism unduly minimizes the other, significant aspects of the allocation of a burden of proof. In addition to determining when the allocation will be dispositive, it also informs the parties of what precisely they have to prove. Furthermore, it provides a structure for the trial court regarding how to think about the case as it hears the evidence." (Emphasis omitted.) Id. Justice Borden further explained that, "[m]ost fundamentally, however, by the law establishing a burden of proof on a particular issue, it establishes what the law considers to be the presumed outcome of a particular type of case, and states the law's position on what is necessary to change

that outcome. This process implicitly expresses the societal values involved in the particular type of litigation in question." Id., 442 (*Borden*, *J.*, concurring).

Similarly, I would conclude that adopting a presumption that reinstatement of guardianship is in the best interests of the child and allowing that presumption to be rebutted by a preponderance of the evidence appropriately expresses the societal values involved. Specifically, it demonstrates that society believes that a child's best interests are usually served by reinstatement of guardianship to the parent but allows that presumption to be rebutted when a preponderance of the evidence demonstrates that reinstatement of guardianship is not in the best interests of the child. Providing the parent with both the presumption and the clear and convincing standard focuses on the parent's rights alone. On the other hand, a preponderance of the evidence standard fairly balances the value that society places on allowing families to remain intact with the interest of stability for a child whose guardianship has been placed in another individual for a period of time.

After evaluating each of the factors in the *Eldridge* balancing test, I would conclude that proof by a fair preponderance of the evidence is the correct standard to be applied in reinstatement of guardianship proceedings under § 45a-611. This standard most appropriately balances the issues involved in a reinstatement proceeding.

In the present case, the trial court correctly applied the fair preponderance of the evidence standard. On the basis of the evidence presented by the petitioner, the trial court found that, "by increasing Zakai's time in [the respondent's] care and having [overnight visits] in [the respondent's] home, Zakai feels less safe." The trial court further found that, after it increased overnight visitation, "the emotional and physical debilitation

Zakai is now exhibiting is unacceptable." Finally, the court found that removing Zakai from the petitioner, with whom he has bonded, would be cruel and would inflict debilitating pain on him.

Accordingly, the trial court concluded that it was not in Zakai's best interests to return to the respondent's care. On the basis of these findings, I would agree with the trial court that the petitioner proved by a preponderance of the evidence that reinstatement of guardianship to the respondent was not in Zakai's best interests. I would agree with the Appellate Court that the respondent has failed to prove a constitutional violation and, accordingly, has not satisfied the third prong of *State* v. *Golding*, 213 Conn. 233, 240, 567 A.2d 823 (1989), as modified by *In re Yasiel R.*, 317 Conn. 773, 781, 120 A.3d 1188 (2015).

I would, therefore, affirm the judgment of the Appellate Court.

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NATIONSTAR MORTGAGE, LLC *v.*
PERRY J. ZANETT ET AL.

The named defendant's petition for certification to appeal from the Appellate Court, 200 Conn. App. 901 (AC 42882), is denied.

Perry J. Zanett, self-represented, in support of the petition.

Decided March 2, 2021

STATE OF CONNECTICUT *v.* PETER SEBBEN

The defendant's petition for certification to appeal from the Appellate Court, 201 Conn. App. 376 (AC 42763), is denied.

D'AURIA, J., did not participate in the consideration of or decision on this petition.

Peter Sebben, self-represented, in support of the petition.

Joan M. Andrews, assistant attorney general, in opposition.

Decided March 2, 2021

CHAD ST. LOUIS *v.* COMMISSIONER
OF CORRECTION

The petitioner Chad St. Louis' petition for certification to appeal from the Appellate Court, 201 Conn. App. 907 (AC 42856), is denied.

Justine F. Miller, assigned counsel, in support of the petition.

James M. Ralls, assistant state's attorney, in opposition.

Decided March 2, 2021

STATE OF CONNECTICUT *v.* TYWAN EDWARDS

The defendant's petition for certification to appeal from the Appellate Court, 202 Conn. App. 384 (AC 42327), is denied.

Jeremiah Donovan, assigned counsel, in support of the petition.

Nancy L. Walker, assistant state's attorney, in opposition.

Decided March 2, 2021

MICHAEL PAUL ROBERTS *v.* COMMISSIONER OF CORRECTION

The petitioner Michael Paul Roberts' petition for certification to appeal from the Appellate Court, 202 Conn. App. 904 (AC 42564), is denied.

Michael W. Brown, assigned counsel, in support of the petition.

Melissa Patterson, senior assistant state's attorney, in opposition.

Decided March 2, 2021

STEVEN W. ROSE *v.* COMMISSIONER OF CORRECTION

The petitioner Steven W. Rose's petition for certification to appeal from the Appellate Court, 202 Conn. App. 436 (AC 42705), is granted, limited to the following issues:

"1. Did the Appellate Court correctly determine that the habeas court had correctly found that the petitioner

did not establish good cause necessary to excuse the delay in filing under General Statutes § 52-470 (e)?

"2. Did the Appellate Court correctly determine that abuse of discretion is the appropriate standard of review for dismissals of habeas petitions pursuant to § 52-470 (e)?"

Vishal K. Garg, assigned counsel, in support of the petition.

Melissa L. Streeto, senior assistant state's attorney, in opposition.

Decided March 2, 2021

JEFFREY P. GOULD *v.* COMMISSIONER OF CORRECTION

The petitioner Jeffrey P. Gould's petition for certification to appeal from the Appellate Court, 202 Conn. App. 901 (AC 42758), is denied.

Deren Manasevit, assigned counsel, in support of the petition.

Brett R. Aiello, deputy assistant state's attorney, in opposition.

Decided March 2, 2021

A AND R ENTERPRISES, LLC *v.* SENTINEL INSURANCE COMPANY, LTD.

The plaintiff's petition for certification to appeal from the Appellate Court, 202 Conn. App. 224 (AC 42774), is denied.

Matthew J. Forrest, in support of the petition.

Joseph M. Busher, Jr., in opposition.

Decided March 2, 2021

CHARLES WILLIAM COLEMAN *v.* COMMISSIONER OF CORRECTION

The petitioner Charles William Coleman's petition for certification to appeal from the Appellate Court, 202 Conn. App. 563 (AC 43122), is denied.

Deborah G. Stevenson, assigned counsel, in support of the petition.

Jonathan M. Sousa, deputy assistant state's attorney, in opposition.

Decided March 2, 2021

BANK OF AMERICA, NATIONAL ASSOCIATION *v.* KATHI SORRENTINO ET AL.

The named defendant's petition for certification to appeal from the Appellate Court, 202 Conn. App. 903 (AC 43495), is denied.

Kathi Sorrentino, self-represented, in support of the petition.

Scott M. Harrington, in opposition.

Decided March 2, 2021

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CONNECTICUT APPELLATE REPORTS

Vol. 203

CASES ARGUED AND DETERMINED

IN THE

APPELLATE COURT

OF THE

STATE OF CONNECTICUT

ROBERT S. BUIE *v.* COMMISSIONER OF CORRECTION (AC 43268)

Bright, C. J., and Lavine and Elgo, Js.*

Syllabus

The petitioner, who had been convicted of two counts of the crime of aggravated sexual assault in the first degree as an accessory and one count each of the crimes of attempt to commit aggravated sexual assault in the first degree, conspiracy to commit aggravated sexual assault in the first degree and burglary in the first degree, sought a writ of habeas corpus, claiming that the trial court abused its authority by denying his right to a hearing when it denied his postconviction motion for DNA testing pursuant to the applicable statute (§ 54-102kk). The habeas court rendered judgment dismissing the habeas petition and, thereafter, denied the petition for certification to appeal. On the petitioner's appeal to this court, he claimed that the habeas court improperly determined that it lacked subject matter jurisdiction over the habeas petition and denied certification to appeal. *Held* that the appeal was dismissed as moot; because, during the pendency of this appeal, this court issued its decision in the petitioner's direct appeal of the trial court's denial of his motion for DNA testing and affirmed that judgment in all respects, and because, in that proceeding, the petitioner obtained the very relief he requested in this habeas action, namely, a hearing before the sentencing judge on

* The listing of judges reflects their seniority status on this court as of the date of oral argument.

his motion for DNA testing pursuant to § 54-102kk, there was no practical relief that this court could afford the petitioner.

Argued November 9, 2020—officially released March 16, 2021

Procedural History

Petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland, where the court, *Newson*, *J.*, rendered judgment dismissing the petition; thereafter, the court denied the petition for certification to appeal, and the petitioner appealed to this court. *Appeal dismissed.*

J. Patten Brown III, for the appellant (petitioner).

Timothy J. Sugrue, assistant state's attorney, with whom, on the brief, was *Maureen Platt*, state's attorney, for the appellee (respondent).

Opinion

PER CURIAM. The petitioner, Robert S. Buie, appeals from the judgment of the habeas court dismissing his petition for a writ of habeas corpus and from the denial of his petition for certification to appeal. He claims that the court improperly (1) determined that it lacked subject matter jurisdiction over the habeas petition and (2) denied his subsequent petition for certification to appeal. We conclude that the petitioner's appeal is moot and, accordingly, dismiss the appeal.

The petitioner was involved in a sexual assault in 2006, the details of which were recounted by our Supreme Court in the petitioner's direct appeal. See *State* v. *Buie*, 312 Conn. 574, 577–80, 94 A.3d 608 (2014). Following a trial, the jury found the petitioner guilty of two counts of aggravated sexual assault in the first degree as an accessory in violation of General Statutes §§ 53a-8 and 53a-70 (a) (1), and one count each of attempt to commit aggravated sexual assault in the first degree in violation of General Statutes §§ 53a-49 (a) (2)

and 53a-70a (a) (1), conspiracy to commit aggravated sexual assault in the first degree in violation of General Statutes §§ 53a-48 (a) and 53a-70a (a) (1), and burglary in the first degree in violation of General Statutes § 53a-101 (a) (1). The trial court, *Alander*, *J.*, rendered judgment in accordance with that verdict and sentenced the petitioner to a total effective sentence of forty years of imprisonment and fifteen years of special parole. Id., 581.

The petitioner thereafter brought a series of unsuccessful habeas actions, in which he alleged ineffective assistance on the part of his trial counsel and first habeas counsel. See *Buie* v. *Warden*, Superior Court, judicial district of Tolland, Docket No. CV-14-4005884-S (May 11, 2017), aff'd, 187 Conn. App. 414, 202 A.3d 453, cert. denied, 331 Conn. 905, 202 A.3d 373 (2019); *Buie* v. *Warden*, Superior Court, judicial district of Tolland, Docket No. CV-12-4004375-S (September 28, 2012), appeal dismissed, 151 Conn. App. 901, 93 A.3d 182, cert. denied, 314 Conn. 910, 100 A.3d 402 (2014).

On March 12, 2018, the petitioner filed the present petition for a writ of habeas corpus,[1] in which he sought review of the "court's denial of [his] motion for postconviction DNA testing." More specifically, he alleged that the trial court "abused its authority [by] denying [his] right to a hearing" pursuant to General Statutes § 54-102kk. Nowhere in his petition did the petitioner allege precisely when such a motion for DNA testing was denied or which trial court decided that motion. By way of relief, the petitioner asked the habeas court to order a hearing on his motion for DNA testing.

On June 7, 2019, the habeas court, *Newson*, *J.*, issued an order, in which it stated that the petitioner's failure

[1] The petitioner filed the present habeas action in a self-represented capacity. He is represented by counsel in this appeal.

"to contest the conviction or the conditions of confinement . . . deprives the habeas court of jurisdiction." The court thus rendered a judgment of dismissal pursuant to Practice Book § 23-29.[2] The petitioner filed a petition for certification to appeal from that judgment, which the court denied, and this appeal followed.

On appeal, the petitioner challenges the propriety of both the dismissal of his habeas petition for lack of subject matter jurisdiction and the denial of his petition for certification to appeal. We conclude that the appeal is moot and, therefore, do not address those claims.

In his appellate brief, the petitioner avers that the present habeas action is predicated on the trial court's denial of his June 8, 2018 postconviction motion for DNA testing pursuant to § 54-102kk.[3] That motion was denied on December 3, 2018, in a thorough memorandum of decision issued by Judge Alander, who had presided over the petitioner's criminal trial and sentencing. From that judgment, the petitioner appealed to this court, which affirmed the judgment of the trial court. See *State* v. *Buie*, 201 Conn. App. 903, 240 A.3d 320, cert. denied, 335 Conn. 984, 242 A.3d 106 (2020).

"Mootness is a question of justiciability that must be determined as a threshold matter because it implicates [this] court's subject matter jurisdiction." (Internal quotation marks omitted.) *State* v. *Boyle*, 287 Conn. 478, 485,

[2] Practice Book § 23-29 provides in relevant part: "The judicial authority may, at any time, upon its own motion or upon motion of the respondent, dismiss the petition, or any count thereof, if it determines that: (1) the court lacks jurisdiction . . . ."

[3] We recognize that the petitioner filed the present habeas action approximately three months *before* that postconviction motion for DNA testing was filed with the trial court. On appeal, the petitioner has provided no explanation for that anomaly.

Although his March 12, 2018 petition for a writ of habeas corpus suggests that the petitioner made an earlier request for DNA testing before a different trial judge, the petitioner has neither identified that request nor provided any record whatsoever of that request or the court's ruling thereon.

949 A.2d 460 (2008). Under our well established mootness jurisprudence, "[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 quotation marks omitted.) Id., 486.

Subsequent to the commencement of this habeas appeal, this court issued its decision in the petitioner's direct appeal of Judge Alander's December 3, 2018 denial of his June 8, 2018 motion for DNA testing and affirmed the propriety of that judgment in all respects. See *State* v. *Buie*, supra, 201 Conn. App. 903. In that proceeding, the petitioner obtained the very relief he requested in this habeas action—namely, a hearing before the sentencing judge on his motion for DNA testing pursuant to § 54-102kk. As a result, the present appeal is moot, as there is no practical relief that this court can afford the petitioner.[4] See *State* v. *Martin*, 211 Conn. 389, 393–94, 559 A.2d 707 (1989). This court, therefore, lacks subject matter jurisdiction over the petitioner's appeal.

The appeal is dismissed.

DISCIPLINARY COUNSEL *v.* FRANK CANNATELLI (AC 44091)

Moll, Alexander and Suarez, Js.

Syllabus

The petitioner, the Disciplinary Counsel, filed a presentment alleging misconduct by the respondent attorney, after a reviewing committee of the Statewide Grievance Committee found that the respondent had violated

[4] At oral argument before this court, the petitioner's counsel conceded that there was no practical relief available to the petitioner.

various provisions of the Rules of Professional Conduct and the rules of practice. The disciplinary proceeding remained inactive while the respondent pursued his appeal to the Superior Court from the decision of the grievance committee directing the petitioner to file a presentment. After the appeal process was completed, the court scheduled a hearing on the presentment. The trial court rendered judgment for the petitioner, and suspended the respondent from the practice of law for one year. The respondent thereafter filed a postjudgment motion to dismiss for lack of subject matter jurisdiction, arguing for the first time that, pursuant to the applicable rule of practice (§ 2-47 (a)), the court lacked jurisdiction because a hearing on the merits of the presentment was not held within sixty days of its filing with the court. The court denied the respondent's motion, and this appeal followed. *Held*:

1. The respondent could not prevail on his claim that the trial court erred in denying his postjudgment motion to dismiss for lack of subject matter jurisdiction; contrary to the respondent's claim, our Supreme Court has held that the sixty day hearing requirement of Practice Book § 2-47 (a) is directory, not mandatory, and that failure to meet its time requirements does not deprive the court of jurisdiction, and this court was bound by the decision of our Supreme Court.
2. The trial court did not abuse its discretion in suspending the respondent from the practice of law for one year; when stripped of repeated assertions that the court lacked subject matter jurisdiction, the respondent's contentions offered little by way of meaningful analysis, and, therefore, were unavailing.

Submitted on briefs February 4—officially released March 16, 2021

Procedural History

Presentment by the petitioner for alleged professional misconduct of the respondent, brought to the Superior Court in the judicial district of New Haven and tried to the court, *Abrams*, *J.*; judgment suspending the respondent from the practice of law for one year, from which the respondent appealed. *Affirmed.*

Frank P. Cannatelli, self-represented, the appellant (respondent).

Brian P. Staines, chief disciplinary counsel, for the appellee (petitioner).

Opinion

PER CURIAM. In connection with the presentment filed by the petitioner, the Disciplinary Counsel, alleging

misconduct by the respondent attorney, Frank Cannatelli, the respondent appeals from the judgment of the Superior Court suspending him from the practice of law for one year for numerous violations of the Rules of Professional Conduct and the rules of practice. We affirm the judgment of the Superior Court.

The following facts and procedural history are relevant to our resolution of this appeal. On or about November 20, 2015, following an evidentiary hearing, a reviewing committee of the Statewide Grievance Committee (grievance committee) issued a comprehensive decision finding that the respondent had violated various provisions of the Rules of Professional Conduct and the rules of practice. By way of summary only, we recite the following facts, which the reviewing committee found by clear and convincing evidence. Following an initial investigation by the grievance committee into a November, 2013 overdraft from the respondent's IOLTA[1] account, "[a] subsequent investigation of the respondent's IOLTA account revealed that the respondent had made numerous payments directly from his IOLTA account for personal and business expenses. These included payments to Comcast, TransAmerica, the [United States] Treasury, and the Mohegan Sun Casino. The respondent did not maintain proper records of his IOLTA accounts, including failure to maintain accurate ledgers.

"As of December 30, 2013, the balance in the respondent's IOLTA account was $195.24; however, the respondent had deposited $10,591.35 into the account on behalf of a client, Ziemba, during the period of October 21, 2013, to December 3, 2013, and had disbursed $8544.63 on behalf of the client for the same period, leaving [approximately $1850] unaccounted for.

[1] "IOLTA stands for 'interest on lawyers' trust accounts.' " *Disciplinary Counsel* v. *Hickey*, 328 Conn. 688, 692 n.2, 182 A.3d 1180 (2018).

"The respondent received a check in the amount of $5487.77 as an asset of the estate of Mark Ziemba, as set forth in the respondent's June 22, 2014 letter to the Wallingford Probate Court, but no inventory was filed with the Probate Court as of September 1, 2014, and the funds were held by the respondent until April of 2015." The reviewing committee further found that the respondent had not promptly returned a retainer in a matter that did not go forward.

Against the backdrop of these facts, the reviewing committee found the following violations by clear and convincing evidence, stating: "It is eminently clear from the record, and the respondent acknowledges, that he was commingling funds in his IOLTA account, paying personal bills and expenses directly from the account, and not maintaining complete records for the account, in violation of [r]ule 1.15 (b) of the Rules of Professional Conduct. Keeping his own funds in the account, beyond the amount necessary to avoid service charges, further constitutes a violation of [r]ule 1.15 (c) of [the] Rule[s] of Professional Conduct and Practice Book § 2-27 (a). In paying a retainer over a period of time, rather than promptly, the respondent was in violation of [r]ule 1.15 (e) of the Rules of Professional Conduct.

"The respondent's failure to maintain required account records, including accurate general and client ledgers, accurate receipt and disbursement journals, copies of disbursements, and copies of billing statements, was in violation of [r]ule 1.15 (i) of the Rules of Professional Conduct and Practice Book § 2-27 (b). The respondent's handling of the Ziemba matters, where [approximately $1850] was not accounted for as of December 30, 2013, and where $5487.77 was held by the respondent until April of 2015, constitute violations of [r]ules 1.3, 1.15 (b) and (e), and 8.4 (3) of the Rules of Professional Conduct.

"The record in this matter reflects that the respondent's mishandling of his IOLTA account has been egregious. There was clear commingling, and the reviewing committee notes that the respondent previously agreed not to use his IOLTA account to pay personal or business related expenses, in a 2008 grievance complaint (*Bowler* v. *Cannatelli*, Grievance Complaint #08-0185)." On the basis of the foregoing, the reviewing committee directed the petitioner, pursuant to Practice Book § 2-35 (i), to file a presentment against the respondent. On February 1, 2016, the respondent appealed from the order of presentment to the Superior Court. *Cannatelli* v. *Statewide Grievance Committee*, Superior Court, judicial district of Hartford, Docket No. CV-16-6065656-S.

Meanwhile, on February 3, 2016, the petitioner filed a one count presentment against the respondent, alleging numerous incidents of attorney misconduct (disciplinary proceeding). Specifically, the petitioner alleged that the respondent violated rules 1.15 (b), 1.15 (c), 1.15 (e), 1.15 (i), 1.3, and 8.4 (3) of the Rules of Professional Conduct, as well as Practice Book § 2-27 (a) and (b), by commingling personal funds in his IOLTA account, paying personal bills and expenses directly from his IOLTA account, failing to maintain complete and accurate IOLTA account records, keeping personal funds in his IOLTA account above the amount necessary to avoid service charges, paying back an unused retainer fee to a client over time and not promptly, and failing to properly handle funds in the Ziemba matter with a specified amount unaccounted for and a separate amount held too long in the account.

In June, 2016, the Superior Court dismissed the respondent's appeal from the grievance committee's decision for lack of an appealable final judgment and subsequently denied his motion to reargue the judgment of dismissal. See *Cannatelli* v. *Statewide Grievance Committee*, 186 Conn. App. 135, 137–38, 198 A.3d 716

(2018), cert. denied, 331 Conn. 903, 202 A.3d 374 (2019). The respondent appealed therefrom to this court, which affirmed the judgment of the Superior Court. Id., 136. Thereafter, our Supreme Court denied the respondent's petition for certification to appeal on February 27, 2019, denied the respondent's motion for reconsideration on April 3, 2019, and denied the respondent's motion for reconsideration en banc on May 22, 2019.

On September 25, 2019, the petitioner notified the Superior Court in the disciplinary proceeding, which had remained inactive while the respondent pursued his appeal from the order of presentment, that the presentment was ready to be scheduled for a hearing. On October 8, 2019, the court scheduled a hearing for December 9, 2019.

On November 22, 2019, pursuant to Practice Book § 2-82 (a) and (b), the parties executed a stipulation and submitted it to the court for approval on November 25, 2019 (stipulation). The stipulation recites the following facts. The respondent was admitted to the Connecticut bar in December, 1988, and has a history of attorney discipline, including a reprimand in February, 1998, a reprimand in March, 1998, a sanction with conditions in August, 2008, a reprimand in March, 2009, and a reprimand with conditions in July, 2012. As of the date of the stipulation, the respondent was in good standing. By grievance complaint dated July 29, 2014, Michael P. Bowler, statewide bar counsel, instituted a grievance complaint against the respondent. In connection therewith, the respondent tendered an affidavit pursuant to Practice Book § 2-82 (d), which was attached to the stipulation, in which he acknowledged that there was sufficient evidence to prove by clear and convincing evidence the material facts constituting a violation of the Rules of Professional Conduct and the rules of practice, as set forth in the November 20, 2015 decision of the reviewing committee, which also was attached to

the stipulation and incorporated therein. Relatedly, the stipulation contained the following provision: "The parties stipulate that the court, when entering judgment on this presentment, may find by clear and convincing evidence the facts as set forth in the reviewing committee's decision of November 20, 2015, as well as the violations of the Rules of Professional Conduct and the Practice Book." The stipulation further stated that, pursuant to Practice Book § 2-82 (c), the parties were unable to agree to a proposed disposition but agreed, while retaining the right to appear at a hearing regarding a disposition and to present argument, that the matter should be submitted to the court "for the imposition of whatever discipline the court deems appropriate."

On December 9, 2019, the court conducted a hearing on the presentment, during which the parties presented argument and the court admitted into evidence several documents offered by the respondent.[2] On January 28, 2020, the court issued a memorandum of decision rendering judgment in favor of the petitioner, finding by clear and convincing evidence that the respondent had violated the Rules of Professional Conduct and the rules of practice as set forth in the presentment, and suspending the respondent from the practice of law for a period of one year. The court explained that, in reaching its decision, it took "into account the respondent's significant history of discipline and the fact that the issues raised in this grievance proceeding, particularly the respondent's use of his IOLTA account to pay personal expenses, involved behavior for which the respondent had been previously sanctioned . . . ."

On January 31, 2020, the respondent filed with the Superior Court a postjudgment motion to dismiss for lack of subject matter jurisdiction, arguing for the first

[2] The petitioner recommended, inter alia, that the court impose a one year suspension.

time that, pursuant to Practice Book § 2-47 (a), the court lacked subject matter jurisdiction because a hearing on the merits of the presentment was not held within sixty days of the filing thereof with the court. On April 21, 2020, the court denied the motion.[3] This appeal followed.

[3] The court stated in relevant part: "As a threshold matter, the court must consider whether it should even consider the respondent's postjudgment motion, even though it raises the issue of subject matter jurisdiction. '[O]nce a judgment [is] rendered it is to be considered final and it should be left undisturbed by [posttrial] motions except for a good and compelling reason. . . . Otherwise, there might never be an end to litigation.' [Citation omitted; internal quotation marks omitted.] *Chapman Lumber, Inc.* v. *Tager*, 288 Conn. 69, 107, [952 A.2d 1] (2008). '[T]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly where the parties have had a full opportunity to originally contest the jurisdiction of the adjudicatory tribunal. . . . Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such opportunity, whether there are strong policy reasons for giving him a second opportunity to do so.' (Citations omitted; [internal quotation marks omitted].) *Vogel* v. *Vogel*, 178 Conn. 358, 362–63, [422 A.2d 271] (1979).

"Section 12 of the Restatement (Second) of Judgments provides: 'When a court has rendered a judgment in a contested action, the judgment precludes the parties from litigating the question of the court's subject matter jurisdiction in subsequent litigation except if: (1) [t]he subject matter of the litigation was so plainly beyond the court's jurisdiction that its entertaining the action was a manifest abuse of authority; or (2) [a]llowing the judgment to stand would substantially infringe the authority of another tribunal or agency of government; or (3) [t]he judgment was rendered by a court lacking capability to make an adequately informed determination of a question concerning its own jurisdiction and as a matter of procedural fairness the party seeking to avoid the judgment should have opportunity belatedly to attack the court's subject matter jurisdiction.' [1 Restatement (Second), Judgments § 12, p. 115 (1982)].

" 'Unless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she must resort to direct proceedings [appeal] to correct perceived wrongs . . . . A collateral attack on a judgment is a procedurally impermissible substitute for an appeal. . . . [A]t least where the lack of [subject matter] jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so.' [Citation

On appeal, the respondent does not challenge any of the underlying facts or findings of violations. Rather, the respondent claims that the court (1) erred in denying his postjudgment motion to dismiss for lack of subject matter jurisdiction and (2) abused its discretion in suspending him from the practice of law for one year. The respondent's claims are without merit and require only brief discussion.

First, the crux of the respondent's primary claim is that the court lacked subject matter jurisdiction at the time it rendered judgment. In support of his claim, the respondent relies on Practice Book § 2-47 (a), which provides in relevant part: "Presentment of attorneys for misconduct, whether or not the misconduct occurred in the actual presence of the court, shall be made by written complaint of the disciplinary counsel. Service of the complaint shall be made as in civil actions. Any interim proceedings to the contrary notwithstanding, *a hearing on the merits of the complaint shall be held within sixty days of the date the complaint was filed with the court*. . . ." (Emphasis added.) According to the respondent, (1) the sixty day hearing requirement in § 2-47 (a) is mandatory, and (2) the fact that the hear-

omitted; internal quotation marks omitted.] *In re Shamika F.*, 256 Conn. [383, 407–408, 773 A.2d 347] (2001).

"In this case, it is not obvious in any respect that this court lacked subject matter jurisdiction when it entered judgment beyond the sixty day period contained in Practice Book § 2-47 (a). First, authority exists for the proposition that time limits imposed on disciplinary matters are directive rather than mandatory and that failure to adhere to those deadlines does not deprive the court of subject matter jurisdiction. *Doe* v. *Statewide Grievance Committee*, 240 Conn. 671, 681, [694 A.2d 1218] (1997). In addition, a review of the file reveals that respondent's actions were the major cause of the fact that this matter was not concluded expeditiously. As a matter of public policy, allowing respondents to 'run out the clock' in disciplinary matters would run counter to the administration of an effective attorney disciplinary process. Finally, the respondent did not raise the issue of subject matter jurisdiction when the hearing was held in this matter. In fact, the [respondent] did not dispute liability, but, rather, simply argued for a less severe sanction than that sought by the [petitioner]."

ing on the merits of the complaint in this disciplinary proceeding took place well beyond the sixty day period deprived the Superior Court of subject matter jurisdiction. In *Statewide Grievance Committee* v. *Rozbicki*, 219 Conn. 473, 595 A.2d 819 (1991), cert. denied, 502 U.S. 1094, 112 S. Ct. 1170, 117 L. Ed. 2d 416 (1992), our Supreme Court held that the identical language of Practice Book (1978–97) § 31 (a), the predecessor to § 2-47 (a), is "directory, and not mandatory, and that failure to meet its time requirements does not deprive the court of jurisdiction."[4] Id., 481. "It is axiomatic that, as an intermediate court, we are bound by the decisions of our Supreme Court. [I]t is manifest to our hierarchical judicial system that [the Supreme Court] has the final say on matters of Connecticut law and that the Appellate Court and Superior Court are bound by [its] precedent." (Internal quotation marks omitted.) *LM Ins. Corp.* v. *Connecticut Dismanteling, LLC*, 172 Conn. App. 622, 633, 161 A.3d 562 (2017). Thus, the respondent's first claim fails.[5]

Second, the respondent claims that the court abused its discretion in suspending him from the practice of law for a period of one year. We disagree.

"A court disciplining an attorney does so not to punish the attorney, but rather to safeguard the administration of justice and to protect the public from the misconduct or unfitness of those who are members of the legal profession. . . . Inherent in this process is a large degree of judicial discretion. . . . A court is free to

[4] The respondent's only response to the *Rozbicki* decision is to state that "[i]t was talking about [Practice Book §] 31 (a) and not [§] 2-47 (a)," wholly ignoring the fact that the court in *Rozbicki* was addressing the same rule prior to the renumbering of the rules of practice in 1998.

[5] We find no error in the court's treatment of the respondent's postjudgment motion, as set forth in footnote 3 of this opinion, which is only buttressed by our conclusion herein.

determine in each case, as may seem best in light of the entire record before it, whether a sanction is appropriate and, if so, what that sanction should be. . . . [A]lthough our review of grievance proceedings is restricted, we recognize the seriousness of the interests that we must safeguard. We have a continuing duty to make it entirely clear that the standards of conduct, nonprofessional as well as professional, of the members of the profession of the law in Connecticut have not changed, and that those standards will be applied under our rules of law, in the exercise of a reasonable discretion . . . ." (Citation omitted; internal quotation marks omitted.) *Statewide Grievance Committee* v. *Dixon*, 62 Conn. App. 507, 515–16, 772 A.2d 160 (2001).

When stripped of repeated, rehashed assertions that the court lacked subject matter jurisdiction, the respondent's contentions in support of his second claim reflect a "kitchen sink" approach, offering little by way of any meaningful analysis. Having considered the respondent's contentions, such as they are, we conclude that they are unavailing. In short, on the basis of our review of the record and the briefs, we conclude that the court did not abuse its discretion in suspending the respondent from the practice of law for one year.

The judgment is affirmed.

RICHARD HOUGHTALING *v.* COMMISSIONER OF CORRECTION
(AC 42332)

Bright, C. J., and Prescott and Suarez, Js.

Syllabus

The petitioner, who had been convicted, on a plea of nolo contendere, of various crimes related to his involvement in a marijuana grow operation, sought a writ of habeas corpus, claiming that his trial counsel, S, had provided ineffective assistance during the litigation of the petitioner's

motion to suppress evidence in the underlying criminal proceeding. The petitioner, who was the owner of the property where the grow operation was conducted, and his brother-in-law, E, were arrested when they arrived at the property while a narcotics task force was present as part of a marijuana eradication operation. The petitioner leased the property to P, who was also arrested. The habeas court rendered judgment denying the petition, from which the petitioner, on the granting of certification, appealed to this court. *Held*:

1. The habeas court properly concluded that the petitioner failed to prove that S rendered deficient performance in litigating the motion to suppress:
   a. The petitioner could not prevail on his claim that S rendered deficient performance when he failed to inform the petitioner of his right to testify at the suppression hearing; the court did not credit the petitioner's claim that S advised him not to testify at the hearing and found, to the contrary, that S's testimony that the petitioner had instructed him not to call the petitioner as a witness at the hearing was credible.
   b. The habeas court properly concluded that S's decision not to call P to testify at the hearing did not fall below an objective standard of reasonableness, as S was concerned that evidence connected to P's testimony, although it may have supported the petitioner's claim of standing, could have further implicated the petitioner in criminal activity and S credibly testified that the petitioner had insisted that P not be called as a witness.
   c. The petitioner's claim that S's asserted justifications for his approach to the suppression hearing were not reasonable was unavailing, as the habeas court concluded and the record demonstrated that S's decision to minimize the petitioner's involvement in the property was reasonably based on the information provided to him by the petitioner, S's decision not to involve P in the suppression hearing was reasonably based on information the petitioner had told S, including that P posed significant safety concerns for the petitioner and his wife, and on S's belief that P's testimony could have further implicated the petitioner in the grow operation and affected the terms of a plea bargain, and S's strategy in seeking to avoid implicating E was reasonable given the petitioner's stated desire to S not to implicate E, who faced possible, ongoing exposure under federal drug laws at the time of the suppression hearing.
   d. S's briefing on the issue of the petitioner's standing regarding the suppression of evidence, which relied on *Baker* v. *Carr* (369 U.S. 186), sufficiently supported the argument in favor of the petitioner's standing and was informed by the facts of the case and the information given to him by the petitioner and, thus, the petitioner's claim that S's failure to cite to *Katz* v. *United States* (389 U.S. 347) constituted deficient performance was unavailing.
2. The petitioner could not prevail on his claim that the habeas court deprived him of his state and federal constitutional rights to due process of law when it characterized in its memorandum of decision a full exhibit

admitted at the habeas trial without limitation as one admitted for only a limited purpose, without notice to the petitioner or an opportunity to be heard: although the court erred in stating in its memorandum of decision that the exhibit was admitted for a limited purpose, it had indicated to the petitioner on the first day of a three day trial that spanned three months that it viewed the exhibit as lacking probative value, thereby providing the petitioner with two months to gather and to present additional evidence; moreover, this court declined to review the claim under the plain error doctrine, as the habeas court's limited use of an exhibit it found to have little or no weight did not affect the fairness or integrity of the proceedings or result in manifest injustice to the petitioner.

3. Although the habeas court erred by excluding as an exhibit a letter to the petitioner from the Internal Revenue Service that was addressed to the property searched by law enforcement, the petitioner failed to meet his burden of proof that the exclusion of the exhibit harmed him in a way that made it more probable than not that the outcome of the habeas trial would have been different had the exhibit been admitted; in his principal brief, the petitioner failed to analyze whether the court's error in failing to admit the letter affected its conclusion as to either the deficient performance or the prejudice prong of *Strickland* v. *Washington* (466 U.S. 668), and consequently, failed to identify any cognizable harm from the habeas court's erroneous evidentiary ruling; moreover, this court declined to review the petitioner's argument regarding harm raised for the first time in his reply brief.

Argued October 8, 2020—officially released March 16, 2021

Procedural History

Petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland and tried to the court, *Hon. Edward J. Mullarkey*, judge trial referee; judgment denying the petition, from which the petitioner, on the granting of certification, appealed to this court. *Affirmed.*

Temmy Ann Miller, with whom, on the brief, was *Daniel M. Erwin*, for the appellant (petitioner).

Nancy L. Walker, assistant state's attorney, with whom, on the brief, were *Anne Mahoney*, state's attorney, and *Jo Anne Sulik*, senior assistant state's attorney, for the appellee (respondent).

Opinion

BRIGHT, C. J. The petitioner, Richard Houghtaling, appeals from the judgment of the habeas court denying his petition for a writ of habeas corpus challenging his judgment of conviction arising out of a marijuana grow operation. The petitioner claims on appeal that the habeas court improperly (1) denied his claim of ineffective assistance of trial counsel in litigating the petitioner's motion to suppress in the criminal proceeding that resulted in the conviction that is the subject of his habeas petition, (2) deprived him of his state and federal constitutional rights to due process and committed plain error when it changed, without notice or any opportunity to be heard, a full exhibit admitted without limitation to one admitted only for a limited purpose, and (3) excluded from evidence a letter from the Internal Revenue Service (IRS) that was offered by the petitioner.[1] We disagree with the petitioner's first and second claims, but agree with the petitioner's third claim. Nevertheless, we conclude that the habeas court's error as to the petitioner's third claim was harmless and, therefore, we affirm the judgment of the habeas court.

The following facts, as described by our Supreme Court in its decision on the petitioner's direct appeal, are relevant to our disposition of this appeal. "On August 9, 2010, the Statewide Narcotics Task Force (task force)—comprised of federal, state, and local law enforcement officers—was conducting a marijuana eradication operation in the northeast corner of the state. The operation was comprised of two spotters who were patrolling the area in a helicopter and a ground team consisting of several members. The task force had performed marijuana eradication missions earlier in the day, and, shortly after noon, the helicopter team notified

[1] For convenience, we have reordered the petitioner's claims from how they are set forth in his principal brief.

the ground team of a suspected large crop of marijuana at 41 Raymond Schoolhouse Road in the town of Canterbury (property). From the air, the spotters were able to see dozens of marijuana plants within a fenced-in pool area behind the house, as well as several plants along the outside of the fence. The ground team arrived at the property approximately thirty minutes later in separate, undercover and unmarked vehicles, which bore no resemblance to police vehicles.

"The property consisted of 5.6 acres and was largely surrounded by dense forest. The only means of ingress and egress was a narrow dirt driveway more than 100 feet long and lined with trees on both sides. There were signs marked No Trespassing posted on trees along the driveway, and, about halfway down the driveway, there was a metal gate that could block the driveway but that was not closed. . . . As the members of the ground team approached the home, they saw no occupant vehicles or persons, smelled nothing, and heard nothing. The officers knocked on the front door but received no answer.

"The ground team then left the front door and proceeded toward the back door. The air team had told the ground team that, if they continued around the side of the house, they would see a whole lot of marijuana right out in the open. Before reaching the back door, the officers saw a pool area with dozens of marijuana plants inside and additional plants surrounding the area. The officers then continued to search the property, including a greenhouse located behind the pool, near the rear of the property. As the police approached the greenhouse, they noticed it was still under construction. The ends of the structure had no side walls, and there were piles of lumber on the ground nearby. Inside the greenhouse, the police were able to see numerous marijuana plants and two men, one of whom was later identified as [Thomas] Phravixay.

"Both of the men were given *Miranda* [v. *Arizona*, 384 U.S. 436, 478–79, 86 S. Ct 1602, 16 L. Ed. 2d 694 (1966)] warnings and agreed to answer questions. Phravixay told the officers he was renting the home and later gave the officers written consent to search the property. The search ultimately revealed more than 1000 marijuana plants.

"While two members of the ground crew were returning to their vehicles to obtain an evidence kit, they noticed a white van pull into the driveway of the property, where the unmarked police vehicles were parked, and then reverse back into the street and depart [v]ery quickly. The helicopter team also spotted the van enter the driveway and radioed the ground team to alert all of the officers concerning the van's presence. The officers were suspicious of the van, believing that its occupants might be involved in the marijuana grow operation, and decided to pursue the van. By the time the police got into a car, headed up the driveway after the van, and arrived out on the road, the van was already parked at the side of the road, approximately one tenth of one mile away, facing back toward the driveway.

"The officers drove to the location where the van was parked, exited their vehicle, and approached the van. . . . The van was occupied by two males—the [petitioner] was in the driver's seat and another person sat in the passenger seat. Upon determining that the occupants of the van posed no threat, the officers holstered their weapons and asked the [petitioner] for identification. When the officers asked the [petitioner] why he had pulled into the driveway and then left abruptly, he stated that he was going to visit a friend but left when he saw that the driveway was full of cars he did not recognize. As the trial court found, the [petitioner's] answers to the officers' questions were evasive, and, although he claimed to be visiting a friend, he would not name the friend. While the police were questioning

the [petitioner], they were able to observe from outside the van that it contained lumber and irrigation piping similar to that which was used to construct the greenhouse. The officers then handcuffed the [petitioner] and the passenger, and brought them back to the property.

"Upon arriving back at the property, the police advised the [petitioner] of his *Miranda* rights. The [petitioner] at first refused to speak with the police but then agreed to once the officers told him that Phravixay had consented to their search of the property, that they had found mail with the [petitioner's] name on it in the house and in the mailbox, and that Phravixay had identified the [petitioner] as the homeowner and the person who leased the property to him. The [petitioner] told the officers he had purchased the home in the prior year but could not afford the mortgage payments, so, to help cover his expenses, he leased the property to Phravixay, whom he had known for several years. The [petitioner] said Phravixay had paid rent only periodically, and the [petitioner] had been helping Phravixay cultivate marijuana for the previous four or five months to recoup some of [his] money. Although the [petitioner] said he was helping with the cultivation, he stated that, up until [that day, he] didn't realize the extent of the grow operation. I own my own business and didn't really think much of what was going on at the house . . . .

"The [petitioner] initially was charged with numerous drug related offenses, and he moved to suppress (1) all evidence seized by law enforcement officers in connection with the warrantless search and seizure conducted at [the] property on August 9, 2010; (2) all statements made by [the petitioner] and others, including . . . Phravixay, as a result of the illegal search and seizure; and (3) the fruits of any and all other evidence obtained, derived or developed as a result of the illegal search and seizure and illegally obtained statements . . . . The [petitioner] claimed that the court must suppress

this evidence because the police had violated his fourth amendment rights when they failed to obtain a warrant before searching the property and when they detained him in his van, which he claims was done without reasonable suspicion that he had engaged in criminal activity.

"At the hearing on the motion to suppress, the state called three police officers to testify about their actions and observations during the search and seizure. The [petitioner] called one witness, another police officer. After the witnesses testified, the state argued that the [petitioner] had failed to establish his subjective expectation of privacy because all of his personal property was in the city of Danbury, where he lived with his wife and family, and the [petitioner] had failed by any other conduct to demonstrate a subjective expectation of privacy in the property where the search occurred. Defense counsel responded by arguing that the [petitioner's] ownership of the property alone was sufficient to establish standing. He argued that the state was trying to get around this fact by making a hyper-technical argument on standing . . . .

"The trial court agreed with the state and denied the [petitioner's] motion to suppress the evidence seized from the search of the property and the [petitioner's] statements to the police. The trial court concluded that the [petitioner] had failed to establish that he had a subjective expectation of privacy in the property. The court also found that the police possessed a reasonable and articulable suspicion sufficient to justify stopping the [petitioner's] van after he entered and quickly exited the driveway. Lastly, the trial court concluded that the officers had probable cause to arrest the [petitioner]. The [petitioner] then entered a conditional plea of nolo contendere.

"The [petitioner] appealed to the Appellate Court from the judgment of conviction, claiming that the trial court's

denial of his motion to suppress was improper because (1) he had a reasonable expectation of privacy in the area searched, including the home and the area surrounding it, (2) his fourth amendment rights were violated by the warrantless search conducted by the . . . task force, [and] (3) the police lacked a reasonable and articulable suspicion to conduct a motor vehicle stop of the van operated by the [petitioner], and his resulting arrest was unsupported by probable cause . . . . The Appellate Court rejected all of these claims. . . .

"Specifically, the Appellate Court concluded that the [petitioner's] first two claims failed because he lacked a reasonable expectation of privacy. . . . The Appellate Court determined that the [petitioner] failed to establish his subjective expectation of privacy because he did not sufficiently develop his personal relationship with the property at the suppression hearing. . . . The [petitioner] argued that he was a cooccupant of the property and cited three facts to support this contention: (1) he leased the property to Phravixay for less than his monthly mortgage payment; (2) he received and stored items on the premises; and (3) he received some mail at the property. . . .

"The Appellate Court determined that the fact that Phravixay's rent was less than the [petitioner's] mortgage established nothing about the manner in which he retained rights to use the property, or if he retained them at all. . . . Moreover, although the [petitioner] claimed that he received and stored property on the premises, he identified only a single item of his at the property—an aeration system addressed to him at his Danbury residence. . . . The court did not find that the presence of a single piece of property established that the [petitioner] was a cotenant. . . . Finally, the Appellate Court concluded that the presence of some mail . . . did not establish that the [petitioner] lived at the property or otherwise was there frequently. . . .

"The Appellate Court also concluded that the police possessed a reasonable and articulable suspicion that the [petitioner] had engaged in criminal conduct. . . . The Appellate Court determined that, on the basis of the totality of the circumstances, including the spatial and temporal link between the *Terry* [v. *Ohio*, 392 U.S. 1, 21–22, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)] stop and the investigation of the felony in progress (the marijuana grow operation), as well as the [petitioner's] act of entering and quickly leaving the property, the police were justified in stopping the [petitioner]. . . . The Appellate Court also determined that the police had probable cause to arrest the [petitioner] after they observed lumber and irrigation piping in the van similar to the materials being used to construct the greenhouse, demonstrating a probable connection between the [petitioner] and the marijuana operation at the property. . . .

"The [petitioner] appealed to [our Supreme Court] from the judgment of the Appellate Court, and [our Supreme Court] granted certification on the following issues: (1) Did the Appellate Court properly determine that the [petitioner] did not have standing (a reasonable expectation of privacy) to challenge a search of residential premises that he owned but had leased at the time of the search? . . . (2) If the answer to the first question is in the negative, were all subsequent actions of the police—the *Terry* stop of the vehicle, the warrantless arrest, and the defendant's confession—the fruits of one or more preceding illegalities? . . . (3) If the answer to the first question is in the affirmative, did the Appellate Court properly determine that the *Terry* stop and warrantless arrest of the defendant were lawful, and that the resulting confession was lawfully obtained? . . . [Our Supreme Court answered] the first question in the affirmative, [did not] reach the second question, and [answered] the third question in the affirmative. [Our

Supreme Court thus affirmed] the judgment of the Appellate Court." (Citations omitted; footnotes omitted; internal quotation marks omitted.) *State* v. *Houghtaling*, 326 Conn. 330, 333–39, 163 A.3d 563 (2017), cert. denied, U.S. , 138 S. Ct. 1593, 200 L. Ed. 2d 776 (2018). In concluding that this court properly determined that the petitioner did not have standing, our Supreme Court held that the petitioner failed to establish a subjective expectation of privacy because he did not present sufficient evidence detailing his connection to the property or the marijuana grow operation that took place on the property. See id., 352.

On October 24, 2017, the petitioner filed a petition for a writ of habeas corpus alleging ineffective assistance of trial counsel, Alan Sobol. On September 4, 2018, after a trial that took place over the course of three days, the habeas court denied the petition. The habeas court concluded that the petitioner failed to prove that trial counsel rendered deficient performance as alleged and that, even if the court presumed deficient performance, the petitioner failed to prove that he was prejudiced by counsel's deficient performance. Following the ruling of the habeas court, the petitioner filed a petition for certification to appeal, which was granted by the habeas court. This appeal followed.

I

The petitioner claims that Sobol rendered deficient performance when he litigated the petitioner's motion to suppress by (1) failing to inform the petitioner of his right to testify, (2) limiting the evidence presented regarding the petitioner's standing to challenge the constitutionality of the search, (3) utilizing a three-pronged approach that was not a reasonable strategic basis for his decisions, and (4) relying on *Baker* v. *Carr*, 369 U.S. 186, 82 S. Ct. 691, 7 L. Ed. 2d 663 (1962), in lieu of *Katz* v. *United States*, 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed.

2d 576 (1967), in the petitioner's memorandum in support of the motion to suppress. The petitioner also contends that he was prejudiced by trial counsel's alleged deficient performance because, but for Sobol's failure to establish that the petitioner had standing to raise a fourth amendment claim, the petitioner's motion to suppress would have been successful.

We begin our discussion by setting forth guiding principles of law as well as our standard of review, which are well settled. "A criminal defendant's right to the effective assistance of counsel extends through the first appeal of right and is guaranteed by the sixth and fourteenth amendments to the United States constitution and by article first, § 8, of the Connecticut constitution. . . . To succeed on a claim of ineffective assistance of counsel, a habeas petitioner must satisfy the two-pronged test articulated in [*Strickland* v. *Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)]. *Strickland* requires that a petitioner satisfy both a performance prong and a prejudice prong. To satisfy the performance prong, a claimant must demonstrate that counsel made errors so serious that counsel was not functioning as the counsel guaranteed . . . by the [s]ixth [a]mendment. . . . To satisfy the prejudice prong, a claimant must demonstrate that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. . . . Because both prongs . . . must be established for a habeas petitioner to prevail, a court may dismiss a petitioner's claim if he fails to meet either prong. . . .

"On appeal, [a]lthough the underlying historical facts found by the habeas court may not be disturbed unless they [are] clearly erroneous, whether those facts constituted a violation of the petitioner's rights [to the effective assistance of counsel] under the sixth amendment is a mixed determination of law and fact that requires

the application of legal principles to the historical facts of [the] case. . . . As such, that question requires plenary review by this court unfettered by the clearly erroneous standard." (Citations omitted; footnote omitted; internal quotation marks omitted.) *Jordan* v. *Commissioner of Correction*, 197 Conn. App. 822, 829–31, 234 A.3d 78, cert. granted, 335 Conn. 931, 236 A.3d 218 (2020).

"In any case presenting an ineffectiveness claim, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances. Prevailing norms of practice as reflected in American Bar Association standards and the like . . . are guides to determining what is reasonable. . . . Nevertheless, [j]udicial scrutiny of counsel's performance must be highly deferential. It is all too tempting for a [petitioner] to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. . . . A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the [petitioner] must overcome the presumption that, under the circumstances, the challenged action might be considered sound trial strategy." (Citation omitted; internal quotation marks omitted.) *Gaines* v. *Commissioner of Correction*, 306 Conn. 664, 679, 51 A.3d 948 (2012).

"The reasonableness of counsel's actions may be determined or substantially influenced by the [petitioner's] own statements or actions. Counsel's actions are

usually based, quite properly, on informed strategic choices made by the [petitioner] and on information supplied by the [petitioner]. In particular, what investigation decisions are reasonable depends critically on such information. For example, when the facts that support a certain potential line of defense are generally known to counsel because of what the defendant has said, the need for further investigation may be considerably diminished or eliminated altogether. And when a defendant has given counsel reason to believe that pursuing certain investigations would be fruitless or even harmful, counsel's failure to pursue those investigations may not later be challenged as unreasonable." (Internal quotation marks omitted.) Id., 681.

"[T]here are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way." (Internal quotation marks omitted.) *Meletrich* v. *Commissioner of Correction*, 332 Conn. 615, 637, 212 A.3d 678 (2019). The United States Supreme Court has cautioned that a reviewing court, in considering whether an attorney's performance fell below a constitutionally acceptable level of competence pursuant to the standards set forth herein, must "properly apply the strong presumption of competence that *Strickland* mandates" and is "required not simply to give [trial counsel] the benefit of the doubt . . . but to affirmatively entertain the range of possible reasons [that counsel] may have had for proceeding as they did . . . ." (Citation omitted; internal quotation marks omitted.) *Cullen* v. *Pinholster*, 563 U.S. 170, 196, 131 S. Ct. 1388, 179 L. Ed. 2d 557 (2011). This strong presumption of professional competence extends to counsel's investigative efforts; see *Thompson* v. *Commissioner of Correction*, 131 Conn. App. 671, 698, 27 A.3d 86, cert. denied, 303 Conn. 902, 31 A.3d 1177 (2011); as well as to choices made by counsel regarding what defense

strategy to pursue. See *Veal* v. *Warden*, 28 Conn. App. 425, 434, 611 A.2d 911, cert. denied, 224 Conn. 902, 615 A.2d 1046 (1992). With the foregoing legal principles in mind, we turn to the petitioner's arguments in support of his claim of ineffective assistance of counsel.

A

The petitioner's first contention is that Sobol rendered deficient performance by failing to inform the petitioner of his right to testify at the suppression hearing. The respondent, the Commissioner of Correction, argues, to the contrary, that Sobol discussed the issue of testifying with the petitioner. The respondent contends that Sobol advised the petitioner that the state might respond to his potential testimony by calling Phravixay, which was a result that the petitioner wanted to avoid because he and his wife feared retribution from Phravixay.

"It is the responsibility of trial counsel to advise a defendant of the defendant's right to testify and to ensure that the right is protected. . . . The decision of whether to testify on one's own behalf, however, ultimately is to be made by the criminal defendant." (Citation omitted; internal quotation marks omitted.) *Victor C.* v. *Commissioner of Correction*, 179 Conn. App. 706, 715, 180 A.3d 969 (2018). "A defendant is entitled to decide whether to testify in his or her own case and is further entitled to have advice from counsel concerning that decision. . . . Counsel's duty to advise includes the duty to keep the defendant informed of all developments in the case material to the defendant's decision to testify. . . . Deciding whether to testify on one's own behalf is often among the most difficult choices a criminal defendant must make during trial. Testifying can present a risky and difficult ordeal for a defendant. Defense counsel therefore must keep the defendant apprised of all material information known to counsel

in order to help the defendant in making that decision." (Citations omitted; footnote omitted; internal quotation marks omitted.) *Helmedach* v. *Commissioner of Correction*, 329 Conn. 726, 740, 189 A.3d 1173 (2018).

The record reveals the following relevant facts. At the habeas trial, Sobol testified that he specifically discussed with the petitioner what could occur at the suppression hearing if the petitioner chose to testify. Sobol testified that he told the petitioner that the state likely would call Phravixay to rebut the petitioner's testimony and also would try to implicate the petitioner along with William Eichen, the petitioner's brother-in-law, in the marijuana grow operation. Later in the hearing, Sobol stated that the petitioner told him that he did not want to testify. Sobol also stated that he had informed the petitioner that he agreed with the petitioner's decision because he believed that it would be more harmful than helpful to the petitioner. Sobol testified that he based his decision on the scant information provided to him by the petitioner, along with the petitioner's communication that he spent all of his time in Danbury.

At the habeas hearing on April 27, 2018, habeas counsel and Sobol engaged in the following colloquy: "[The Petitioner's Habeas Counsel]: Did you advise [the petitioner] that he could testify at the hearing on the motion to suppress and that his testimony could not be used against him by the state at any subsequent criminal trial in their case-in-chief?

"[The Witness]: No.

"[The Petitioner's Habeas Counsel]: Why?

"[The Witness]: Because that conversation would have been premature, that's the right verbiage, because he was quite explicit in instructing us not to call him as a witness, that he did not want to testify for a multitude of reasons, primarily, primarily of which was the

concern that were he to testify, it would in all likelihood have brought Mr. Phravixay into the case as a rebuttal witness, and he was concerned about his fears for him and his family, and also Mr. Phravixay's testimony would have further implicated Mr. Eichen, his brother-in-law, and so I never—I did not get into the hypothetical of you're telling me you don't want to testify, and I'm also telling you that if you do testify, in my opinion, as I testified the last time I was here, that in all likelihood, Mr. Phravixay would testify, and he said I'm not testifying. I don't want to testify. Don't call me. So I did not get into the hypothetical question, well, you're instructing me not to call you. You don't want to testify, but by the way—not by the way—but on the other hand, if you change your mind or down the road you decide to testify, this, that or the other, I did not get into a [*Simmons* v. *United States*, 390 U.S. 377, 88 S. Ct. 967, 19 L. Ed. 2d 1247 (1968)] discussion, nor get into the derivative use of his testimony because he was explicit in saying, I don't want to testify. Do not call me. That's why."[2]

In contrast to Sobol's testimony, the petitioner testified that Sobol discussed the use of his testimony on one occasion during which Sobol told him that he never places his clients on the stand to testify. The petitioner's sister, Holly Eichen, also testified that Sobol stated to her that he would never place his clients on the stand.

In its memorandum of decision, the habeas court rejected the petitioner's claim that he was advised not to testify at the hearing on the motion to suppress, finding that Sobol's testimony on this issue was credible, whereas the testimony of the petitioner and his sister was not.

[2] The United States Supreme Court in *Simmons* v. *United States*, supra, 390 U.S. 394, held that "when a defendant testifies in support of a motion to suppress evidence on [f]ourth [a]mendment grounds, his testimony may not thereafter be admitted against him at trial on the issue of guilt unless he makes no objection."

We will not disturb a habeas court's factual finding that turns on its evaluation of the credibility of witnesses. See *Flomo* v. *Commissioner of Correction*, 169 Conn. App. 266, 279, 149 A.3d 185 (2016) ("[a] reviewing court ordinarily will afford deference to those credibility determinations made by the habeas court on the basis of [the] firsthand observation of [a witness'] conduct, demeanor and attitude" (internal quotation marks omitted)), cert. denied, 324 Conn. 906, 152 A.3d 544 (2017). Thus, upon review of the record, we conclude that the petitioner has not met his burden of showing that Sobol performed deficiently when advising the petitioner regarding whether he should testify at the suppression hearing.

B

The petitioner's next contention is that Sobol's strategy to limit "standing evidence on the theory that the judge might punish the petitioner for filing a motion to suppress" was unreasonable. Citing to *State* v. *Revelo*, 256 Conn. 494, 775 A.2d 260, cert. denied, 534 U.S. 1052, 122 S. Ct. 639, 151 L. Ed. 2d 558 (2001), the petitioner argues that the basis for Sobol's strategic decision previously has been rejected by our Supreme Court, which held that a court may not penalize an accused for exercising a statutory or constitutional right by increasing his or her sentence solely because of that election. Specifically, the petitioner points to evidence that could have been introduced via Phravixay to establish that the petitioner had a sufficient expectation of privacy on the property to give him standing to pursue the motion to suppress.

The record reveals the following relevant facts. At the habeas trial, Sobol testified that presenting evidence to support the petitioner's claim that he had standing to raise a fourth amendment claim via Phravixay's testimony could have resulted in the judge not accepting a

conditional nolo contendere plea and may have negatively impacted the petitioner at sentencing if the judge were to credit Phravixay's testimony. He testified that if the petitioner did not prevail on every single issue on the motion to suppress, he could not, "unring the bell." Sobol also testified that "I did everything I could to preserve the five [years] after four [years served sentence] when [the state's attorney assigned to the petitioner's criminal case, Matthew Crockett] said if you do the motion to suppress, it's seven [years] after six [years] I think." Sobol further testified that the petitioner communicated on multiple occasions that he did not want Phravixay to testify.

Crockett testified at the habeas trial that, if the petitioner had testified to the ownership of the contraband and his involvement in the marijuana grow operation, he may have called witnesses to rebut or to impeach the petitioner. Crockett testified that he would not have sought higher punishment for the petitioner if, in connection with the motion to suppress, the petitioner had taken responsibility for the ownership of the marijuana and his involvement in the grow operation at the time of the motion to suppress.

The habeas court, in its memorandum of decision, concluded that the petitioner had failed to establish that Sobol's performance in failing to call Phravixay as a witness fell below an objective standard of reasonableness or created a reasonable probability that the outcome of the motion to suppress would have been different.[3]

[3] The court also concluded that the petitioner failed to present evidence as to what Phravixay would have testified to had he been called to testify at the suppression hearing. The petitioner argues that there was such evidence in the form of exhibit 13, a draft proffer prepared by Phravixay's attorney, which had been admitted as a full exhibit at the habeas trial. For a number of reasons, the court chose not to give any weight to that exhibit. See part II of this opinion. Consequently, on the basis of our review of the court's decision in its entirety, the court's conclusion that the petitioner had failed to present any persuasive evidence with respect to the potential testimony of Phravixay is not in error.

Our Supreme Court in *State* v. *Revelo*, supra, 256 Conn. 496, addressed the issue of whether the due process rights of a defendant were violated when the trial court (1) offered to sentence the defendant to eight years imprisonment for the defendant's plea of guilty in connection with the defendant's sale of narcotics, (2) withdrew the offer upon learning that the defendant wanted to exercise his right to a judicial determination of his then pending motion to suppress, (3) informed the defendant that he would receive a sentence of nine years of imprisonment if he decided to plead guilty in the event that his motion to suppress was denied, and (4) imposed a nine year sentence following the defendant's conditional plea of nolo contendere, which the defendant had entered as a result of the denial of his motion to suppress.

In *Revelo*, the defendant contended that the trial court improperly penalized him for exercising his right to a judicial determination of his motion to suppress by increasing the terms of the plea bargain from eight to nine years solely because of his decision to exercise that right. Id., 508. The court held that, "[a]lthough a court may deny leniency to an accused who, like the defendant, elects to exercise a statutory or constitutional right, a court may not penalize an accused for exercising such a right by increasing his or her sentence solely because of that election." Id., 513. The court further held that, "[a]lthough the distinction between refusing to show leniency to an accused who insists on asserting a constitutional right and punishing an accused for asserting that right may, at times, be a fine one, there is no difficulty in discerning what occurred in this case: the trial court imposed a more severe sentence on the defendant solely because he asserted his right to a judicial ruling on his motion to suppress." Id., 513–14. The court went on to state: "Moreover, it would not have been improper for the court, upon learn-

ing of the defendant's decision to reject that offer, to inform the defendant of the potential for a greater sentence in the event his motion was denied. In such circumstances, however, it also would be incumbent upon the court to explain why a greater sentence might be appropriate . . . to dispel any suggestion that the court was prepared to punish the defendant merely for exercising his right to a judicial determination of his motion. Indeed, the failure of the trial court in this case to provide such an explanation is a critical factor in our conclusion that the court overstepped its constitutional bounds by adding one year to the defendant's sentence." (Citation omitted.) Id., 516.

In a footnote, however, the court noted that "the *prosecutor* would not have been barred from threatening to *recommend* a greater sentence in the event the defendant refused to plead guilty prior to obtaining a ruling on his motion to suppress. Moreover, if the prosecutor had taken that position, we see no reason why the court would have been prohibited from informing the defendant of the possibility of a greater sentence if he pressed and lost his motion to suppress because, in that event, the prosecutor's hand would be strengthened considerably, and, in addition, the defendant arguably would be entitled to less consideration for his plea than if he had chosen to accept responsibility for the offense at an earlier stage of the proceedings." (Emphasis in original.) Id., 515 n.28.

In the present case, the petitioner's reliance on *Revelo* is misplaced. The petitioner misunderstands Sobol's concerns about calling Phravixay to establish the petitioner's involvement with the marijuana grow operation. Although such evidence may have been of assistance in establishing the petitioner's standing to pursue the motion to suppress, it also could have had the effect of further implicating the petitioner in the crime. This

is the bell that Sobol noted could not be unrung. Certainly, the state and the court could have taken into account the petitioner's culpability in the grow operation in fashioning any plea offer. It was reasonable for Sobol to be concerned about the eventual outcome of the case as he decided how to balance proving the petitioner's standing to raise the motion to suppress while, at the same time, limiting the evidence that proved the petitioner's active involvement in the grow operation. In addition, Sobol testified repeatedly, and the habeas court found such testimony credible, that the petitioner was insistent that Phravixay not be called as a witness at the suppression hearing. Under these circumstances, the habeas court properly concluded that the petitioner did not establish that Sobol's performance, in deciding not to present the testimony of Phravixay, fell below an objective standard of reasonableness.

C

The petitioner also argues more generally that Sobol's asserted justifications for his approach to the suppression hearing were not reasonable. Specifically, the petitioner argues that minimizing the petitioner's involvement in the property was antithetical to the motion to suppress, Sobol did not have any reason to fear antagonizing Phravixay, and his concern about potentially implicating Eichen in the crime was unreasonable.

The following additional facts are relevant to the petitioner's arguments. At the habeas trial, Sobol testified that his theory of defense was based on a three-pronged approach. The first prong addressed the facts of the case that suggested the petitioner's presence on the property and involvement with the grow operation was thin. The second prong sought to avoid the involvement of Phravixay in the case. The third prong sought

to avoid the potential criminal implication of Eichen in the case. Sobol testified that the petitioner told him that he was on the property only occasionally, that Phravixay posed significant safety concerns for the petitioner and his wife, and that he desired to avoid implicating Eichen, his brother-in-law, in the case. Sobol also testified that the ultimate strategy was to approach the motion to suppress via direct examination or cross-examination of witnesses whose testimony would not trigger the involvement of Phravixay and Eichen.

We first address the petitioner's contention that minimizing his involvement in the property was not a reasonable strategy as it was antithetical to establishing the petitioner's standing to pursue the motion to suppress. Our review of the record does not support the petitioner's contention. During the habeas trial, Sobol testified that his conclusion that the petitioner had limited involvement with the property was based on what the petitioner told him. Sobol stated that it was undisputed that the petitioner was the owner of the property and, in essence, had yielded dominion and control of the property to Phravixay. In particular, Sobol testified that the petitioner communicated that he did not sleep or live at the property, he rarely was at the property because of his business in Danbury and New Milford, he rented the property to Phravixay, who compensated the petitioner with cocaine and marijuana, and he was not engaged in a joint venture of growing marijuana on a large scale on the property. Additionally, the habeas court concluded that the record contained no persuasive evidence that the petitioner resided at the property, and that Sobol strove to prevail on the standing issue in spite of the information the petitioner gave him.

The record demonstrates that Sobol's decision to minimize the petitioner's involvement in the property was reasonably based on the evidence available to Sobol at the time of the motion to suppress, which included the

petitioner's own statements that he had little to do with the property. Thus, Sobol had to pursue a strategy that was consistent with the petitioner's limited involvement with the property because that was the information the petitioner gave to Sobol. Although that information may have made it more difficult for the petitioner to establish standing to pursue the motion to suppress, any such difficulty is attributable to the petitioner and not to Sobol. See *Gaines* v. *Commissioner of Correction*, supra, 306 Conn. 681 (counsel entitled to rely on information provided to him by petitioner).

Next, the petitioner contends that Sobol's decision not to call Phravixay as a witness at the suppression hearing, on the basis that the petitioner feared Phravixay, was not a reasonable strategic decision. The respondent contends that Sobol testified that the petitioner was clear about his desire to not have Phravixay testify. The respondent also contends that Phravixay's testimony could have implicated the petitioner in the marijuana grow operation and also could have implicated the assets of the petitioner and his family. We agree with the respondent.

At the habeas trial, Sobol testified that his decision to avoid antagonizing Phravixay was based on the petitioner telling him that Phravixay was a dangerous gang member, who posed significant safety concerns for the petitioner and his wife. Sobol also testified that he was concerned that Phravixay would implicate the petitioner in the marijuana grow operation and would, thus, negatively affect the petitioner's plea negotiations.

The petitioner testified that he lied to Sobol about his belief concerning Phravixay's criminal affiliations and his concerns about the safety of himself and his family. The petitioner also stated that he did not instruct Sobol to avoid involving Phravixay in the matter. The

habeas court, however, did not credit the petitioner's testimony. By contrast, the court found Sobol to be credible.

Considering all of the circumstances from Sobol's perspective at that time, the petitioner has not shown that Sobol's strategy to avoid triggering the involvement of Phravixay was unreasonable. Sobol was concerned that the trial court may have imposed a sentence that was harsher than the terms of the plea bargain on the basis of Phravixay's potentially adverse testimony, and the habeas court credited Sobol's testimony that the petitioner had instructed him not to call Phravixay to testify. As noted previously in this opinion, counsel properly may rely "on informed strategic choices made by the [petitioner] and on information supplied by the [petitioner]." *Gaines* v. *Commissioner of Correction*, supra, 306 Conn. 681. Thus, we conclude that Sobol's decision to avoid involving Phravixay in the case did not fall below an objective standard of reasonableness.

The petitioner's third contention is that the perceived threat that Eichen would be arrested was not a viable consideration because Sobol's duty of loyalty was to the petitioner, and Sobol should have known the timing and effect of a nolle prosequi, which Crockett had entered as to the charges against Eichen. The respondent contends that the habeas court found that Eichen faced possible, ongoing exposure under federal drug laws at the time of the suppression hearing. The respondent also contends that Sobol testified that he was instructed by the petitioner to not implicate Eichen.

In the present case, the petitioner has not met his burden of proving that Sobol's trial strategy in seeking to avoid implicating Eichen constituted deficient performance. As the habeas court noted, at the time of the hearing on the motion to suppress, the federal statutes of limitations relating to Eichen's arrest had not expired.

Moreover, Sobol testified repeatedly about the petitioner's communicated desire to not implicate Eichen in the case. The petitioner, here, has not overcome the presumption that Sobol's strategic decision to avoid implicating Eichen was reasonable given the petitioner's firm conviction not to implicate his brother-in-law.

In sum, we conclude that the petitioner failed to establish that Sobol's approach to the case, and in particular to the suppression hearing, was deficient given the information available to him and the demands made on him by the petitioner.

D

The petitioner also contends that trial counsel's failure to cite to *Katz* v. *United States*, supra, 389 U.S. 347, in his memorandum in support of the petitioner's motion to suppress was objectively unreasonable and constitutes deficient performance. The petitioner argues that Sobol instead incorrectly relied on *Baker* v. *Carr*, supra, 369 U.S. 186, to support the motion to suppress. The petitioner argues that doing so was improper because *Baker* concerned standing to contest the constitutionality of a statute, whereas *Katz* specifically addressed standing to contest a search. In response, the respondent contends that Sobol, in fact, did cite to *Katz* for the proposition that warrantless searches almost always are unreasonable. The respondent further argues that Sobol relied on the standing principles in *Katz*, even though he did not mention *Katz* when doing so.

In its memorandum of decision, the habeas court concluded that *Baker* v. *Carr*, supra, 369 U.S. 186, sufficiently supported Sobol's arguments and that the petitioner failed to show how reliance on *Katz* v. *United States*, supra, 389 U.S. 347, would have resulted in the criminal trial court concluding that he had standing. The habeas court also concluded that the fact that Sobol relied on *Baker*, instead of *Katz*, is not much of a basis

for a claim of deficient performance, when Sobol's strategy was informed by the facts of the case and the information given to him by the petitioner.

We agree with the habeas court that Sobol's briefing of the standing issue was not deficient. The following additional facts from the record are pertinent to the resolution of the petitioner's argument. In the petitioner's memorandum in support of his motion to suppress the evidence before the trial court, the petitioner argued that the warrantless search of his property violated the fourth amendment to the United States constitution and article first, §§ 7 and 9, of the Connecticut constitution. Specifically, the petitioner argued that the warrantless search of his property violated his constitutional rights because it did not fall under any exceptions to the warrant requirement, and the exclusionary rule mandates the suppression of evidence that was illegally obtained. The petitioner contended that (1) the area searched constituted a curtilage, as opposed to an open field where an individual may not legitimately expect privacy for activities conducted in the open field, (2) warrantless searches of property that are conducted subsequent to a warrantless aerial surveillance are not necessarily reasonable, (3) the plain view doctrine does not apply to warrantless searches, (4) no exigent circumstances were present, (5) the initial stop of the petitioner's vehicle was an invalid *Terry* stop, (6) even if law enforcement conducted a valid stop of the petitioner's vehicle, their conduct exceeded the scope of a proper stop, (7) any consent to search the premises was the result of law enforcement's illegal police conduct, and (8) the petitioner had standing to challenge the statements and the consent to search given by Phravixay.

In contending that he had standing to challenge the consent to search provided by Phravixay, the petitioner,

in his memorandum in support of his motion to suppress, cited to *Baker*, in support of his argument that he had a personal stake in the ruling on the motion to suppress due to his interest in avoiding conviction. See *Baker* v. *Carr*, supra, 369 U.S. 204. The petitioner also cited to *State* v. *Mitchell*, 56 Conn. App. 561, 565, 744 A.2d 927, cert. denied, 253 Conn. 910, 754 A.2d 162 (2000), for this court's reliance on the holding in *United States* v. *Salvucci*, 448 U.S. 83, 100 S. Ct. 2547, 65 L. Ed. 2d 619 (1980), namely, that a defendant must first establish a reasonable expectation of privacy in the premises before he may assert that his fourth amendment rights have been violated by improper intrusion into those premises.

The memorandum also addressed specifically why the petitioner had a legitimate expectation of privacy in the property. In particular, Sobol relied on the principles set forth in *Katz* v. *United States*, supra, 389 U.S. 347, in contending that the area searched constitutes a curtilage and that the petitioner had an expectation of privacy in that area. See *State* v. *Davis*, 283 Conn. 280, 324, 929 A.2d 278 (2007) ("the [reasonable expectation of privacy] test offers no exact template that can be mechanically imposed upon a set of facts to determine whether . . . standing is warranted" (internal quotation marks omitted)). In *Katz*, the Supreme Court set forth the following test to establish standing: "(1) whether the [person contesting the search] manifested a subjective expectation of privacy with respect to [the invaded premises or seized property]; and (2) whether that expectation [is] one that society would consider reasonable. . . . This determination is made on a case-by-case basis. . . . The burden of proving the existence of a reasonable expectation of privacy rests [with] the defendant." (Internal quotation marks omitted.) *State* v. *Jacques*, 332 Conn. 271, 279, 210 A.3d 533 (2019). Consistent with this test, Sobol argued that the area

searched constituted a curtilage because it was located immediately behind the residence and was enclosed by a fence, the area was enclosed by dense trees and foliage, the area lent itself to use for intimate activities such as swimming and gardening, and the area was fully protected from public view. Sobol also argued that the petitioner had an expectation of privacy with respect to the area, despite having Phravixay on the property as a tenant, because the petitioner owned and had a possessory interest in the property that he had not relinquished.

Moreover, the record shows that Sobol testified that his options for addressing the standing issue were limited by the lack of credible evidence of the petitioner's presence on the property. In line with his testimony, and the information the petitioner had provided to him, Sobol, in the memorandum in support of the petitioner's motion to suppress, needed to find an alternative to relying on specific evidence of the petitioner's use of the property to show the existence of a reasonable expectation of privacy in the area searched. Consequently, he argued that the petitioner had a legitimate expectation of privacy in the area searched because the property was a curtilage and because the petitioner owned and had a possessory interest in the property. See id., 287 ("We recognize that property law concepts do not necessarily control our fourth amendment inquiry. They are, however, clearly a factor to be considered." (Internal quotation marks omitted.)).

In the present case, the habeas court concluded, and the record supports, that Sobol's strategy was informed by the facts of the case and the information given to him by the petitioner. "Indeed, we recognize that [t]here are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way. . . . [A] reviewing court is required not simply to give

[the trial attorney] the benefit of the doubt . . . but to affirmatively entertain the range of possible reasons . . . counsel may have had for proceeding as [they] did . . . .'' (Internal quotation marks omitted.) *Robert S.* v. *Commissioner of Correction*, 194 Conn. App. 382, 393, 221 A.3d 493 (2019), cert. denied, 334 Conn. 913, 221 A.3d 446 (2020). Therefore, in considering the record, we agree with the habeas court that Sobol's failure to discuss *Katz* v. *United States*, supra, 389 U.S. 347, in detail, in support of the petitioner's motion to suppress, did not constitute deficient performance.

For the reasons set forth herein, we conclude that the habeas court properly concluded that the petitioner failed to prove that Sobol rendered deficient performance in litigating the petitioner's motion to suppress.[4]

[4] In his principal brief, the petitioner argues that he was prejudiced by Sobol's deficient performance because there was evidence in the form of mail delivered to the petitioner at the property and an agreement he entered into when purchasing the property for the purchase of the furnishings located at the property, that would have established that the petitioner had a reasonable expectation of privacy at the property. None of the documents to which the petitioner refers was offered at the suppression hearing, although they were admitted into evidence at the habeas trial. Nevertheless, the petitioner made no argument in his principal brief that Sobol performed deficiently by not offering this mail or the furnishings agreement into evidence at the suppression hearing. In his reply brief, the petitioner for the first time argues that Sobol performed deficiently by failing to conduct an adequate investigation, including asking the petitioner about "the volume and character of mail he received" at the property.

At oral argument before this court, the petitioner's appellate counsel argued that the petitioner, in the appeal, properly raised a claim of failure to investigate. The petitioner's appellate counsel cited to the petitioner's petition for a writ of habeas corpus and also argued that the principal brief raises the claim, despite not directly identifying the claim as one involving a failure to investigate. We disagree. "We repeatedly have stated that [w]e 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. . . . [F]or this court judiciously and efficiently to consider claims of error raised on appeal . . . the parties must clearly and fully set forth their arguments in their briefs. . . . The parties may not merely cite a legal principle without analyzing the relationship between the facts of the case and the law cited." (Citation omitted; internal

II

Next, the petitioner claims that the habeas court deprived him of his state and federal constitutional rights to due process of law[5] and committed plain error when, without notice or opportunity to be heard, the habeas court changed a full exhibit admitted at the habeas trial without limitation to one admitted only for a limited purpose. We disagree.

The following additional facts are necessary to the resolution of this claim. At the February 26, 2018 habeas trial, petitioner's exhibit 13 was marked as a full exhibit without objection. The exhibit consists of a fax cover sheet, attached to which is a document entitled "Second Draft of Proffer by Thomas Phravixay for Discussion Purposes Only." The document, drafted by Phravixay's attorney before the petitioner pleaded guilty, set forth a proposed statement that Phravixay might be willing to make regarding, inter alia, the petitioner's involvement in the marijuana grow operation. At the habeas trial, Sobol testified that exhibit 13 was given to him upon request from Attorney Christian Sarantopoulos, who had been the petitioner's previous criminal trial

quotation marks omitted.) *State* v. *Buhl*, 321 Conn. 688, 724, 138 A.3d 868 (2016); see also *Electrical Contractors, Inc.* v. *Dept. of Education*, 303 Conn. 402, 444 n.40, 35 A.3d 188 (2012) ("[c]laims are also inadequately briefed when they are raised for the first time in a reply brief . . . or consist of conclusory assertions . . . with no mention of relevant authority and minimal or no citations from the record" (citation omitted; internal quotation marks omitted)). Accordingly, this court will not review the claims that the petitioner raises for the first time in his reply brief and that were not presented properly to this court in his principal brief.

[5] "The defendant has not specifically identified his claim as falling under either the federal or state constitution. Because he does not claim that the state constitution provides greater protection in this regard than does the federal constitution, and because he has not presented a separate and adequate analysis under the state constitution . . . we regard his claim as being presented under the federal due process clause as applied to the state through the due process clause of the fourteenth amendment." (Citation omitted.) *State* v. *Rizzo*, 266 Conn. 171, 243 n.40, 833 A.2d 363 (2003).

attorney. Sobol testified that the draft proffer stated the opposite of what the petitioner had communicated to counsel with regard to his presence on the property, his role in the marijuana grow operation, and his fear of Phravixay.[6] Sobol further testified that the draft proffer was unsigned, and he was unable to testify as to whether the draft proffer was sworn to under oath.

At the trial before the habeas court, Attorney Brian Woolf, who represented Phravixay in relation to the criminal charges arising out of his arrest at the property, testified that he had drafted the proffer to provide information to the assistant state's attorney, Crockett, in anticipation that, if the draft proffer was accepted, Phravixay might testify at a trial of the petitioner. Asserting the attorney-client privilege, Woolf declined to testify as to whether the draft proffer was a rendition of the information that Phravixay had provided to him. Habeas counsel, asserting that Phravixay's attorney-client privilege had been waived, requested that the habeas court order Woolf to answer whether the draft proffer was a rendition of the information that Phravixay had provided to him. Habeas counsel sought to utilize Woolf's testimony, among additional purposes, to show the effect of the draft proffer's statements on the listener, in particular, Sobol. The habeas court sustained the objection to habeas counsel's inquiry, stating: "You're lucky you got this in as a full exhibit. Objection sustained. Move on." Woolf later testified that he did not independently verify anything with respect to the draft proffer, but that it was his general practice to verify the information of a proffer prior to finalizing the document.

[6] During closing arguments at the habeas trial, the petitioner's counsel argued that the information in the proffer showed that the petitioner had more significant ties to the property than what Sobol presented during the suppression hearing. Thus, the petitioner argued, the proffer supported the petitioner's claim that Sobol performed deficiently by not calling Phravixay to testify at the suppression hearing.

The habeas court made several remarks as to the weight of the draft proffer. The habeas court noted that the draft proffer was not signed, stamped or sworn to. The habeas court also stated that "[exhibit 13] may be a full exhibit, but it's the emptiest full exhibit I think I've ever seen." In response to habeas counsel's inquiry to Sobol about the information contained in the proffer, the habeas court stated: "Have I made myself unclear? To paraphrase the late John Nance Garner, it's not worth a warm bucket of spit. It has no provenance."

In its memorandum of decision, the habeas court stated the following regarding the draft proffer: "Attorney Brian Woolf testified on April 27, 2018, that he had represented Mr. Phravixay in the drug case. He prepared a proffer for the purposes of negotiations with the state's attorney. Petitioner's exhibit 13. The proffer was unsigned and unsworn. It was not in Mr. Phravixay's own words and the contents were not verified by Woolf. This proffer, premarked by both parties, was only allowed to remain in this trial as an exhibit to show its effect upon Sobol, not for the truth of its contents. If Mr. Phravixay had waived his fifth amendment rights and if he had testified according to the proffer's contents, then it would have been helpful to the petitioner's claim of standing. Those are two big 'ifs.' Sobol testified that in the proffer Phravixay did not claim that the petitioner had exclusive control of the property. Although his federal fifth amendment rights had expired, Phravixay was not produced at the habeas trial and the petitioner has failed completely to prove whathe would have said at the motion to suppress [hearing]. Here, if anything, petitioner's exhibit 13 may explain why the petitioner was so anxious to keep Mr. Phravixay off the stand at the motion to suppress hearing since the proffer describes an extensive marijuana cultivation business ongoing since 2003 involving the petitioner's legitimate business location, his sister's house, and even

his mother's property in New Milford. And one never knows what an incarcerated coconspirator will choose to say about his free coconspirator after that person had asked him to take 'the weight.' "

The petitioner, here, argues that exhibit 13 was admitted as a full exhibit without any objection, the petitioner was not given proper notice or opportunity to object prior to the habeas court's characterization of the exhibit in its memorandum of decision as a limited purpose exhibit, the habeas court's characterization of the exhibit as a limited purpose exhibit was a violation of due process, and it constitutes plain error.

A review of the record reflects that the habeas court erroneously stated in its memorandum of decision that exhibit 13 was admitted for the limited purpose of showing its effect upon Sobol. At the February 26, 2018 hearing before the habeas court, exhibit 13 was marked as a full exhibit without objection and, therefore, exhibit 13 was evidence in the case for all purposes. See *Hoffkins* v. *Hart-D'Amato*, 187 Conn. App. 227, 237, 201 A.3d 1053 (2019) ("[w]hen [a]n exhibit [is] offered and received as a full exhibit [it] is in the case for all purposes . . . and is usable as proof to the extent of the rational persuasive power it may have" (internal quotation marks omitted)). Nevertheless, it is the function of the habeas court, as the trier of fact, "to consider, sift, and weigh all the evidence . . . ." (Internal quotation marks omitted.) *State* v. *Campbell*, 169 Conn. App. 156, 165, 149 A.3d 1007, cert. denied, 324 Conn. 902, 151 A.3d 1288 (2016).

"Whether a party was deprived of his due process rights is a question of law to which appellate courts grant plenary review. . . . The core interests protected by procedural due process concern the opportunity to be heard at a meaningful time and in a meaningful manner." (Citation omitted.) *McFarline* v. *Mickens*, 177

Conn. App. 83, 100, 173 A.3d 417 (2017), cert. denied, 327 Conn. 997, 176 A.3d 557 (2018).

"Fundamental tenets of due process require that all persons directly concerned in the result of an adjudication be given reasonable notice and opportunity to present their claims or defenses. . . . It is the settled rule of this jurisdiction, if indeed it may not be safely called an established principle of general jurisprudence, that no court will proceed to the adjudication of a matter involving conflicting rights and interests, until all persons directly concerned in the event have been actually or constructively notified of the pendency of the proceeding, and given reasonable opportunity to appear and be heard. . . . It is fundamental in proper judicial administration that no matter shall be decided unless the parties have fair notice that it will be presented in sufficient time to prepare themselves upon the issue." (Citations omitted; internal quotation marks omitted.) *Urich* v. *Fish*, 58 Conn. App. 176, 181, 753 A.2d 372 (2000).

The petitioner argues that his right to due process was violated by the court's having limited, sua sponte, the use of exhibit 13 because it may have affected the petitioner's decision to not present additional evidence due to exhibit 13 being admitted as a full exhibit. The petitioner also contends that exhibit 13 was sufficient to establish that he had standing to challenge the search. We are not persuaded.

The petitioner's argument elevates form over substance. Having reviewed the record in this case, we conclude that it is clear that the habeas court gave the petitioner reasonable notice that, in its view, exhibit 13 lacked any probative value, and that it considered the weight of the exhibit as not being worth "a warm bucket of spit." Thus, the petitioner was on notice that he should not rely on exhibit 13 to prove any fact important to

his case. In fact, we find it significant that the court's comments about exhibit 13 having little or no evidentiary value took place during the first day of the habeas trial, February 26, 2018. The second and third days of the trial did not take place until April 27, 2018, and May 8, 2018. Consequently, the petitioner had more than two months to gather and present additional evidence after the court informed him that exhibit 13 "has no provenance." Thus, his claim on appeal that, had he known that the court was going to treat exhibit 13 as admitted for a limited purpose, he would have submitted additional evidence simply is not persuasive.

In addition, because the habeas court, as the trier of fact in this instance, is responsible for assessing the credibility and weight of the evidence; see *State* v. *Campbell*, supra, 169 Conn. App. 165; we conclude that the petitioner is unable to demonstrate that the habeas court's action deprived the petitioner of due process essentially by disagreeing with the petitioner as to exhibit 13's evidentiary value. The record reflects that the habeas court, in its memorandum of decision, made clear that it did not share the petitioner's view that exhibit 13 established the petitioner's standing to challenge the search of the property. The court, in its memorandum of decision, fully explained the many reasons that it found exhibit 13 to have little or no weight. The court's reasoning in this regard should have come as no surprise to the petitioner because it was consistent with the comments the court made about exhibit 13 during the trial. Therefore, we conclude that the habeas court did not violate the petitioner's due process rights by stating in its memorandum of decision that exhibit 13 was a limited purpose exhibit.

The petitioner also claims that the habeas court's characterization of exhibit 13 as a limited purpose exhibit constitutes plain error. "[T]he plain error doctrine . . . has been codified at Practice Book § 60-5,

which provides in relevant part that [t]he court may reverse or modify the decision of the trial court if it determines . . . that the decision is . . . erroneous in law. . . . The plain error doctrine is not . . . a rule of reviewability. It is a rule of reversibility. That is, it is a doctrine that this court invokes in order to rectify a trial court ruling that, although either not properly preserved or never raised at all in the trial court, nonetheless requires reversal of the trial court's judgment, for reasons of policy. . . . The plain error doctrine 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 party cannot prevail under plain error unless it has demonstrated that the failure to grant relief will result in manifest injustice." (Footnote omitted; internal quotation marks omitted.) *Ajadi* v. *Commissioner of Correction*, 280 Conn. 514, 526, 911 A.2d 712 (2006).

We decline to invoke the plain error doctrine because we conclude that the habeas court's limited use of an exhibit that it found to be of little value, which was within its discretion as the trier of fact, did not affect the fairness or integrity of the proceedings, nor did it result in manifest injustice to the petitioner.

III

Finally, the petitioner claims that the habeas court erred when it sustained an objection to the admission of exhibit 7 for identification (exhibit 7) on hearsay grounds. The petitioner argues that the purpose of exhibit 7, which is a letter from the IRS to the petitioner that was addressed to the property searched by law enforcement, was to demonstrate that the petitioner believed that he was receiving sensitive financial documents at the property in a manner consistent with demonstrating that the petitioner had a reasonable expectation of privacy. The petitioner argues that the habeas

court's ruling was premised on an incorrect interpretation of the Connecticut Code of Evidence because the exhibit was offered to show that the petitioner exhibited a subjective expectation of privacy that society also recognizes as reasonable. The respondent argues that exhibit 7 is an out-of-court statement offered for the truth of the matter asserted because its significance lay in the truth of its contents and that the court properly exercised its discretion in not admitting it into evidence. In the alternative, the respondent argues that any error in excluding the exhibit was harmless. We agree with the petitioner that the habeas court erroneously excluded exhibit 7; however, we conclude that the error was harmless.

Before turning to the specific evidentiary claim raised by the petitioner, we first set forth our standard of review and other applicable law. "The trial court's ruling on evidentiary matters will be overturned only upon a showing of a clear abuse of the court's discretion. . . . We will make every reasonable presumption in favor of upholding the trial court's ruling, and only upset it for a manifest abuse of discretion. . . . [Thus, our] review of such rulings is limited to the questions of whether the trial court correctly applied the law and reasonably could have reached the conclusion that it did. . . . To the extent [that] a trial court's admission of evidence is based on an interpretation of the Code of Evidence, our standard of review is plenary. For example, whether a challenged statement properly may be classified as hearsay and whether a hearsay exception properly is identified are legal questions demanding plenary review. . . . We review the trial court's decision to admit [or exclude] evidence, if premised on a correct view of the law, however, for an abuse of discretion." (Citation omitted; internal quotation marks omitted.) *Milford Bank* v. *Phoenix Contracting Group, Inc.*, 143 Conn. App. 519, 532–33, 72 A.3d 55 (2013).

Because the petitioner claims that the trial court's decision to exclude the evidence was based on an incorrect interpretation of the Connecticut Code of Evidence, our standard of review is plenary.

"An out-of-court statement offered to establish the truth of the matter asserted is hearsay. . . . As a general rule, such hearsay statements are inadmissible unless they fall within a recognized exception to the hearsay rule." (Internal quotation marks omitted.) *David P.* v. *Commissioner of Correction*, 167 Conn. App. 455, 478, 143 A.3d 1158, cert. denied, 323 Conn. 921, 150 A.3d 1150 (2016).

"The hearsay rule forbids evidence of out-of-court assertions to prove the facts asserted in them. If the statement is not an assertion or is not offered to prove the facts asserted, it is not hearsay. . . . This exclusion from hearsay includes utterances admitted to show their effect on the hearer." (Citation omitted; internal quotation marks omitted.) *State* v. *Hull*, 210 Conn. 481, 498–99, 556 A.2d 154 (1989). "Because, however, the effect on the hearer rationale may be misapplied to admit facts that are not relevant to the issues at trial . . . courts have an obligation to ensure that a party's purported non-hearsay purpose is indeed a legitimate one. . . . Evidence is only admissible when it tends to establish a fact in issue or to corroborate other direct evidence in the case. . . . Accordingly, an out-of-court statement is admissible to prove the effect on the hearer only when it is relevant *for the specific, permissible purpose for which it is offered*." (Citations omitted; emphasis in original; internal quotation marks omitted.) *State* v. *Miguel C.*, 305 Conn. 562, 574, 46 A.3d 126 (2012). "The proffering party bears the burden of establishing the relevance of the offered testimony. Unless such a proper foundation is established, the evidence . . . is irrelevant." (Internal quotation marks omitted.) *State* v. *Davis*, 298 Conn. 1, 23, 1 A.3d 76 (2010).

During the habeas trial, the petitioner offered exhibit 7 to show the type of mail that he had been receiving at the property. The petitioner argued to the court that he was not offering exhibit 7 for the truth of the matters contained in the letter from the IRS. The respondent objected on hearsay grounds. The court did not rule on the respondent's objection. The petitioner then offered exhibit 7 for a second time. On this occasion, the respondent objected on the grounds of hearsay and authenticity. The court sustained the hearsay objection and also ruled that exhibit 7 did not fall under the business records exception to the hearsay rule.

The record is clear that the petitioner offered exhibit 7 to demonstrate the type of mail that he received at the property, regardless of the truth of the matter asserted in the letter. The petitioner was not offering the exhibit to prove the facts asserted within the letter and, thus, the exhibit did not constitute hearsay. Accordingly, we conclude that the habeas court erroneously excluded exhibit 7 on hearsay grounds.[7]

Having concluded that the habeas court improperly excluded exhibit 7 on hearsay grounds, we turn to the question of whether the habeas court's decision constituted harmful error. "Even when a trial court's evidentiary ruling is deemed to be improper, we must determine whether that ruling was so harmful as to require a new trial. . . . In other words, an evidentiary ruling will result in a new trial only if the ruling was both wrong and harmful." (Internal quotation marks omitted.) *State* v. *Kelsey*, 93 Conn. App. 408, 415, 889 A.2d 855, cert. denied, 277 Conn. 928, 895 A.2d 800 (2006). "Under the current and long-standing state of the law in Connecticut, the burden to prove the harmfulness of [a nonconstitutional] improper evidentiary ruling is borne by the

[7] Because we conclude that the letter from the IRS constituted nonhearsay, we need not decide whether the habeas court erroneously ruled that the letter does not fall under the business records exception.

[petitioner]. The [petitioner] must show that it is more probable than not that the erroneous action of the court affected the result." (Internal quotation marks omitted.) *State* v. *DeJesus*, 260 Conn. 466, 485, 797 A.2d 1101 (2002).

The petitioner, here, argued in his principal brief only that the habeas court's evidentiary ruling warrants reversal because the exclusion of exhibit 7 deprived the petitioner of the ability to demonstrate that he was receiving mail on a subject for which most people wish to exercise their right to privacy, which was the petitioner's inability to pay his taxes and his potential insolvency. In particular, the petitioner argued in that brief that exhibit 7 would have shown the character of the mail he received at the property in a compelling way that demonstrated his expectation of privacy at the property and, hence, his standing to pursue the motion to suppress. The petitioner made a much different argument regarding harm in his reply brief. In that brief, he argued for the first time that the "exclusion of [exhibit 7] impaired the petitioner's ability to prove that his trial attorney provided deficient representation and that the petitioner was harmed by it. . . . Exhibit 7 . . . was pertinent to the arguments that trial counsel did not properly research, investigate and prepare for the suppression [hearing]."

The respondent, in contrast, argues that the petitioner was not harmed by the habeas court's exclusion of exhibit 7 for the following three reasons. First, the respondent contends that the letter was cumulative of both the petitioner's testimony as to the volume and type of mail he received and of other exhibits admitted at the habeas trial. Second, the respondent argues that the petitioner testified without objection at the habeas trial that exhibit 7 was a letter he received at the property from the IRS concerning back taxes. Third, the respondent argues that it is unlikely that exhibit 7, if

admitted, would have convinced the habeas court that Sobol had rendered ineffective assistance in litigating the motion to suppress. We are not persuaded by either of the petitioner's arguments.

With respect to his argument in his principal brief, the petitioner's harm analysis is misguided. The question is not, as the petitioner posits, whether the admission of exhibit 7 at the suppression hearing would have established his standing to pursue the motion to suppress. The proper question is whether the habeas court's error in sustaining the objection to the admission of exhibit 7 likely affected the outcome of the *habeas trial*. Put another way, had exhibit 7 been admitted into evidence at the habeas trial would it likely have affected the court's conclusion as to either the *Strickland* deficient performance or prejudice prong? The petitioner's principal brief engages in no such analysis. Consequently, the petitioner, in his principal brief failed to identify any cognizable harm arising from the habeas court's erroneous evidentiary ruling.

The petitioner attempted to remedy this deficiency in his reply brief by arguing that the exclusion of exhibit 7 was harmful because it impaired his ability to prove that Sobol performed deficiently. As noted previously in this opinion though, the petitioner's principal brief in no way argued that Sobol's performance was deficient because he failed to conduct a sufficient investigation as to the type of mail the petitioner received at the property. See footnote 4 of this opinion. It is "a well established principle that arguments cannot be raised for the first time in a reply brief. . . . [I]t is improper to raise a new argument in a reply brief, because doing so deprives the opposing party of the opportunity to respond in writing. . . . Specifically with regard to evidentiary rulings, this court, on multiple occasions, has declined to review claims where the appellant fails to analyze harmful error in his or her principal brief."

(Citations omitted; internal quotation marks omitted.) *State* v. *Myers*, 178 Conn. App. 102, 106–107, 174 A.3d 197 (2017). Consequently, although we have considered the harm argument made by the petitioner in his principal brief, we decline to consider the new and different harm argument raised for the first time in his reply brief.[8]

Thus, in light of the record, and the single harm argument presented by the petitioner in his principal brief, we conclude that the petitioner has failed to meet his burden to prove that the exclusion of exhibit 7 harmed him in a way that makes it more probable than not that the decision of the habeas court would have been different.

The judgment is affirmed.

In this opinion the other judges concurred.

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[8] We also note that the petitioner in his reply brief did little to address the respondent's arguments as to why the court's error was harmless. We agree with the respondent that exhibit 7 was cumulative of other exhibits admitted during the habeas trial, particularly financial correspondence from his bank. In addition, the petitioner testified without objection about receiving exhibit 7 at the property and described it as a communication from the IRS concerning back taxes. Furthermore, it is undisputed that the petitioner had not given exhibit 7 to Sobol prior to the suppression hearing. Although the petitioner claims he did not look for the letter at the time because Sobol failed to tell him such correspondence was important, the petitioner testified that Sobol communicated to him prior to the suppression hearing about the importance of mail located on the property. The habeas court noted in its memorandum of decision that the petitioner appeared to contradict his own testimony concerning Sobol's alleged ineffectiveness in communicating the importance of mail located on the property to the petitioner. Finally, the habeas court, after noting the cumulative nature of the mail located on the property, found that none of the petitioner's clothes, toiletries, or other personal items were found at the property. Even the one piece of the petitioner's personal property, an aeration system, found on the property was addressed to the petitioner's Danbury residence.

TIMOTHY SOLEK *v.* COMMISSIONER OF CORRECTION (AC 43288)

Bright, C. J., and Moll and DiPentima, Js.

Syllabus

The petitioner, who had been convicted of the crimes of murder and sexual assault in the second degree, sought a second writ of habeas corpus, claiming that his trial counsel had rendered ineffective assistance, and the habeas court rendered judgment dismissing the petition. Thereafter, the habeas court denied the petition for certification to appeal, and the petitioner appealed to this court. *Held*:

1. This court declined to review the petitioner's claim that the habeas court improperly determined that he had not established good cause for the untimely filing of his second petition sufficient to rebut the statutory (§ 52-470) presumption of unwarranted delay: the petitioner raised for the first time in his reply brief the threshold issue of whether the habeas court abused its discretion in denying his petition for certification to appeal, rendering that claim unreviewable; moreover, even if the petitioner properly had raised that threshold issue, the petitioner failed to establish that the court abused its discretion in denying certification to appeal, the petitioner having failed to demonstrate that the court's conclusion that he had not demonstrated good cause for delay was debatable among jurists of reason, a court could resolve the issue differently or the questions raised deserved encouragement to proceed further; furthermore, the petitioner's argument that his severe mental health issues provided good cause for the delay was unreviewable because the record was inadequate to review such a claim, as the habeas court did not address the issue in its memorandum of decision and the petitioner did not filed a motion for articulation.
2. The petitioner's claims that the habeas court failed to provide him with a meaningful opportunity to investigate and to present evidence as to good cause for the delay in filing his petition was not reviewable on appeal: the petitioner's claim that the court failed to provide him with a meaningful opportunity to present evidence as to a plea offer was unreviewable because the petitioner failed to raise that evidentiary issue in his petition for certification to appeal; moreover, the petitioner's claim that the court failed to provide him with a meaningful opportunity to conduct an investigation regarding newly discovered evidence regarding the plea offer to support good cause for delay was outside the scope of appellate review, as the petitioner did not raise the issue at any time before the court, request additional time from the court in which to

conduct an investigation, or include this ground in his petition for certification to appeal, which also precluded review under *State* v. *Golding* (213 Conn. 233).

Argued January 4—officially released March 16, 2021

Procedural History

Petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland, where the court, *Newson, J.*, rendered judgment dismissing the petition; thereafter, the court denied the petition for certification to appeal, and the petitioner appealed to this court. *Appeal dismissed.*

Robert L. O'Brien, assigned counsel, with whom, on the brief, was *Christopher Y. Duby*, assigned counsel, for the appellant (petitioner).

Jonathan M. Sousa, deputy assistant state's attorney, with whom, on the brief, were *John C. Smriga*, state's attorney, and *Emily Trudeau*, assistant state's attorney, for the appellee (respondent).

Opinion

DiPENTIMA, J. The petitioner, Timothy Solek, appeals from the judgment of the habeas court dismissing as untimely, pursuant to General Statutes § 52-470 (d) and (e), his petition for a writ of habeas corpus. On appeal, the petitioner claims that the court (1) improperly determined that he had not established good cause for the untimely filing sufficient to rebut the statutory presumption of unwarranted delay and (2) failed to provide him with a meaningful opportunity to investigate and to present evidence as to good cause for the delay in filing his petition. We dismiss the appeal.

The following facts and procedural history are relevant. In 1999, the petitioner was convicted, following a jury trial, of murder and sexual assault in the second degree. The petitioner was sentenced to a total effective term of fifty-five years of incarceration. His conviction

was affirmed on direct appeal. See *State* v. *Solek*, 66 Conn. App. 72, 91, 783 A.2d 1123, cert. denied, 258 Conn. 941, 786 A.2d 428 (2001). Thereafter, the petitioner filed his first habeas petition, alleging, inter alia, ineffective assistance of trial and appellate counsel. The habeas court, *Hon. William L. Hadden, Jr.*, judge trial referee, dismissed the petition, and this court affirmed that judgment on appeal. See *Solek* v. *Commissioner of Correction*, 107 Conn. App. 473, 488, 946 A.2d 239, cert. denied, 289 Conn. 902, 957 A.2d 873 (2008).

On June 21, 2018, the self-represented petitioner filed a second petition for a writ of habeas corpus, which is the subject of this appeal. In this petition, he alleged new claims of ineffective assistance of trial counsel. The respondent, the Commissioner of Correction, filed a motion for an order to show cause regarding whether the second petition should be dismissed as untimely pursuant to § 52-470 (d) and (e). Section 52-470 (d) provides in relevant part: "In the case of a petition filed subsequent to a judgment on a prior petition challenging the same conviction, there shall be a rebuttable presumption that the filing of the subsequent petition has been delayed without good cause if such petition is filed after the later of the following . . . (2) October 1, 2014 . . . ."

At the hearing held on the respondent's motion to show cause, the petitioner, then represented by counsel, was the sole witness. He testified to his reasons for the delay, which included reliance on inaccurate advice of his habeas appellate counsel and the effect his mental health had on his ability to promptly file a second petition. In a memorandum of decision, the court found that the second habeas action was commenced after October 1, 2014, thereby triggering the statutory presumption of delay without good cause. It then concluded that the petitioner failed to demonstrate

good cause to rebut the presumption of delay and dismissed the action. The petitioner filed a petition for certification to appeal, and the court denied the petition. This appeal followed.

I

The petitioner claims that the court erred in dismissing his petition for a writ of habeas corpus. Specifically, he argues that the court improperly concluded that no good cause existed to rebut the presumption of delay in the filing of his petition for a writ of habeas corpus. We decline to review this claim because the petitioner has not properly raised a threshold claim.

The following legal principles are relevant to our analysis. In order to obtain appellate review of the dismissal of his petition for a writ of habeas corpus when his petition for certification to appeal that dismissal was denied, the petitioner was required to satisfy the two part standard set forth by our Supreme Court in *Simms* v. *Warden*, 229 Conn. 178, 187, 640 A.2d 601 (1994), and adopted in *Simms* v. *Warden*, 230 Conn. 608, 612, 646 A.2d 126 (1994). "Faced with the habeas court's denial of certification to appeal, a petitioner's first burden is to demonstrate that the habeas court's ruling constituted an abuse of discretion. . . . If the petitioner succeeds in surmounting that hurdle, the petitioner must then demonstrate that the judgment of the habeas court should be reversed on its merits." (Citations omitted.) *Simms* v. *Warden*, supra, 230 Conn. 612. "To prove an abuse of discretion, the petitioner must demonstrate that the [resolution of the underlying claim involves issues that] are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further." (Internal quotation marks omitted.) *Owens* v. *Commissioner of*

Correction, 63 Conn. App. 829, 831, 779 A.2d 165, cert. denied, 258 Conn. 905, 782 A.2d 138 (2001).

The respondent argues that the petitioner's claim is unreviewable because the petitioner failed to address in his main appellate brief the issue of whether the habeas court abused its discretion in denying certification to appeal. We agree.

In *Goguen* v. *Commissioner of Correction*, 195 Conn. App. 502, 504–505, 225 A.3d 977, cert. granted, 335 Conn. 925, 234 A.3d 980 (2020), this court declined to review the petitioner's claims seeking to reverse the judgment of the habeas court on the merits because the petitioner failed to satisfy the first prong of *Simms* v. *Warden*, supra, 229 Conn. 187, as a result of having "failed to brief the threshold question of whether the habeas court abused its discretion in denying his petition for certification to appeal." In the present case, the petitioner did not raise the issue of the denial of the certification to appeal until his reply brief. A claim that the habeas court abused its discretion in denying certification to appeal when raised for the first time in a reply brief is unreviewable. "The appellate courts of this state have often held that an appellant may not raise an issue for the first time in a reply brief. . . . An appellant's claim must be framed in the original brief so that it can be responded to by the appellee in its brief, and so that we can have the full benefit of that written argument. . . . We decline to consider the argument concerning this matter in the petitioner's reply brief." (Citations omitted; internal quotation marks omitted.) *Niblack* v. *Commissioner of Correction*, 80 Conn. App. 292, 298, 834 A.2d 779 (2003), cert. denied, 267 Conn. 916, 841 A.2d 219 (2004); id. (declining to consider claim that habeas court abused its discretion in denying certification to appeal when raised for first time in reply brief); see also *Thorpe* v. *Commissioner of Correction*, 165 Conn. App. 731, 733, 140 A.3d 319 (petitioner cannot

obtain appellate review of claim raised for first time in reply brief that habeas court abused its discretion in denying certification to appeal), cert. denied, 323 Conn. 903, 150 A.3d 681 (2016).

Furthermore, even if the petitioner properly had raised the threshold issue, we nonetheless would conclude that the petitioner failed to establish that the court abused its discretion in denying certification to appeal. The petitioner's underlying claim concerns the good cause standard enumerated in § 52-470. See *Blake* v. *Commissioner of Correction*, 150 Conn. App. 692, 695, 91 A.3d 535 (examination of underlying merits necessary when determining if habeas court abused discretion in denying certification to appeal), cert. denied, 312 Conn. 923, 94 A.3d 1202 (2014). "[T]o rebut successfully the presumption of unreasonable delay in § 52-470, a petitioner generally will be required to demonstrate that something outside of the control of the petitioner or habeas counsel caused or contributed to the delay." *Kelsey* v. *Commissioner of Correction*, 202 Conn. App. 21, 34, A.3d (2020), cert. granted, 336 Conn. 912, A.3d (2021). A decision of a habeas court regarding good cause under § 52-470 is reviewed for abuse of discretion. Id., 38.

The court determined that the petitioner had not demonstrated good cause for the delay because, even if it found credible the petitioner's testimony that counsel gave incorrect advice,[1] it was not credible that, within

[1] The petitioner testified at the show cause hearing that when he inquired as to his options if he did not prevail on appeal, his habeas appellate counsel responded that "because it's a habeas. Once you lost that, we do the appeals. If you lose that, that's your last chance." We do not agree that such advice, standing alone, is incorrect. Presumably, counsel giving such advice had reviewed the petitioner's case and pursued all issues he or she believed worthy. Consequently, it is not surprising that a diligent attorney would tell a petitioner that once his appeals were exhausted there would be nothing left to pursue in state court. Certainly, we would not expect counsel, who believed he or she had diligently represented the petitioner, to tell a disappointed petitioner that he could always sue the attorney himself or herself for ineffective assistance of counsel.

the six years between the giving of the advice sometime in 2008, and the deadline for filing his second petition on October 1, 2014, the petitioner would not have discovered that the advice was incorrect. The court further noted that the petitioner's filing of a federal civil rights action demonstrates that he had the ability to find information regarding legal remedies available to him. We defer to and are bound by the court's assessment of the petitioner's credibility. See *Orcutt* v. *Commissioner of Correction*, 284 Conn. 724, 741, 937 A.2d 656 (2007); see also *Coleman* v. *Commissioner of Correction*, 202 Conn. App. 563, 575, A.3d (2021). The petitioner has not demonstrated that the court's conclusion that he has not demonstrated good cause for delay is debatable among jurists of reason, that a court could resolve the issue differently or that the questions raised deserve encouragement to proceed further. See *Owens* v. *Commissioner of Correction*, supra, 63 Conn. App. 831.

Moreover, the petitioner's additional argument that his "severe mental health issues" provided good cause for the delay in filing his second habeas petition is unreviewable because the record is inadequate to review such a claim.[2] The court did not address this issue in its memorandum of decision, and the petitioner did not file a motion for articulation. Practice Book § 61-10 (b) provides in relevant part: "The failure of any party on appeal to seek articulation pursuant to Section 66-5 shall not be the sole ground upon which the court declines to review any issue or claim on appeal. . . ."

[2] The petitioner testified at the show cause hearing that he had been diagnosed with having bipolar disorder at an early age and that a death in his family, which had occurred during the pendency of his prior habeas action, exacerbated his mental health condition to the point of his being at risk for suicide. He stated that he sought mental health treatment and was prescribed various psychiatric medications. He attached to his second habeas petition a document from the Department of Correction health center dated July 3, 2014, which indicated that he also had been diagnosed with additional mental health concerns.

The commentary to § 61-10 states that "[t]he adoption of subsection (b) is not intended to preclude the court from declining to review an issue where the record is inadequate for reasons other than solely the failure to seek an articulation, such as, for example, the failure to procure the trial court's decision pursuant to Section 64-1 (b) or the failure to provide a transcript, exhibits or other documents necessary for appellate review." Practice Book § 61-10, commentary. Any meaningful review of this issue is further frustrated by the fact that the transcript of the good cause hearing and the court's memorandum of decision are devoid of any findings regarding the impact of the petitioner's mental health status on his ability to timely file his second habeas petition. See, e.g., *Bowden* v. *Commissioner of Correction*, 93 Conn. App. 333, 342, 888 A.2d 1131 (record was inadequate to review petitioner's argument where court's decision was devoid of any findings or analysis on issue and petitioner did not seek articulation), cert. denied, 277 Conn. 924, 895 A.2d 796 (2006).

II

The petitioner also claims that the court improperly dismissed his petition for a writ of habeas corpus following the show cause hearing without providing him with a meaningful opportunity to (a) present evidence as to a plea offer and (b) conduct an investigation regarding that newly discovered evidence to support good cause for delay. We decline to review these claims.

Section 52-470 (e) provides: "In a case in which the rebuttable presumption of delay under subsection (c) or (d) of this section applies, the court, upon the request of the respondent, shall issue an order to show cause why the petition should be permitted to proceed. The petitioner or, if applicable, the petitioner's counsel, shall have a meaningful opportunity to investigate the basis for the delay and respond to the order. If, after

such opportunity, the court finds that the petitioner has not demonstrated good cause for the delay, the court shall dismiss the petition. For the purposes of this subsection, good cause includes, but is not limited to, the discovery of new evidence which materially affects the merits of the case and which could not have been discovered by the exercise of due diligence in time to meet the requirements of subsection (c) or (d) of this section."

A

At the show cause hearing, the petitioner testified that his first habeas counsel had informed him that his codefendant in the underlying criminal trial, who had prevailed on direct appeal, was offered by the state a term of forty-five years of incarceration in exchange for a guilty plea on remand. The petitioner further testified that he had asked his first habeas counsel to inquire whether the state would offer him the same plea deal if he were to withdraw his then pending habeas petition. When the petitioner's counsel then asked at the show cause hearing whether his first habeas counsel ever reported that the state had made an offer, counsel for the respondent objected on the ground of relevancy. The petitioner's counsel argued that after he had been appointed to the case, he discovered new evidence of an e-mail from the petitioner's first habeas counsel indicating that there had been such an offer made. The court sustained the objection and did not permit the petitioner to testify regarding any plea offers made to him by the state prior to his first habeas trial. The court ruled that the hearing was limited to whether good cause existed for the delay in bringing the second habeas action, which was premised on ineffective assistance of trial counsel, and that the issue of whether the petitioner had colorable claims that were not alleged in the operative petition was not a proper line of inquiry at the show cause hearing.

We decline to review this claim because the petitioner failed to raise the evidentiary issue in his petition for certification to appeal.[3] In his petition, the petitioner set forth the following grounds for requesting certification to appeal to this court: "The trial court erred in its dismissal of the petitioner's petition for writ of habeas corpus; any and all other grounds as determined after a review of the file and transcripts."

"We review only the merits of claims specifically set forth in the petition for certification to appeal. . . . This court has declined to review issues in a petitioner's habeas appeal in situations where the habeas court denied certification to appeal and the issues on appeal had not been raised in the petition for certification. . . . A habeas petitioner cannot establish that the habeas court abused its discretion in denying certification on issues that were not raised in the petition for certification to appeal. . . . [S]ee also *Pereira* v. *Commissioner of Correction*, 176 Conn. App. 762, 775, 171 A.3d 105 (because it is impossible to review exercise of discretion that did not occur, Appellate Court confined to reviewing only those issues which had been brought to attention of habeas court in petition for certification to appeal), cert. denied, 327 Conn. 984, 175 A.3d 43 (2017); *Ouellette* v. *Commissioner of Correction*, 159 Conn. App. 854, 858 n.2, 123 A.3d 1256 (use of broad language in petition for certification to appeal does not serve as basis for this court to consider claims not raised specifically in petition), cert. denied, 320 Conn. 907, 128 A.3d 952 (2015); *Campbell* v. *Commissioner of Correction*, 132 Conn. App. 263, 267, 31 A.3d 1182 (2011) (consideration of issues not distinctly raised in petition for certification would amount to ambuscade of habeas judge)." (Citations omitted; inter-

[3] We additionally note that the claim regarding the plea offer is based on the actions of his first *habeas* counsel, which are not the subject of the operative habeas petition, which alleges ineffective assistance of *trial* counsel.

nal quotation marks omitted.) *Coleman* v. *Commissioner of Correction*, supra, 202 Conn. App. 569–70. It is axiomatic that we cannot determine whether the court abused its discretion in denying certification on an issue that was never raised in the petition for certification. Therefore, we decline to review the petitioner's evidentiary claim because it was not specifically raised in his petition for certification.

B

The petitioner also argues that the court deprived him of a meaningful opportunity to investigate newly discovered evidence regarding the alleged plea offer made by the state. This claim is outside the scope of appellate review.

The petitioner did not raise this issue at any time before the habeas court. He did not request additional time from the court in which to conduct an investigation, either by way of motion prior to the show cause hearing or verbally during the show cause hearing. Moreover, the petitioner did not include this ground in his petition for certification to appeal. The petitioner seeks review of this unpreserved claim pursuant to *State* v. *Golding*, 213 Conn. 233, 239–40, 567 A.2d 823 (1989). "Section 52-470 (g) conscribes our appellate review to the issues presented in the petition for certification to appeal . . . . Permitting a habeas petitioner, in an appeal from a habeas judgment following the denial of a petition for certification to appeal, to seek *Golding* review of a claim that was not raised in, or incorporated into, the petition for certification to appeal would circumvent the requirements of § 52-470 (g) and undermine the goals that the legislature sought to achieve in enacting § 52-470 (g)." (Internal quotation marks omitted.) *Whistnant* v. *Commissioner of Correction*, 199 Conn. App. 406, 418–19, 236 A.3d 276, 286–87,

cert. denied, 335 Conn. 969, 240 A.3d 286 (2020). Therefore, we conclude that *Golding* review is unavailable to the petitioner with respect to this claim.

The appeal is dismissed.

In this opinion the other judges concurred.

EDWARD BERMAN *v.* ELLEN BERMAN
(AC 42554)

Elgo, Alexander and DiPentima, Js.

Syllabus

The plaintiff, whose marriage to the defendant had previously been dissolved, appealed from the decision of the trial court denying in part his postjudgment motion for modification of alimony. The plaintiff sought a modification of his obligation to pay alimony, to provide for the defendant's health insurance and to maintain life insurance, alleging that his income had decreased substantially since the date of dissolution. At the hearing on the motion, the self-represented defendant made statements regarding certain equity that she had not taken in the plaintiff's business during her cross-examination of the plaintiff and during her closing argument, but did not question the plaintiff regarding the equity that she allegedly gave up or any claims to real estate or business assets that she may have abandoned in exchange for alimony. *Held*:

1. The trial court improperly found that the defendant had relinquished claims she might have had to certain marital assets in exchange for lifetime alimony, as that finding was not supported by the record: there was no testimony or evidence proffered at the hearing on the motion for modification to demonstrate that the parties had made such an exchange, nor was there any language in the parties' agreement that supported the court's finding, and, although the defendant made statements at the hearing while questioning the plaintiff and during her closing argument that she gave up equity for alimony, her statements did not constitute evidence, and the court appropriately cautioned her to that effect, and the defendant did not offer testimony from any other witness, including herself, in support of her claim that she exchanged equity for lifetime alimony.
2. The trial court abused its discretion in denying the plaintiff's motion for modification of alimony on the basis of its erroneous finding that the defendant had given up claims during the dissolution proceedings; although the trial court implicitly found a substantial change in the plaintiff's financial circumstances since the date of the dissolution, there

was nothing in the separation agreement, which terms were negotiated with the assistance of counsel, to indicate that the defendant gave up equity or assets in exchange for lifetime alimony, nor was there any evidence proffered at the hearing on the motion demonstrating that the parties had made such an exchange; accordingly, there was a lack of an evidentiary basis in the record for the court's finding of an exchange of assets or equity for lifetime alimony, on which the court's ultimate decision denying the motion in part was based.

Argued December 7, 2020—officially released March 16, 2021

Procedural History

Action for the dissolution of a marriage, and for other relief, brought to the Superior Court in the judicial district of Danbury, where the court, *Winslow*, *J.*, rendered judgment dissolving the marriage and granting certain other relief in accordance with the parties' separation agreement; thereafter, the court, *Eschuk*, *J.*, denied in part the plaintiff's motion for modification of alimony, from which the plaintiff appealed to this court. *Reversed*; *further proceedings*.

Christopher P. Norris, for the appellant (plaintiff).

Ellen Berman, self-represented, the appellee (defendant).

Opinion

DiPENTIMA, J. The plaintiff, Edward Berman, appeals from the judgment of the trial court denying in part his motion to modify his obligation to pay alimony and to provide health and life insurance to the defendant, Ellen Berman.[1] On appeal, the plaintiff claims

[1] The court denied the plaintiff's motion for modification with one exception, which concerned the plaintiff's obligation to pay for the defendant's round trip travel costs to Saint Maarten two times per year. Specifically, in its memorandum of decision, the court stated: "Since the defendant indicated that her accommodation in Saint Maarten was destroyed in Hurricane Irma, the plaintiff may suspend his obligation set out in paragraph 18.3 (10) [of the parties' separation agreement] . . . to afford the defendant two round trips to that island until his repayment of the Medicare penalties has been completed. . . . Other than the suspension of the round trip payments, the plaintiff's motion for modification is denied."

that the court erred in (1) finding that the defendant had ceded claims she might have had at the time of the dissolution of the parties' marriage in exchange for lifetime alimony, (2) denying his motion for modification of alimony on the basis of that finding and its finding that the defendant had given up claims during the dissolution proceedings as part of the mosaic, and (3) denying his motion for modification of alimony after finding that his income had decreased by approximately 32 percent since the date of the dissolution. We reverse the judgment of the trial court.

The following factual and procedural history is relevant to our resolution of the claims on appeal. The plaintiff and the defendant were married in Norwalk on October 24, 1976. Following a breakdown in the parties' marriage, the trial court, *Winslow*, *J.*, rendered a judgment dissolving their marriage on January 16, 2013. The court incorporated into the dissolution judgment a separation agreement (agreement) that had been executed and signed by the parties, both of whom had legal representation in negotiating the agreement. The agreement provided that, upon the sale of the marital residence in Ridgefield, the plaintiff was required to pay the defendant $6500 per month as alimony. Further, upon the sale of a condominium located in Vermont that was owned by the parties, the plaintiff's alimony obligation was to increase to $8000 per month and continue until either the death of the plaintiff, the death of the defendant or the defendant's remarriage. The agreement also required the plaintiff to be responsible for the defendant's medical and dental insurance, and to maintain term life insurance in the amount of $1 million with the defendant listed as the beneficiary. Pursuant to the agreement, the plaintiff also was responsible for a number of the parties' debts, including payment of an outstanding line of credit; payment of the mortgages on the marital residence, along with taxes,

insurance, utilities, repairs and maintenance expenses until the property is sold; payment of any deficiency related to the sale of the marital residence and the sale of the Vermont condominium; and payment of any outstanding loans related to his medical practice.

On August 29, 2018, the plaintiff filed a motion for modification of his alimony obligation as set forth in the agreement, as well as his obligation to pay for the defendant's health insurance and to maintain life insurance. In his motion, the plaintiff alleged that his income had decreased substantially since the date of the dissolution. On December 21, 2018, the trial court, *Eschuk*, *J.*, rendered judgment denying in part the plaintiff's motion for modification. See footnote 1 of this opinion. This appeal followed. Additional facts and procedural history will be set forth as necessary.

We begin by setting forth our standard of review. We review the court's judgment denying the motion for modification of alimony "under an abuse of discretion standard. An appellate court will not disturb a trial court's orders in domestic relations cases unless the court has abused its discretion or it is found that it could not reasonably conclude as it did, based on the facts presented. . . . In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action. . . . [T]he trial court's findings [of fact] are binding upon this court unless they are clearly erroneous in light of the evidence and the pleadings in the record as a whole. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or 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." (Citation omitted; internal quotation marks omitted.) *Callahan* v. *Callahan*, 192 Conn. App. 634, 644–45, 218

A.3d 655, cert. denied, 333 Conn. 939, 218 A.3d 1050 (2019).

"General Statutes § 46b-86 governs the modification of an alimony or child support order after the date of a dissolution judgment. Section 46b-86 (a) provides that a final order for alimony or child support may be modified by the trial court upon a showing of a substantial change in the circumstances of either party. Under that statutory provision, the party seeking the modification bears the burden of demonstrating that such a change has occurred. . . . To obtain a modification, the moving party must demonstrate that circumstances have changed since the last court order such that it would be unjust or inequitable to hold either party to it. Because the establishment of changed circumstances is a condition precedent to a party's relief, it is pertinent for the trial court to inquire as to what, if any, new circumstance warrants a modification of the existing order. . . .

"Once a trial court determines that there has been a substantial change in the financial circumstances of one of the parties, the same criteria that determine an initial award of alimony and support are relevant to the question of modification. . . . Thus, [w]hen presented with a motion for modification, a court must first determine whether there has been a substantial change in the financial circumstances of one or both of the parties. . . . Second, if the court finds a substantial change in circumstances, it may properly consider the motion and, on the basis of the [General Statutes § 46b-84] criteria, make an order for modification. . . . A finding of a substantial change in circumstances is subject to the clearly erroneous standard of review." (Citation omitted; internal quotation marks omitted.) *Flood* v. *Flood*, 199 Conn. App. 67, 77–78, 234 A.3d 1076, cert. denied, 335 Conn. 960, 239 A.3d 317 (2020).

Moreover, "[i]t is well established that a separation agreement that has been incorporated into a dissolution decree and its resulting judgment must be regarded as a contract and construed in accordance with the general principles governing contracts. . . . When construing a contract, we seek to determine the intent of the parties from the language used interpreted in the light of the situation of the parties and the circumstances connected with the transaction. . . . [T]he intent of the parties is to be ascertained by a fair and reasonable construction of the written words and . . . the language used must be accorded its common, natural, and ordinary meaning and usage where it can be sensibly applied to the subject matter of the contract. . . . When only one interpretation of a contract is possible, the court need not look outside the four corners of the contract." (Internal quotation marks omitted.) *Giordano* v. *Giordano*, 200 Conn. App. 130, 136, 238 A.3d 113, cert. denied, 335 Conn. 970, 240 A.3d 286 (2020); see also *Winthrop* v. *Winthrop*, 189 Conn. App. 576, 581–82, 207 A.3d 1109 (2019).

I

The plaintiff first claims that the trial court improperly found that the defendant had relinquished claims she might have had to certain marital assets in exchange for lifetime alimony. Specifically, the plaintiff claims that there was no testimony or evidence in the record to support the court's finding that such an exchange of assets for alimony had occurred. We agree.

The following additional facts are necessary for our resolution of this claim. A hearing on the plaintiff's motion for modification was held on November 21, 2018, at which both parties testified. The plaintiff was represented by counsel; the defendant was, as she is before us, a self-represented party. The plaintiff testified that he is a medical doctor and is sixty-eight years old.

He offered as an exhibit his financial affidavit from the date of the dissolution of the marriage, which showed his gross and net weekly income at that time. He also offered as an exhibit his 2012 tax return, which showed an income of $466,000 the year before his divorce. He testified that in 2012, following an inquiry by a Medicare contractor, he entered into an agreement that resulted in a payment order, which required him to pay $215,000 related to the Medicare investigation. The plaintiff further testified that in June, 2015, major changes occurred in his medical practice. Specifically, he stated that as a result of a newspaper article about the Medicare settlement and other factors, he lost income on a variety of fronts. To support that claim, he offered as an exhibit his 2017 tax return, which showed an income of $151,093. He testified that he has $336,000 in liabilities and that the Vermont property is in foreclosure. When asked if he has a negative net worth on his financial affidavit, he responded, "Yes I do. I guess I'm worthless." Because his "financial situation was extremely different when [the] negotiations [regarding] the divorce were agreed upon," he testified that he could no longer afford his $6500 monthly alimony obligation, let alone the increase to $8000 in alimony as set forth in the agreement. Thus, he requested that his alimony obligation be terminated.

During cross-examination of the plaintiff, the self-represented defendant asked the plaintiff if it is true that the defendant "took much less alimony than [she] could have gotten and took no equity," to which the plaintiff responded that "[t]here was no equity." Thereafter, the defendant stated that there was "about $300,000 equity in the office at the time of [the] divorce," and that she "did not take that equity." The court explained to the defendant that she needed to be asking the plaintiff questions, rather than making statements, and that she could make a statement later on, but that

her statement could not add evidence. After the court finished its explanation, the defendant again attempted to ask a question about equity, to which the plaintiff again replied that his medical practice did not have $300,000 of equity in the property.

During the remainder of her cross-examination of the plaintiff, the defendant did not ask any questions regarding the equity that she allegedly gave up or any claims to real estate or business assets that she may have abandoned in exchange for alimony. The defendant subsequently was called to the witness stand by the plaintiff's attorney and questioned concerning the requirement in the dissolution judgment that she apply for Social Security disability benefits within one day of the date of the judgment. After the defendant's brief testimony answering those questions, the plaintiff's attorney informed the court that he had no other witnesses to call, and the court stated to the defendant that she could now call witnesses. In response, the defendant called the plaintiff to the witness stand and questioned him further regarding the cost of his wedding and his ability to afford vacations. When the questioning of the plaintiff was completed, the court asked the defendant if there were any other witnesses that she wanted to call, including herself, to which she responded, "No." During her closing argument, the defendant stated twice that she took no equity and significantly less alimony because the plaintiff was supposed to assume all of the debt. She further stated that she did "not recall any discussions about [the plaintiff] being investigated by Medicare during the collaborative divorce," and, that if she knew, she "would have taken the office equity but was advised by [her] attorney that [she had] good alimony and not to worry."In its memorandum of decision denying the plaintiff's motion for modification of alimony, the court stated: "The agreement entered into by the parties at the time of the

divorce is a detailed and complicated one. It was entered into with the assistance of counsel on both sides. Courts have often described the careful redistribution of marital property at time of dissolution as a 'mosaic' in the sense that each part of the disposition fits into other parts making a whole 'picture.' The court finds that the agreement in this case truly reflects that concept. It would be difficult, if not impossible, to remove one part without damaging the remainder. The defendant is in poor health, a fact clearly contemplated at the time of the agreement, and has to have medical coverage: *a benefit for which she waived other claims. She also exchanged claims she might have had to real estate and business assets for the supposed security of lifetime support*. . . . [The plaintiff's] agreement to pay alimony to the defendant was clearly to support her ongoing needs, rather than being rehabilitative. She has no other source of income than her alimony. It is highly improbable that she could obtain employment. Even without her health issues her skills as a nurse are outdated and would be difficult to reacquire. Essentially, *the defendant appears to have exchanged her claims to various assets for lifetime alimony and payment of her medical expenses*." (Emphasis added.)

On the basis of our careful review of the record, including the transcript of the hearing on the plaintiff's motion for modification, we conclude that the court's finding that the defendant gave up her claims to certain marital assets in exchange for lifetime alimony is not supported by the record. There was simply no evidence proffered at the hearing on the motion for modification to demonstrate that the parties had made such an exchange, nor was there any language in the parties' agreement that supported the court's finding. Although the defendant made statements at the hearing while questioning the plaintiff and during her closing argument that she gave up equity for alimony, her statements

did not constitute evidence, and the court appropriately cautioned her to that effect. See *Hall* v. *Hall*, 182 Conn. App. 736, 756, 191 A.3d 182 (2018) ("[A]rgument 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. . . . *In re Justin F.*, 116 Conn. App. 83, 96, 976 A.2d 707, appeal dismissed, 292 Conn. 913, 973 A.2d 660, cert. denied, 293 Conn. 914, 978 A.2d 1109 (2009), cert. denied sub nom. *Albright-Lazzari* v. *Connecticut*, 559 U.S. 912, 130 S. Ct. 1298, 175 L. Ed. 2d 1087 (2010); see also *Baker* v. *Baker*, [95 Conn. App. 826, 832–33, 898 A.2d 253 (2006)] (representations of counsel are not evidence)." (Internal quotation marks omitted.)), aff'd, 335 Conn. 377, 238 A.3d 687 (2020). The defendant did not offer testimony from any other witness, including herself, in support of her claim that she exchanged equity for lifetime alimony. The court's factual finding of such an exchange, therefore, is clearly erroneous.

II

The plaintiff's second claim is that the trial court improperly denied his motion for modification on the basis of its clearly erroneous finding that the defendant had given up claims during the dissolution proceedings. We agree.

As we stated previously, the party moving for a modification of alimony must demonstrate the existence of a substantial change in circumstances since the last court order, which, in the present case, is the dissolution judgment. See *Brown* v. *Brown*, 199 Conn. App. 134, 157, 235 A.3d 555 (2020); *Flood* v. *Flood*, supra, 199 Conn. App. 77–78. "[W]hen presented with a motion for modification, a court must first determine whether there has been a substantial change in the financial circumstances of one or both of the parties. . . . Second, if the court finds a substantial change in circumstances, it may properly consider the motion and . . .

make an order for modification." (Emphasis omitted; internal quotation marks omitted.) *Brown* v. *Brown*, supra, 157; see also *Callahan* v. *Callahan*, supra, 192 Conn. App. 645 (establishment of changed circumstances is condition precedent to party's relief).

The trial court made no express finding of a substantial change in circumstances. This court has determined previously, however, "that an implicit finding of a substantial change of circumstances by the trial court will satisfy the threshold predicate for modification of a support order." *Schade* v. *Schade*, 110 Conn. App. 57, 63, 954 A.2d 846, cert. denied, 289 Conn. 945, 959 A.2d 1009 (2008). In *Schade*, this court reasoned that "[a] fair reading of the trial court's memorandum of decision and its articulation leads us to the more logical and compelling conclusion that the trial court did find a substantial change of circumstances and then concluded that the alimony order should remain the same." Id., 64.

We conclude that the present case presents a similar situation of an implicit finding of a substantial change in circumstances. After noting in its memorandum of decision that the plaintiff's 2012 tax return showed an annual gross income of $466,423, while his 2017 tax return showed a decline in his annual gross income to $151,093, the court found that "[t]he plaintiff's financial circumstances have undoubtedly deteriorated since the date of the dissolution." The court further noted the $215,000 penalty stemming from the Medicare investigation that the plaintiff was required to pay following the dissolution, along with the loss of business he sustained as a result of that investigation. After stating in its memorandum of decision that "[t]he court may modify an order for the payment of alimony pursuant to . . . § 46b-86 upon a showing of a substantial change in the circumstances of either party, *but is not required to do so*," the court found that "while [the plaintiff's] financial

state has worsened since the dissolution, the court finds that he still has resources available to him." (Emphasis added.) A fair reading of the court's memorandum of decision leads us to conclude that the court implicitly found a substantial change in the plaintiff's financial circumstances since the date of the dissolution but determined that the alimony order should not be modified.

In declining to modify the plaintiff's alimony obligation, the court noted that the "agreement entered into by the parties at the time of the divorce is a detailed and complicated one," and that "[i]t would be difficult, if not impossible, to remove one part without damaging the remainder." The court further explained that the defendant "has to have medical coverage: a benefit for which she waived other claims. She also exchanged claims she might have had to real estate and business assets for the supposed security of lifetime support. . . . Essentially, the defendant appears to have exchanged her claims to various assets for lifetime alimony and payment of her medical expenses." In part I of this opinion, however, we concluded that the court's finding of such an exchange of assets for alimony was clearly erroneous. Because the court's denial of the plaintiff's motion for modification was based, at least in part,[2] on its clearly erroneous finding that an exchange of equity for lifetime alimony had taken place, we are thus "left with the definite and firm conviction that a mistake has been committed." (Internal quotation marks omitted.) *Thomasi* v. *Thomasi*, 181 Conn. App.

[2] In addition to finding that an exchange of equity for lifetime alimony had taken place, the court also found that the defendant is in poor health, that the plaintiff's financial difficulties could not be attributed to the defendant, that the plaintiff still has resources available to him despite the worsening of his financial state since the dissolution, that his payments to Medicare should end shortly, that he should ask his sons to assist in repaying their student loans, and that the plaintiff is able to afford out-of-state vacations, while the defendant does not have similar resources available to her.

822, 847, 188 A.3d 743 (2018); see also *LeSueur* v. *LeSueur*, 186 Conn. App. 431, 464, 199 A.3d 1082 (2018) ("[a]ppellate courts look at the record, and determine whether the [trial] court either incorrectly applied the law or could not reasonably conclude as it did" (internal quotation marks omitted)).

We are mindful that courts often describe "financial orders appurtenant to dissolution proceedings as entirely interwoven and as a carefully crafted mosaic, each element of which may be dependent on the other"; (internal quotation marks omitted) *Steller* v. *Steller*, 181 Conn. App. 581, 589, 187 A.3d 1184 (2018); and that the parties, both represented by counsel at the time, negotiated the terms that appeared in the agreement that was incorporated into the dissolution judgment. There is nothing in that agreement, however, indicating that the defendant gave up equity or assets in exchange for lifetime alimony,[3] nor was any evidence proffered at the hearing on the motion for modification demonstrating that the parties had made such an exchange, and it would be improper for this court to speculate as to what might have been exchanged for the terms agreed upon in the parties' agreement.

"Although we allow pro se litigants some latitude, the right of self-representation provides no attendant license not to comply with relevant rules of procedural and substantive law. . . . Self-represented parties are not afforded a lesser standard of compliance, and [a]lthough we are solicitous of the rights of pro se litigants . . . [s]uch a litigant is bound by the same rules

[3] In fact, the agreement contains a provision that permits a " 'second look' " or "de novo review . . . of alimony when the husband retires," which could occur when he turns sixty-eight, approximately five years after the dissolution judgment was rendered. Further, the defendant acknowledged at oral argument before this court that there was no formal exchange and stated that she "knew in the back of [her] mind" that she "didn't want to disturb" the plaintiff's business because she "wanted [her] alimony," so she "agreed with [her] attorney" to "just go for the alimony."

. . . and procedure as those qualified to practice law." (Internal quotation marks omitted.) *Rutka* v. *Meriden*, 145 Conn. App. 202, 218, 75 A.3d 722 (2013). Consequently, "[w]hen a defendant elects to proceed without the benefit of counsel, [she] takes the risk that because of [her] inexperience and lack of knowledge, [she] will suffer disadvantages to which, with proper representation, [she] would not be subject." *State* v. *Lo Sacco*, 12 Conn. App. 481, 496, 531 A.2d 184, cert. denied, 205 Conn. 814, 533 A.2d 568 (1987). This case is illustrative of the dangers inherent in self-representation. The defendant's statements and closing argument at the hearing did not constitute evidence. See *Lavy* v. *Lavy*, 190 Conn. App. 186, 206 n.13, 210 A.3d 98 (2019) ("arguments of counsel are not evidence"); *Hall* v. *Hall*, supra, 182 Conn. App. 756 ("arguments of a pro se litigant are not proof" (internal quotation marks omitted)). The lack of an evidentiary basis in the record for the court's finding of an exchange of assets or equity for lifetime alimony, on which its ultimate decision denying the plaintiff's motion for modification was based at least in part, compels us to find that the court abused its discretion in denying the plaintiff's motion. Accordingly, a new hearing on the plaintiff's motion for modification is necessary.[4] See *Steller* v. *Steller*, supra, 181 Conn. App. 597–98 (because trial court's decision on motion for modification was based, in part, on clearly erroneous finding, case was remanded for new hearing on motion for modification); *LeSueur* v. *LeSueur*, supra, 186 Conn. App. 446 (same).

The judgment is reversed and the case is remanded for further proceedings consistent with this opinion.

In this opinion the other judges concurred.

[4] In light of our determination as to the first two issues raised by the plaintiff on appeal, we need not address the plaintiff's third issue, in which he alleged that the trial court erred in denying his motion for modification of alimony after finding that his income had decreased by approximately 32 percent since the date of the dissolution.

JOSEPH STEPHENSON *v.* COMMISSIONER OF CORRECTION (AC 43166)

Bright, C. J., and Moll and Suarez, Js.

Syllabus

The petitioner, who had been convicted of burglary in the third degree, attempt to commit tampering with physical evidence and attempt to commit arson in the second degree, sought a writ of habeas corpus, claiming that the Commissioner of Correction and the Board of Pardons and Paroles violated and misapplied the parole eligibility statute (§ 54-125a) to increase his punishment, delay his parole eligibility date, and classify him as a violent offender. The habeas court issued an order declining to issue the writ of habeas corpus because, pursuant to the rule of practice (§ 23-24 (a)), the court lacked subject matter jurisdiction and the petition did not present a claim on which the habeas court could grant relief. Thereafter, the petitioner filed a petition for certification to appeal, which the habeas court denied, and the petitioner appealed to this court. *Held* that the habeas court did not abuse its discretion in denying the petition for certification to appeal: the allegations in the petition were insufficient to allege a claim under the stigma plus test because inmates do not have a cognizable liberty interest in parole eligibility; moreover, assuming that a habeas petitioner could state, as a matter of law, a viable stigma plus claim on the basis of his classification as a violent offender, the petitioner failed to allege facts demonstrating that his classification as a violent offender caused him to suffer consequences that were qualitatively different from the punishments that are usually suffered by prisoners so that they constituted a major change in conditions of his confinement amounting to a grievous loss; accordingly, the petitioner failed to sufficiently allege a cognizable liberty interest invoking the subject matter jurisdiction of the habeas court.

Argued November 16, 2020—officially released March 16, 2021

Procedural History

Petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland, where the court, *Newson, J.*, rendered judgment declining to issue a writ of habeas corpus; thereafter, the court denied the petition for certification to appeal, and the petitioner appealed to this court. *Appeal dismissed.*

Vishal K. Garg, for the appellant (petitioner).

Steven R. Strom, assistant attorney general, with whom, on the brief were *William Tong*, attorney gen-

eral, and *Clare Kindall*, solicitor general, for the appellee (respondent).

Opinion

MOLL, J. The petitioner, Joseph Stephenson, appeals following the denial of his petition for certification to appeal from the judgment of the habeas court declining to issue a writ of habeas corpus pursuant to Practice Book § 23-24 (a) (1) and (3).[1] On appeal, the petitioner claims that the court improperly (1) denied his petition for certification to appeal and (2) declined to issue the writ of habeas corpus when, in his petition for a writ of habeas corpus, he sufficiently alleged a claim under the stigma plus test adopted by our Supreme Court in *Anthony A.* v. *Commissioner of Correction*, 326 Conn. 668, 680–81, 166 A.3d 614 (2017), and, therefore, he alleged a cognizable liberty interest sufficient to invoke the subject matter jurisdiction of the court. We conclude that the habeas court did not abuse its discretion in denying the petitioner's petition for certification to appeal, and, therefore, we dismiss the appeal.

Our Supreme Court set forth the following facts in the petitioner's direct appeal from his conviction. "A silent alarm at the [Superior Court for the judicial district of Stamford-Norwalk, geographical area number twenty, located in Norwalk] was triggered at around 11 p.m. on Sunday, March 3, 2013, when the [petitioner] entered the state's attorney's office by breaking a window on the building's eastern side. Although the police

[1] Practice Book § 23-24 provides: "(a) The judicial authority shall promptly review any petition for a writ of habeas corpus to determine whether the writ should issue. The judicial authority shall issue the writ unless it appears that:

"(1) the court lacks jurisdiction;

"(2) the petition is wholly frivolous on its face; or

"(3) the relief sought is not available.

"(b) The judicial authority shall notify the petitioner if it declines to issue the writ pursuant to this rule."

were able to respond in about ninety seconds, the [petitioner] successfully evaded capture by running out of a door on the building's southern side. Footage from surveillance cameras introduced by the state at [the petitioner's criminal] trial show that the [petitioner] was inside of the building for slightly more than three minutes. In the investigation that followed, the police determined that the broken window belonged to an office shared by two assistant state's attorneys. One of those attorneys was scheduled to commence jury selection for a criminal trial against the [petitioner] on certain felony charges only two days after the break-in occurred. No other cases were scheduled to begin jury selection that week. Immediately after the break-in, various case files were discovered in an apparent state of disarray at the northern end of a central, common area located outside of that room. Specifically, several files were found sitting askew on top of a desk with two open drawers; still other files were scattered on the floor below in an area adjacent to a horizontal filing cabinet containing similar files. Photographs admitted as full exhibits clearly show labels on these files reading 'TUL' and 'SUM.' Finally, in a short hallway at the opposite end of that same common area, the police found a black bag containing six bottles of industrial strength kerosene with their UPC labels cut off. The bag and its contents were swabbed, and a report subsequently generated by the Connecticut Forensic Science Laboratory included the [petitioner's] genetic profile as a contributor to a mixture of DNA discovered as a result.

"Various other components of the state's case against the [petitioner] warrant only a brief summary. The day after the break-in, the [petitioner] called the public defender's office at the Norwalk courthouse to ask whether the courthouse was open and whether he was required to come in that day. The state also submitted

evidence showing that the [petitioner] drove a 2002 Land Rover Freelander with an aftermarket push bumper, a roof rack, and a broken tail light, and that surveillance videos from the area showed a similar vehicle driving by the courthouse repeatedly in the hours leading up to the break-in. Finally, the state submitted recordings of various telephone calls the [petitioner] made after he had been taken into custody as a result of his conviction on the criminal charges previously pending against him in Norwalk. During one such telephone call, the [petitioner] asked his brother, Christopher Stephenson, to get rid of 'bottles of things' for a heater, speculated about how the police located the vehicle, and attempted to arrange an alibi." (Footnote omitted.) *State* v. *Stephenson*, Conn. , , A.3d (2020).

In connection with the events of March, 2013, the petitioner was arrested on March 21, 2014. On October 28, 2016, following a jury trial, the petitioner was convicted of burglary in the third degree in violation of General Statutes § 53a-103, attempt to commit tampering with physical evidence in violation of General Statutes § 53a-49 (a) (2) and General Statutes (Rev. to 2013) § 53a-155 (a) (1), and attempt to commit arson in the second degree in violation of General Statutes §§ 53a-49 (a) (2) and 53a-112 (a) (1) (B). On January 6, 2017, the petitioner was sentenced to a total effective sentence of twelve years of incarceration followed by eight years of special parole. The petitioner filed a direct appeal from the judgment of conviction, which remains pending on remand in this court from our Supreme Court.[2]

[2] On January 8, 2019, this court reversed the judgment of conviction and remanded the case to the trial court with direction to render a judgment of acquittal as to all three charges against the petitioner. See *State* v. *Stephenson*, 187 Conn. App. 20, 39, 201 A.3d 427 (2019), rev'd, Conn. , A.3d (2020). On December 18, 2020, after having granted the state's petition for certification to appeal, our Supreme Court reversed this court's judgment and remanded the case to this court for further proceedings on the ground that this court had erred in resolving the direct appeal on an

On March 15, 2019, the petitioner, representing himself, filed a petition for a writ of habeas corpus using a state supplied form. The petitioner alleged that the Commissioner of Correction (commissioner) and the Board of Pardons and Paroles (board) "ha[d] been misapplying and illegally [overbroadening] the scope, plain meaning and language of [General Statutes] § 54-125a (b) (2) (B)[3] to increase [his] punishment, [delay his]

issue of evidentiary sufficiency that the parties had not been afforded an opportunity to brief or argue. See *State* v. *Stephenson*, supra, Conn. .

[3] General Statutes § 54-125a (a) provides in relevant part: "A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or total effective sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the total effective sentence less any risk reduction credit earned under the provisions of section 18-98e or one-half of the most recent sentence imposed by the court less any risk reduction credit earned under the provisions of section 18-98e, whichever is greater, may be allowed to go at large on parole (1) in accordance with the provisions of section 54-125i, or (2) in the discretion of a panel of the Board of Pardons and Paroles, if (A) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is a reasonable probability that such inmate will live and remain at liberty without violating the law, and (B) such release is not incompatible with the welfare of society. . . ."

General Statutes § 54-125a (b) (2) provides in relevant part: "A person convicted of . . . (B) an offense, other than [certain parole ineligible offenses], where the underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed."

General Statutes § 54-125a (c) provides in relevant part: "The Board of Pardons and Paroles shall, not later than July 1, 1996, adopt regulations . . . to ensure that a person convicted of an offense described in subdivision (2) of subsection (b) of this section is not released on parole until such person has served eighty-five per cent of the definite sentence imposed by the court. Such regulations shall include guidelines and procedures for classifying a person as a violent offender that are not limited to a consideration of the elements of the offense or offenses for which such person was convicted."

In 2015, amendments were made to § 54-125a (a) that have no bearing on this appeal. See Public Acts 2015, No. 15-84, § 1; Public Acts, Spec. Sess., June, 2015, No. 15-2, §§ 12 and 13. Additionally, at the time of the petitioner's offenses, General Statutes (Rev. to 2013) § 54-125a (b) (2) provided in relevant part: "A person convicted of . . . (B) an offense, other than [certain parole ineligible offenses], where the underlying facts and circumstances

parole eligibility date, violate [the] prohibition against ex post facto law, [and] classify [him] as [a] violent offender beyond what [the] law allows." (Footnote added.) As relief, the petitioner requested that the court order the commissioner and the board "to stop violating the plain meaning of § 54-125a (b) (2) (B), remove the violent offender classification, properly classify [him] to 50 [percent] designation for parole eligibility date, other relief etc."

Appended to the petition was a document entitled "Petition for Writ of Habeas Corpus" in which the petitioner alleged additional facts.[4] The appended document contained the following relevant allegations. After the petitioner had been sentenced and committed to the custody of the commissioner, the board informed him that, pursuant to § 54-125a, his conviction for attempted arson in the second degree rendered him ineligible for parole until he had served 85 percent of his definite sentence.[5] The board's decision was predicated on a "schedule" generated by the board listing " '85 [percent]' " designated offenses, including arson in the second degree, and a "brochure" providing that any individual convicted of, inter alia, attempt to commit any of the " '85 [percent]' " designated offenses

of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed *less any risk reduction credit earned under the provisions of section 18-98e*." (Emphasis added.) This appeal does not involve any claim concerning risk reduction credit. Accordingly, in the interest of simplicity, unless otherwise noted, we refer to the current revision of the statute.

[4] In setting forth the allegations on the state supplied form that he filed, the petitioner referred to the appended document. We construe the appended document to be a part of the petition. See *Whistnant* v. *Commissioner of Correction*, 199 Conn. App. 406, 411 n.4, 236 A.3d 276, cert. denied, 335 Conn. 969, 240 A.3d 286 (2020).

[5] "[D]efinite sentence is the flat maximum to which a defendant is sentenced . . . ." (Internal quotation marks omitted.) *Whistnant* v. *Commissioner of Correction*, 199 Conn. App. 406, 409 n.3, 236 A.3d 276, cert. denied, 335 Conn. 969, 240 A.3d 286 (2020).

would be ineligible for parole prior to completing 85 percent of his or her definite sentence. According to the petitioner, none of the crimes of which he was convicted was listed or specified in § 54-125a, or involved "the use, attempted use or [threatened] use of physical force against another person" as set forth in § 54-125a (b) (2) (B), and, as a result, "[the commissioner and the board] ha[d] abused their discretion, misapplied, overbroadened the scope and plain meaning and language of [§ 54-125a], to illegally violate [the] petitioner's due process and liberty interest rights under [a]rticle [f]irst, [§§ 1, 8, and 20] of the constitution of the state of Connecticut as well as the United [States] constitution. By classifying [the] petitioner as a 'violent' offender subject to 85 [percent] designation for parole eligibility, whereas the plain meaning and language of the law does not so allow or [prescribe], [the commissioner and the board] ha[d] prejudiced [the] petitioner's liberty interest [and] constitutional rights and caused [the] petitioner to suffer adverse collateral consequences. Such harm include[d] an increase in punishment with a longer period of incarceration than allowed under the plain meaning of the parole eligibility statute and per the intent of the legislature in enacting said statute. Also, [the] petitioner ha[d] been classified to a higher risk level for [the] application of penological goals. [The] petitioner also . . . had to endure the stigma of being publicly [labeled] as a 'violent offender' for past, present and future disparate treatment." (Emphasis omitted.)

As relief, the petitioner requested, inter alia, orders requiring the commissioner and the board (1) to recalculate his parole eligibility date such that he would be eligible for parole when serving 50 percent, or less, of his definite sentence, (2) to "cease and desist" from continuing to classify him as a violent offender when such a classification was improper pursuant to § 54-125a, and (3) to

"cease and desist" from violating, expanding the scope of, and misapplying § 54-125a.[6]

On March 26, 2019, the habeas court, *Newson*, *J.*, issued an order declining to issue the writ of habeas corpus because the court lacked subject matter jurisdiction pursuant to Practice Book § 23-24 (a) (1) and because the petition did not "present a claim upon which the habeas court [could] grant relief pursuant to . . . § 23-24 (a) (3)." On April 23, 2019, the petitioner filed a motion for reconsideration, which the court summarily denied on April 24, 2019. Thereafter, the petitioner filed a petition for certification to appeal from the court's judgment, which the court denied.[7] This appeal followed. Additional facts and procedural history will be set forth as necessary.

I

We first turn to the petitioner's claim that the habeas court abused its discretion in denying his petition for certification to appeal from the court's judgment declining to issue the writ of habeas corpus. We disagree.

General Statutes § 52-470 (g) provides: "No appeal from the judgment rendered in a habeas corpus proceeding brought by or on behalf of a person who has been convicted of a crime in order to obtain such person's release may be taken unless the appellant, within ten days after the case is decided, petitions the judge before whom the case was tried or, if such judge is unavailable, a judge of the Superior Court designated by the Chief Court Administrator, to certify that a question is involved in the decision which ought to be

[6] In his prayer for relief, the petitioner also requested an order directing the commissioner and the board to apply § 54-125a as it existed at the time of his "alleged [offenses] . . . to avoid any ex post facto law violation." On appeal, the petitioner does not raise any ex post facto claim.

[7] The petitioner applied for, and was granted, a waiver of fees, costs, and expenses and appointment of counsel on appeal.

reviewed by the court having jurisdiction and the judge so certifies."

"As our Supreme Court has explained, one of the goals our legislature intended by enacting this statute was to limit the number of appeals filed in criminal cases and hasten the final conclusion of the criminal justice process . . . . [T]he legislature intended to discourage frivolous habeas appeals. . . . [Section] 52-470 (b)[8] acts as a limitation on the scope of review, and not the jurisdiction, of the appellate tribunal. . . .

"Faced with a habeas court's denial of a petition for certification to appeal, a petitioner can obtain appellate review of the [disposition] of his [or her] petition for habeas corpus only by satisfying the two-pronged test enunciated by our Supreme Court in *Simms* v. *Warden*, 229 Conn. 178, 640 A.2d 601 (1994), and adopted in *Simms* v. *Warden*, 230 Conn. 608, 612, 646 A.2d 126 (1994). First, he [or she] must demonstrate that the denial of his [or her] petition for certification constituted an abuse of discretion. . . . Second, if the petitioner can show an abuse of discretion, he [or she] must then prove that the decision of the habeas court should be reversed on its merits. . . .

"To prove an abuse of discretion, the petitioner must demonstrate that the [resolution of the underlying claim involves issues that] are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further. . . .

"In determining whether the habeas court abused its discretion in denying the petitioner's request for certification, we necessarily must consider the merits of

[8] "Pursuant to No. 12-115, § 1, of the 2012 Public Acts, subsection (b) of § 52-470 was redesignated as subsection (g)." *Villafane* v. *Commissioner of Correction*, 190 Conn. App. 566, 572 n.1, 211 A.3d 72, cert. denied, 333 Conn. 902, 215 A.3d 160 (2019).

the petitioner's underlying claims to determine whether the habeas court reasonably determined that the petitioner's appeal was frivolous. In other words, we review the petitioner's substantive claims for the purpose of ascertaining whether those claims satisfy one or more of the three criteria . . . adopted by [our Supreme Court] for determining the propriety of the habeas court's denial of the petition for certification." (Citations omitted; footnote in original; internal quotation marks omitted.) *Villafane* v. *Commissioner of Correction*, 190 Conn. App. 566, 572–73, 211 A.3d 72, cert. denied, 333 Conn. 902, 215 A.3d 160 (2019).

For the reasons set forth in part II of this opinion, we conclude that the petitioner has failed to demonstrate that (1) his claims are debatable among jurists of reason, (2) a court could resolve the issues in a different manner, or (3) the questions are adequate to deserve encouragement to proceed further. Thus, we conclude that the habeas court did not abuse its discretion in denying the petition for certification to appeal.

II

Turning to the merits of the petitioner's substantive claim, the petitioner asserts that the habeas court improperly declined to issue the writ of habeas corpus. Specifically, the petitioner contends that the allegations in the petition sufficiently alleged a claim under the stigma plus test and, therefore, sufficiently alleged a cognizable liberty interest invoking the subject matter jurisdiction of the court. This claim is unavailing.

The following legal principles and standard of review govern our review of the petitioner's claim. Initially, as to the procedural posture of the present case, we note that the court declined to issue the writ of habeas corpus pursuant to Practice Book § 23-24. As our Supreme Court explained in *Gilchrist* v. *Commissioner of Correction*, 334 Conn. 548, 223 A.3d 368 (2020), "[§] 23-24

. . . reverses the usual sequence followed in the ordinary civil case; the habeas petition first is filed with the [habeas] court, and the writ issues and service of process occurs only if the court determines, after a preliminary review of the petition, that the petition pleads a nonfrivolous claim within the court's jurisdiction upon which relief can be granted." Id., 557. "[T]he screening function of . . . § 23-24 plays an important role in habeas corpus proceedings, but it is intended only to weed out obviously and unequivocally defective petitions, and we emphasize that [b]oth statute and case law evince a strong presumption that a petitioner for a writ of habeas corpus is entitled to present evidence in support of his [or her] claims. . . . Screening petitions prior to the issuance of the writ is intended to conserve judicial resources by eliminating obviously defective petitions; it is not meant to close the doors of the habeas court to justiciable claims. Special considerations ordinarily obtain when a petitioner has proceeded pro se. . . . [I]n such a case, courts should review habeas petitions with a lenient eye, allowing borderline cases to proceed. . . . The justification for this policy is apparent. If the writ of habeas corpus is to continue to have meaningful purpose, it must be accessible not only to those with a strong legal background or the financial means to retain counsel, but also to the mass of uneducated, unrepresented prisoners. . . . Thus, when borderline cases are detected in the preliminary review under § 23-24, the habeas court should issue the writ and appoint counsel so that any potential deficiencies can be addressed in the regular course after the proceeding has commenced." (Citations omitted; internal quotation marks omitted.) Id., 560–61.

"[I]n order to invoke successfully the jurisdiction of the habeas court, a petitioner must allege an interest sufficient to give rise to habeas relief. . . . We have

long held that because [a] determination regarding a trial court's subject matter jurisdiction is a question of law, our review is plenary." (Internal quotation marks omitted.) *Whistnant* v. *Commissioner of Correction*, 199 Conn. App. 406, 420, 236 A.3d 276, cert. denied, 335 Conn. 969, 240 A.3d 286 (2020).

Resolving the petitioner's claim requires us to review the allegations contained in his petition for a writ of habeas corpus, which he filed as a self-represented party. "[I]t is the established policy of the Connecticut courts to be solicitous of pro se litigants and when it does not interfere with the rights of other parties to construe the rules of practice liberally in favor of the pro se party. . . . However, [t]he petition for a writ of habeas corpus is essentially a pleading and, as such, it should conform generally to a complaint in a civil action. . . . The principle that a plaintiff may rely only upon what he [or she] has alleged is basic. . . . It is fundamental in our law that the right of a plaintiff to recover is limited to the allegations of his [or her] complaint. . . . While the habeas court has considerable discretion to frame a remedy that is commensurate with the scope of the established constitutional violations . . . it does not have the discretion to look beyond the pleadings . . . to decide claims not raised." (Citation omitted; internal quotation marks omitted.) *Vitale* v. *Commissioner of Correction*, 178 Conn. App. 844, 850–51, 178 A.3d 418 (2017), cert. denied, 328 Conn. 923, 181 A.3d 566 (2018). "In addition, while courts should not construe pleadings narrowly and technically, courts also cannot contort pleadings in such a way so as to strain the bounds of rational comprehension." (Internal quotation marks omitted.) *Whistnant* v. *Commissioner of Correction*, supra, 199 Conn. App. 418 n.9. "[W]e take the facts to be those alleged in the petition, including those facts necessarily implied from the allegations, construing them in favor of the petitioner for purposes

of deciding whether the court has subject matter jurisdiction." (Internal quotation marks omitted.) *Green* v. *Commissioner of Correction*, 184 Conn. App. 76, 85–86, 194 A.3d 857, cert. denied, 330 Conn. 933, 195 A.3d 383 (2018).

" 'Liberty interests protected by the [f]ourteenth [a]mendment may arise from two sources—the [d]ue [p]rocess [c]lause itself and the laws of the [s]tates.' . . . *State* v. *Matos*, 240 Conn. 743, 749, 694 A.2d 775 (1997). 'A liberty interest may arise from the [c]onstitution itself, by reason of guarantees implicit in the word "liberty," see, e.g., *Vitek* v. *Jones*, 445 U.S. 480, [493–94], 100 S. Ct. 1254, 63 L. Ed. 2d 552 (1980) (liberty interest in avoiding involuntary psychiatric treatment and transfer to mental institution), or it may arise from an expectation or interest created by state laws or policies, see, e.g., *Wolff* v. *McDonnell*, 418 U.S. 539, [556–58], 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974) (liberty interest in avoiding withdrawal of state-created system of good-time credits).' *Wilkinson* v. *Austin*, 545 U.S. 209, 221, 125 S. Ct. 2384, 162 L. Ed. 2d 174 (2005)." *Wright* v. *Commissioner of Correction*, 201 Conn. App. 339, 346–47, 242 A.3d 756 (2020), cert. denied, 336 Conn. 905, 242 A.3d 1009 (2021).

In *Anthony A.* v. *Commissioner of Correction*, supra, 326 Conn. 668, our Supreme Court adopted the stigma plus test used in federal courts to determine whether the petitioner had alleged a cognizable liberty interest. Id., 680–81. In that case, the petitioner filed a petition for a writ of habeas corpus claiming that the Department of Correction improperly had classified him as a sex offender without providing him with procedural due process. Id., 672. Citing *Sandin* v. *Conner*, 515 U.S. 472, 479 n.4, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995), our Supreme Court observed that "in certain situations, a different inquiry is appropriate to determine whether the due process clause directly confers a liberty interest

on inmates." (Internal quotation marks omitted.) *Anthony A.* v. *Commissioner of Correction*, supra, 679. "Specifically . . . where a state action has '"stigmatizing consequences"' for a prisoner and results in a punishment that is '"qualitatively different"' from that 'characteristically suffered by a person convicted of crime,' the protected liberty interest arises from the due process clause directly." (Citation omitted.) Id. The court determined that the stigma plus test was applicable in the case before it, where the petitioner had "alleged that he was stigmatized when the [commissioner] wrongfully classified him as a sex offender, and allege[d] as the 'plus' that he suffered various negative consequences, including being compelled to participate in treatment or risk forfeiting good time credits and parole eligibility . . . ." Id., 680. Thus, the court continued, the inquiry before it "focuse[d] on whether the allegations of the petition demonstrate[d] that the classification was wrongful and stigmatized the petitioner, and that the consequences suffered by the petitioner were 'qualitatively different' from the punishments usually suffered by prisoners, so that they constituted a major change in the conditions of confinement amounting to a grievous loss." Id., 680–81. The court determined that the petitioner had sufficiently alleged a claim under the stigma plus test and, thus, had sufficiently alleged a protected liberty interest to invoke the habeas court's subject matter jurisdiction. Id., 686.

In the present case, the petitioner maintains that, in his petition, he sufficiently alleged a claim under the stigma plus test, and, therefore, he sufficiently alleged a cognizable liberty interest. We disagree and conclude that the habeas court lacked subject matter jurisdiction over the petition for two independent reasons.

First, construing the allegations in favor of the petitioner, we do not read the petition to assert a claim under the stigma plus test; rather, at its crux, the petition

constitutes an attempt by the petitioner to advance his parole eligibility such that he would be eligible for parole after serving 50 percent of his definite sentence under § 54-125a (a), rather than 85 percent of his definite sentence under § 54-125a (b). This is made apparent by the petitioner's repeated references throughout the petition to his parole eligibility and by his explicit request for relief that the habeas court order the commissioner and the board to reclassify him for parole eligibility purposes. As our Supreme Court has made clear, however, an inmate does not have a cognizable liberty interest in parole eligibility under § 54-125a (a) and/or (b). See *Baker* v. *Commissioner of Correction*, 281 Conn. 241, 261–62, 914 A.2d 1034 (2007) (concluding that parole eligibility under General Statutes (Rev. to 2001) § 54-125a, as amended by Public Acts, Spec. Sess., June, 2001, No. 01-9, § 74,[9] "does not constitute a cognizable liberty interest sufficient to invoke habeas jurisdiction"); see also *Perez* v. *Commissioner of Correction*, 326 Conn. 357, 371, 163 A.3d 597 (2017) (The court

[9] General Statutes (Rev. to 2001) § 54-125a, as amended by Public Acts, Spec. Sess., June, 2001, No. 01-9, § 74, provides in relevant part: "(a) A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or aggregate sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the aggregate sentence or one-half of the most recent sentence imposed by the court, whichever is greater, may be allowed to go at large on parole in the discretion of the panel of the Board of Parole [now the Board of Pardons and Paroles] for the institution in which the person is confined, if (1) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is reasonable probability that such inmate will live and remain at liberty without violating the law, and (2) such release is not incompatible with the welfare of society. . . .

"(b) . . . (2) A person convicted of an offense, other than [certain parole ineligible offenses], where the underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed.

"(c) The Board of Parole [now the Board of Pardons and Paroles] shall, not later than July 1, 1996, adopt regulations . . . to ensure that a person

cited *Baker* for the proposition that there is no cognizable liberty interest in parole eligibility under § 54-125a and, additionally, observed that it is "[a] fundamental fact that the determination whether to grant an inmate parole is entirely at the discretion of the board. It follows that if an inmate has no vested liberty interest in the granting of parole, then the timing of when the board could, in its discretion, grant parole does not rise to the level of a vested liberty interest either." (Emphasis omitted.)).[10] As a result, we conclude that

convicted of an offense described in subdivision (2) of subsection (b) of this section is not released on parole until such person has served eighty-five per cent of the definite sentence imposed by the court. Such regulations shall include guidelines and procedures for classifying a person as a violent offender that are not limited to a consideration of the elements of the offense or offenses for which such person was convicted. . . ."

[10] In *Baker*, as this court recently summarized, "the petitioner had alleged that he improperly had been classified as a violent offender under General Statutes (Rev. to 2001) § 54-125a (b) (2) and (c), as amended by Public Acts, Spec. Sess., June, 2001, No. 01-9, § 74, thus rendering him ineligible for parole until he served 85 percent of his sentence, and that he should have been classified as a nonviolent offender under subsection (a) of that statute, which would have made him eligible for parole after he had served 50 percent of his sentence. *Baker* v. *Commissioner of Correction*, supra, 281 Conn. 245–46. Our Supreme Court held that the petitioner did not have a cognizable liberty interest in his parole eligibility status sufficient to invoke the subject matter jurisdiction of the habeas court. Id., 243, 251–52. In reaching that conclusion, the court was guided by United States Supreme Court precedent. See *Greenholtz* v. *Inmates of the Nebraska Penal & Correctional Complex*, 442 U.S. 1, 11–12, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979) (*Greenholtz*) (holding that mandatory language in state's parole statute created cognizable liberty interest); *Board of Pardons* v. *Allen*, 482 U.S. 369, 378 n.10, 107 S. Ct. 2415, 96 L. Ed. 2d 303 (1987) (same). In contrast to the statutes at issue in *Greenholtz* and *Allen*, the court in *Baker* observed that (1) the 'only mandatory language in [the amended 2001 revision of § 54-125a] is that in subsection (b) preventing the board from considering violent offenders for parole before they have served 85 percent of their sentences' . . . *Baker* v. *Commissioner of Correction*, supra, 255; (2) 'the broad, discretionary nature of the board's authority in classifying offenders [as violent] is underscored in subsection (c) [of § 54-125a]'; id., 255–56; and (3) 'the decision to grant parole [under § 54-125a] is entirely within the discretion of the board.' Id., 257. In light of the permissive language of § 54-125a, the court concluded that the petitioner did not possess a cognizable liberty interest in parole eligibility. See id., 257." (Emphasis omitted; footnote omit-

the habeas court lacked subject matter jurisdiction to entertain the petition.

Second, even assuming arguendo that a habeas petitioner could state, as a matter of law, a viable stigma plus claim on the basis of his or her classification as a violent offender and that the petitioner attempted to raise such a claim in his petition,[11] we conclude that

ted.) *Boyd* v. *Commissioner of Correction*, 199 Conn. App. 575, 582–83, 238 A.3d 88, cert. granted, 335 Conn. 962, 239 A.3d 1214 (2020).

Later, in *Anthony A.*, our Supreme Court observed that in *Baker*, in "consider[ing] the question of whether the actions of prison officials gave rise to a protected liberty interest, the court [had] resolved the issue by relying on authority that predated and was disapproved by [the United States Supreme Court in *Sandin* v. *Conner*, supra, 515 U.S. 472]." *Anthony A.* v. *Commissioner of Correction*, supra, 326 Conn. 685. The court determined that, because (1) the authority on which the court in *Baker* relied had been criticized by *Sandin* and (2) *Baker* did not appear to involve a petitioner who had claimed to have been stigmatized by the classification at issue, *Baker* did not control the outcome of the case before it regarding the petitioner's classification as a sex offender. Id.

We do not construe *Anthony A.* as having vitiated the conclusion reached in *Baker* and reaffirmed in *Perez* that parole eligibility under § 54-125a (a) and/or (b) is not a cognizable liberty interest. In *Wright* v. *Commissioner of Correction*, supra, 201 Conn. App. 339, this court observed that, notwithstanding the criticism in *Sandin* of the methodology used in *Greenholtz* and *Allen* as recognized by *Anthony A.*, "[i]t remains good law that an inmate does not have a constitutionally protected liberty interest in early parole consideration." Id., 349–50 n.4. Additionally, in decisions published after *Anthony A.*, this court has continued to rely on *Baker* or *Perez* for the proposition that that there is no cognizable liberty interest in parole eligibility under § 54-125a; see, e.g., *State* v. *Brown*, 192 Conn. App. 147, 156 n.4, 217 A.3d 690 (2019); *Dinham* v. *Commissioner of Correction*, 191 Conn. App. 84, 99, 213 A.3d 507, cert. denied, 333 Conn. 927, 217 A.3d 995 (2019); *Vitale* v. *Commissioner of Correction*, supra, 178 Conn. App. 868; *Byrd* v. *Commissioner of Correction*, 177 Conn. App. 71, 80 n.7, 171 A.3d 1103 (2017); with the exception of parole eligibility under § 54-125a (f), which was enacted by the legislature in 2015 and concerns juvenile offenders. See *Boyd* v. *Commissioner of Correction*, supra, 199 Conn. App. 577, 590 (concluding that petitioner had cognizable liberty interest in parole eligibility under § 54-125a (f)).

[11] Following *Anthony A.*, this court has considered the stigma plus test in habeas cases that, like *Anthony A.*, involved claims that a petitioner improperly was classified as a sex offender. See *Carolina* v. *Commissioner of Correction*, 192 Conn. App. 296, 301–303, 217 A.3d 1068, cert. denied, 334

the allegations in the petition do not sufficiently allege a stigma plus claim. To plead a stigma plus claim, a petitioner must allege facts demonstrating that a classification "was wrongful and stigmatized the petitioner, and that the consequences suffered by the petitioner were 'qualitatively different' from the punishments usually suffered by prisoners, so that they constituted a major change in the conditions of confinement amounting to a grievous loss." *Anthony A.* v. *Commissioner of Correction*, supra, 326 Conn. 681. In the present case, at a minimum, the petitioner failed to sufficiently allege facts satisfying the "plus" portion of the stigma plus test.[12]

As our Supreme Court explained in *Anthony A.*, "[a] recent decision of the United States Supreme Court highlights the difficulty of determining what constitutes a qualitative difference or major change in the conditions of confinement amounting to a grievous loss. [See *Wilkinson* v. *Austin*, supra, 545 U.S. 223.] One cannot do so without reference to what constitutes 'typical' or 'ordinary' conditions of confinement for a prisoner. . . . What must be determined . . . is the degree of departure from the 'baseline.' . . . The emphasis in *Wilkinson* on the need to first determine the baseline requires that our inquiry be a pragmatic one, aimed at determining the degree to which the conditions alleged by the petitioner depart from the expected norm of prison confinement." (Citations omitted.) *Anthony A.* v. *Commissioner of Correction*, supra, 326 Conn. 682–83. Our Supreme Court further observed that, in considering whether decisions made by prison officials have caused "a major change in the conditions of confinement amounting to a grievous loss, it is relevant to

Conn. 909, 221 A.3d 43 (2019); *Vitale* v. *Commissioner of Correction*, supra, 178 Conn. App. 868–71.

[12] The stigma plus test is conjunctive and, therefore, we need not consider whether the petitioner sufficiently alleged facts satisfying the remaining portions of the test.

consider the degree of discretion accorded to the officials making those decisions. The greater the discretion, the more difficult it becomes to establish a departure from the norm." Id., 683.

A careful review of the petition reveals that the only consequences alleged by the petitioner that stemmed from his classification as a violent offender were (1) "an increase in punishment with a longer period of incarceration than allowed under the plain meaning of the parole eligibility statute and per the intent of the legislature in enacting said statute" and (2) the petitioner being "classified to a higher risk level for [the] application of penological goals." We do not construe these conclusory allegations as identifying consequences that were " 'qualitatively different' from the punishments usually suffered by prisoners, so that they constituted a major change in the conditions of confinement amounting to a grievous loss." *Anthony A.* v. *Commissioner of Correction*, supra, 326 Conn. 681; see *Vitale* v. *Commissioner of Correction*, supra, 178 Conn. App. 870–71 (petitioner's allegations "imply[ing] that he was subject to a condition of parole imposed and/or monitored by a special sex offender unit" were insufficient to satisfy "plus" portion of stigma plus test); cf. *Anthony A.* v. *Commissioner of Correction*, supra, 686 (petitioner's allegation that he was required to participate in sex offender treatment or risk losing certain benefits satisfied "plus" portion of stigma plus test). Having failed to sufficiently allege a stigma plus claim, the petitioner has not sufficiently alleged a cognizable liberty interest over which the habeas court had subject matter jurisdiction. See, e.g., *Vitale* v. *Commissioner of Correction*, supra, 871 ("[b]ecause the petitioner has satisfied neither factor of the stigma plus test, we conclude that he has failed to allege sufficient facts to assert a cognizable liberty interest that affords jurisdiction to the habeas court over his claim").

We are mindful of our Supreme Court's instruction that Practice Book § 23-24 "is intended only to weed out obviously and unequivocally defective petitions," that there is "a strong presumption that a petitioner for a writ of habeas corpus is entitled to present evidence in support of his [or her] claims," and that, in cases involving self-represented petitioners, "courts should review habeas petitions with a lenient eye, allowing borderline cases to proceed." (Internal quotation marks omitted.) *Gilchrist* v. *Commissioner of Correction*, supra, 334 Conn. 560. We conclude that the petition in the present case falls within the category of those petitions that are "obviously and unequivocally defective." Id. The petitioner failed to sufficiently allege a cognizable liberty interest invoking the subject matter jurisdiction of the habeas court, and, therefore, the court properly declined to issue the writ of habeas corpus under Practice Book § 23-24 (a) (1).[13] Accordingly, we further conclude that the court did not abuse its discretion in denying the petition for certification to appeal.

The appeal is dismissed.

In this opinion the other judges concurred.

STATE OF CONNECTICUT *v.* MARK STEVEN CAPASSO, JR.
(AC 43051)

Bright, C. J., and Moll and DiPentima, Js.

Syllabus

Convicted, after a jury trial, of the crimes of reckless burning and false reporting of an incident in the second degree, the defendant appealed

[13] The court declined to issue the writ of habeas corpus for lack of subject matter jurisdiction under Practice Book § 23-24 (a) (1) and for failure to "present a claim upon which the . . . court can grant relief" under § 23-24 (a) (3). Because we conclude that the court properly determined that it lacked subject matter jurisdiction under § 23-24 (a) (1), we need not address the court's separate reliance on § 23-24 (a) (3).

to this court. The defendant, who previously had been living in China for more than a decade, and his wife and two children were temporarily living with his parents. The defendant and his family intended to return to China but were having difficulty obtaining certain travel documentation. As a result, the defendant devised a plan that he hoped would expedite that documentation, whereby he sought to leverage one Chinese agency against another by making it appear that the Chinese government had attempted to intimidate him and his family by entering his parents' house and starting a fire. To effectuate this plan, the defendant spread an accelerant, Sterno, a flammable, fire starting gel, throughout the house while his parents, wife, and children were sleeping. The defendant then lit a candle and used it to burn a sheet for thirty to sixty seconds. After extinguishing the fire, the defendant awakened his parents and told them that he had heard someone in the house and that the person had spread accelerant and started a fire. His father then called 911. On appeal, the defendant claimed that the evidence was insufficient to support his conviction of reckless burning and that the trial court erred in denying his motion to set aside the verdict because his conviction of reckless burning was against the manifest weight of the evidence. Specifically, the defendant claimed that the state failed to present sufficient evidence to prove beyond a reasonable doubt that he recklessly endangered the building "of another" as required by the reckless burning statute (§ 53a-114 (a)) and that his conviction was against the manifest weight of the evidence because his behavior was not reckless. *Held*:

1. The evidence was sufficient to support the defendant's conviction of reckless burning: the jury reasonably could have concluded beyond a reasonable doubt that the endangered building where the fire was set was a building "of another" as required by § 53a-114; moreover, contrary to the defendant's claim, the state did not have the burden to prove that the house was owned exclusively by someone other than the defendant, as the phrase "of another" plainly and unambiguously applies to any proprietary or possessory interest in the endangered building by someone other than the defendant, whether exclusive or nonexclusive; furthermore, the jury was presented with evidence from which it reasonably could have concluded that the defendant's parents owned the house, including evidence that the defendant stated to the police that the house belonged to his parents and that he felt like he was imposing on his parents by staying there with his family, the fact that he had lived in China for nearly twelve years, and the defendant's failure to state affirmatively that he owned the house when questioned by the state at trial about who owned the house.
2. The trial court did not abuse its discretion in denying the defendant's motion to set aside the verdict on the ground that the verdict was contrary to the manifest weight of the evidence: there was a reasonable basis for the jury to find that the defendant's intentional starting of the

fire recklessly placed the house in danger of destruction or damage; there was evidence that the defendant spread an accelerant around the house at 2 a.m. while his parents, wife, and children were sleeping, he set a sheet on fire within five feet of the accelerant, he did not fully read the warning labels for the accelerant, he had no experience using the particular accelerant, and he did not have a fire extinguisher or a contingency plan in place should his plan go awry; moreover, contrary to the defendant's claim, the court did not rely exclusively on the jury's verdict in ruling on the motion but independently weighed the evidence in accordance with the standard governing a trial court's consideration of a manifest weight of the evidence claim, the court's statements indicating that it conducted its own assessment of the evidence.

Argued January 4—officially released March 16, 2021

Procedural History

Substitute information charging the defendant with the crimes of reckless burning and false reporting of an incident in the second degree, brought to the Superior Court in the judicial district of New London and tried to the jury before *Jongbloed, J.*; verdict and judgment of guilty, from which the defendant appealed to this court. *Affirmed.*

W. Theodore Koch III, assigned counsel, for the appellant (defendant).

Beth M. Kailey and *Geoffrey B. Young*, certified legal interns, with whom were *Jennifer F. Miller* and *Matthew A. Weiner*, assistant state's attorneys, and, on the brief, *Michael L. Regan*, state's attorney, for the appellee (state).

Opinion

MOLL, J. The defendant, Mark Steven Capasso, Jr., appeals from the judgment of conviction, rendered following a jury trial, of reckless burning in violation of General Statutes § 53a-114.[1] On appeal, the defendant

[1] The jury also found the defendant guilty of false reporting of an incident in the second degree in violation of General Statutes (Rev. to 2016) § 53a-180c (a) (1). The defendant does not challenge that conviction in the present appeal.

claims that (1) the evidence was insufficient to support his conviction of reckless burning, and (2) his conviction of reckless burning was against the manifest weight of the evidence. We disagree and, accordingly, affirm the judgment of conviction.

The following facts, which the jury reasonably could have found, and procedural history are relevant to our disposition of the defendant's claims. In December, 2004, the defendant moved to China to perform missionary work, and he lived there for nearly twelve years prior to returning to Connecticut. In September, 2017, the defendant, his wife, and their two children were living temporarily with his parents at 145 Bloomingdale Road in Quaker Hill. The defendant and his family intended to return to China but were having difficulty obtaining travel documentation for their children. As a result of these difficulties, the defendant devised a plan that he hoped would expedite the travel documentation process. Specifically, the defendant sought to leverage one Chinese agency against another by making it appear as though the Chinese government had attempted to intimidate him and his family by entering his parents' house and starting a fire.

To accomplish this goal, the defendant purchased Sterno, a flammable, fire starting gel, from a Walmart store. Three days later, on September 4, 2017, at approximately 2 a.m., the defendant spread Sterno throughout the house while his parents, his wife, and their children were sleeping. The defendant then lit a candle and used it to burn a sheet for thirty to sixty seconds. After extinguishing the fire, the defendant awakened his parents and told them that he had heard someone in the house and that the person had spread accelerant and started a fire. The defendant's father then called 911.

When the police arrived, the defendant informed them that he was in the basement on the phone with the

Chinese consulate when he heard footsteps upstairs. He then went upstairs and found a burning candle and sheet, along with a bottle of Sterno that he had never seen before. The defendant also told the police that he believed the Chinese consulate was responsible for the incident.

While at the scene, the police searched the premises for signs of forced entry but found none. An officer wrote down the stock keeping unit (SKU) number that was on the Sterno bottle to help determine where the bottle had been purchased and began investigating whether any local stores carried Sterno products with the same SKU number. The officer determined that the SKU number on the Sterno bottle matched that of a Sterno product sold at a Walmart store in Waterford. He viewed the store's security footage and observed the defendant purchasing the Sterno. The officer contacted the defendant and asked him to come to the police department to discuss the case further. During the interview, the defendant admitted that he had purchased the Sterno and had spread it around his parents' house.

Thereafter, the defendant was arrested and charged by way of a substitute information with one count of reckless burning in violation of § 53a-114 and one count of false reporting of an incident in the second degree in violation of General Statutes (Rev. to 2016) § 53a-180c (a) (1). The jury found the defendant guilty of both counts, and the court sentenced the defendant to four years of incarceration, execution suspended after one year, followed by three years of probation. This appeal followed. Additional facts and procedural history will be set forth as necessary.

I

The defendant first claims that his conviction of reckless burning must be reversed because the state failed

to present sufficient evidence to prove beyond a reasonable doubt that he recklessly endangered a building "of another." See General Statutes § 53a-114 (a). The defendant's claim distills into two closely related parts, namely, that the state failed to prove that (1) the defendant did not have an ownership interest in the house, and (2) the house at 145 Bloomingdale Road was owned by someone other than the defendant. In response, the state argues that (1) proof of *exclusivity* of ownership by someone other than the defendant is not required under § 53a-114, and (2) it produced ample evidence from which the jury reasonably could have found that someone other than the defendant (i.e., the defendant's parents) owned the house. We agree with the state.

Before we reach the merits of the defendant's contentions, we set forth the following relevant legal principles and standard of review. "In reviewing a sufficiency of the evidence claim, we apply a two part test. First, we construe the evidence in the light most favorable to sustaining the verdict. Second, we determine whether upon the facts so construed and the inferences reasonably drawn therefrom the [jury] reasonably could have concluded that the cumulative force of the evidence established guilt beyond a reasonable doubt . . . . This court cannot substitute its own judgment for that of the jury if there is sufficient evidence to support the jury's verdict. . . .

"While the jury must find every element proven beyond a reasonable doubt in order to find the defendant guilty of the charged offense, each of the basic and inferred facts underlying those conclusions need not be proved beyond a reasonable doubt. . . . If it is reasonable and logical for the jury to conclude that a basic fact or an inferred fact is true, the jury is permitted to consider the fact proven and may consider it in combination with other proven facts in determining whether the cumulative effect of all the evidence proves the

defendant guilty of all the elements of the crime charged beyond a reasonable doubt. . . .

"On appeal, we do not ask whether there is a reasonable view of the evidence that would support a reasonable hypothesis of innocence. We ask, instead, whether there is a reasonable view of the evidence that supports the jury's verdict of guilty." (Internal quotation marks omitted.) *State* v. *Crafter*, 198 Conn. App. 732, 737–38, 233 A.3d 1227, cert. denied, 335 Conn. 957, 239 A.3d 318 (2020).

To the extent our analysis of the defendant's claim requires us to interpret the reckless burning statute, "our review is de novo. . . . When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to [the broader statutory scheme]. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . . The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation. . . . When a statute is not plain and unambiguous, we also look for interpretive guidance 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." (Internal quotation marks omitted.) *State* v. *Pond*, 315 Conn. 451, 466–67, 108 A.3d 1083 (2015).

A

We begin by addressing the defendant's argument that the state had the burden to prove that he did not have an ownership interest in the house at 145 Bloomingdale Road. Stated differently, the defendant contends that the phrase "building . . . of another" in § 53a-114 (a) is satisfied only if the endangered building is owned *exclusively* by someone else. We disagree.

We turn to the text of § 53a-114 (a), which provides: "A person is guilty of reckless burning when he intentionally starts a fire or causes an explosion, whether on his own property or another's, and thereby recklessly places a building, as defined in section 53a-100, *of another* in danger of destruction or damage." (Emphasis added.) General Statutes § 53a-114 (a). We observe that there is no statutory language to support the defendant's proposition that the state must prove that the endangered building is owned (or possessed) *exclusively* by someone else. Nor does such a proposition make sense as a matter of public policy. "[T]he purpose of § 53a-114 . . . [is] to penalize those who endanger another's property through recklessness." (Footnote omitted.) *State* v. *Parmalee*, 197 Conn. 158, 164, 496 A.2d 186 (1985). It would make little sense for the reckless burning statute to except from its purview an individual—whose conduct otherwise would fall within its reach—merely because that individual also has some ownership or possessory interest in the endangered building. Accordingly, we consider the language "of another" to be unambiguous because it is not susceptible to more than one *reasonable* interpretation. In short, we construe the phrase "of another" to apply plainly and unambiguously to any proprietary or possessory interest in the endangered building by someone other than the defendant, whether exclusive or nonexclusive.

Moreover, even if the phrase "of another" in § 53a-114 (a) were deemed susceptible to more than one reason-

able interpretation, and therefore ambiguous, extratextual evidence of the meaning of the statute buttressesour conclusion. Section 53a-114 is contained within our arson statutes, which "are based on parallel provisions of the New York Revised Penal Law and the Model Penal Code and similarly define the various grades of arson in terms of the degree of risk to human safety. Report of the Commission to Revise the Criminal Statutes (1965), pp. 3, 13–14." (Footnote omitted.) *State* v. *Parmalee*, supra, 197 Conn. 163. Although the General Statutes do not define "of another" for purposes of the arson statutes, the Model Penal Code[2] defines "of another" for purposes of arson and related offenses as "anyone other than the actor [having] a possessory or proprietary interest . . . ." 2 A.L.I., Model Penal Code and Commentaries (1985) § 220.1 (4), p. 140.

On the basis of the foregoing, we reject the defendant's argument that the state had the burden to prove that the house at 145 Bloomingdale Road was owned *exclusively* by someone other than the defendant.

B

We next address the defendant's argument that there was insufficient evidence to prove beyond a reasonable doubt that the house was owned by someone else. This argument also fails.

The following evidence, on which the jury reasonably could have relied, and procedural history are relevant to our analysis. During the course of their investigation, the police interviewed the defendant twice. The first interview occurred shortly after the police responded

[2] The Model Penal Code provides that a person commits reckless burning or exploding "if he purposely starts a fire or causes an explosion, whether on his own property or another's, and thereby recklessly: (a) places another person in danger of death or bodily injury; or (b) places a building or occupied structure of another in danger of damage or destruction." 2 A.L.I., Model Penal Code and Commentaries (1985) § 220.1 (2), p. 140.

to the scene. During this interview, an officer asked the defendant whether his parents could have started the fire. The defendant responded that his parents did not set the fire because "it's their house." The defendant also told the officer that he had lived in China for most of the past twelve years and mentioned that he occasionally brings groups back from China to Connecticut for short-term trips. When asked by the officer if he brings these groups to his parents' house, the defendant responded "no" and instead stated that they stay in hotels or with host families. He also told the officer that he and his brother would rent a house in New London to accommodate these groups.

The police interviewed the defendant for the second time later that morning at the police station. During this interview, the defendant told the police that he and his family did not intend to stay in Connecticut permanently and that they planned on returning to China where he taught English. He also admitted that he felt that his family was imposing on his parents while staying at the house. Specifically, the defendant stated that "he knew deep down" that "his parents, as welcoming as they've been for the past couple of months . . . have their lifestyle and . . . if we have to overstay because of the situation . . . I feel like it's more of a burden on them."

Finally, during trial, the prosecutor questioned the defendant about who owned the house. The defendant did not affirmatively state that he owned the house. Instead, he simply responded that "[i]t's my home when I'm here . . . ."

After the state rested its case, the defendant moved to dismiss the reckless burning count on the ground that the state had failed to prove that the defendant recklessly endangered a building "of another" because it did not offer any evidence of who owned the house.

The trial court denied the motion, concluding that there was sufficient evidence that a person other than the defendant owned the house. After the jury returned its verdict, the defendant filed a motion to set aside the verdict with respect to the reckless burning count, in which he, inter alia, repeated the same argument. In that connection, the defendant argued that the state should have been required to prove ownership of 145 Bloomingdale Road "with proof of the highest level of certitude: a deed, a mortgage, land records from city hall or some other such hard document." The court denied his motion, stating that, "[a]lthough the state did not introduce land records or a deed or mortgage, the evidence, in fact, was overwhelming that the defendant and his family were living at his parents' house. In fact, the defendant's own statements included his feelings about imposing on his parents by living there with his wife and children."

In his principal appellate brief, the defendant claims, without citation to any relevant legal authority, that the state should have been required to produce documentary evidence of the ownership of 145 Bloomingdale Road (such as a deed or a mortgage) unless the state could show that such direct evidence was unavailable. At oral argument before this court, however, the defendant abandoned his assertion that *documentary* evidence of ownership is required in a reckless burning case. Instead, the defendant argued, additional evidence was required in the present case in the form of, for example, testimony of someone who was present at the closing, a representative of the bank, or a representative from town hall. The defendant's argument is unavailing.

As an initial matter, the plain language of § 53a-114 (a) does not require that "of another" be proven by a particular form of evidence, such as a deed, a mortgage, or the testimony of a particular individual. The defendant has not cited, and we are unaware of, any authority

that supports such a proposition, and we decline the defendant's invitation to exercise our inherent supervisory authority to adopt such a requirement.

In the present case, the state produced sufficient evidence from which the jury reasonably could have found that the defendant's parents owned the house. When interviewed at the scene, the defendant expressly stated that it was "their house." The state also produced evidence indicating that the defendant had spent most of the last twelve years in China, he and his family did not intend to move back to Connecticut permanently, they planned their return to Connecticut as a short-term trip, and they already had plans to move back to China. The defendant also told the police that he felt as though he was burdening his parents by staying with them. Moreover, when an officer asked the defendant whether he brought groups to Connecticut for short-term trips to his parents' house, the defendant responded that he did not, and stated that they stayed in hotels, with host families, or at a house in New London that he and his brother would rent to accommodate them. He also failed to state affirmatively that he owned the house when questioned at trial about who owned the house, allowing for a reasonable inference that he did not own the house.

In sum, viewing all of the evidence available in the light most favorable to sustaining the verdict; see *State* v. *Crafter*, supra, 198 Conn. App. 738; we conclude that there was sufficient evidence from which the jury reasonably could have found beyond a reasonable doubt that the endangered building was that "of another." Accordingly, the defendant's sufficiency of the evidence claim fails.

II

The defendant also claims that the court erred in denying his motion to set aside the verdict as to the reckless

burning count because the verdict was against the manifest weight of the evidence in that "his behavior, though ill-advised, manifestly was not reckless."[3] For the reasons that follow, we are unpersuaded.

We begin by reviewing the legal principles that govern a weight of the evidence claim. "At the outset, we note that a challenge to the *weight* of the evidence is not the same as a challenge to the *sufficiency* of the evidence. A sufficiency claim dispute[s] that the state presented sufficient evidence, if found credible by the jury, to sustain [the defendant's] conviction. . . . In contrast, a weight claim does not contend that the state's evidence . . . was insufficient, as a matter of law, to establish the defendant's guilt beyond a reasonable doubt. . . . Rather, [it] asserts that the state's case . . . was so flimsy as to raise a substantial question regarding the reliability of the verdict [and that there was a] serious danger that [the defendant] was wrongly convicted. . . . .

"Given that these two types of claims raise fundamentally different issues, the inquiry appropriately undertaken by a court ruling on a sufficiency of the evidence claim differs substantially from that of a court ruling on a weight of the evidence claim. In reviewing the sufficiency of the evidence, a court considers whether there is a reasonable view of the evidence that would support a *guilty* verdict. . . . In doing so, the court does not sit as a [seventh] juror who may cast a vote against the verdict based upon our feeling that some

[3] General Statutes § 53a-3, which contains the definitions for our Penal Code, unless different meanings are expressly specified, provides that "[a] person acts 'recklessly' with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregarding it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation . . . ." General Statutes § 53a-3 (13).

doubt of guilt is shown by the cold printed record. . . . [It] cannot substitute its own judgment for that of the jury if there is sufficient evidence to support the jury's verdict. . . . Thus, a court will not reweigh the evidence or resolve questions of credibility in determining whether the evidence was sufficient. . . .

"In contrast, a court determining if the verdict is against the weight of the evidence does precisely what a court ruling on a sufficiency claim ought not to do. That is, the court must do just *what every juror ought to do* in arriving at a verdict. The juror must use all his experience, his knowledge of human nature, his knowledge of human events, past and present, his knowledge of the motives which influence and control human action, and test the evidence in the case according to such knowledge and render his verdict accordingly. . . . The trial judge in considering the verdict *must do the same* . . . and if, in the exercise of all his knowledge from this source, he finds the verdict to be so clearly against the weight of the evidence in the case as to indicate that the jury did not correctly apply the law to the facts in evidence in the case, or were governed by ignorance, prejudice, corruption or partiality, then it is his duty to set aside that verdict and to grant a new trial. . . . In other words, the court specifically is required to act as a [seventh] juror because it must independently assess [the] credibility [of witnesses] and determine the weight that should be given to . . . evidence. . . .

"Thus, because a court is required to independently assess credibility and assign weight to evidence, a weight of the evidence claim necessarily raises the issue of which courts are competent to perform those tasks. It is well settled that *only the judge who presided over the trial* where a challenged verdict was returned is legally competent to decide if that verdict was against the weight of the evidence . . . . Consequently, *a judge*

in a later proceeding, such as a direct appeal or a habeas corpus proceeding, *is not legally competent* to decide such a claim on the basis of the cold printed record before it. . . . The rationale behind this rule is sound: [T]he trial court is uniquely situated to entertain a motion to set aside a verdict as against the weight of the evidence because, unlike an appellate court, the trial [court] has had the same opportunity as the jury to view the witnesses, to assess their credibility and to determine the weight that should be given to their evidence. . . . [T]he trial judge can gauge the tenor of the trial, as [an appellate court], on the written record, cannot, and can detect those factors, if any, that could improperly have influenced the jury." (Citations omitted; emphasis in original; internal quotation marks omitted.) *State* v. *Soto*, 175 Conn. App. 739, 745–48, 168 A.3d 605, cert. denied, 327 Conn. 970, 173 A.3d 953 (2017).

It necessarily follows that appellate review of a weight of the evidence claim is greatly circumscribed. Id., 750. "[T]he proper appellate standard of review when considering the action of a trial court granting or denying a motion to set aside a verdict and a motion for a new trial is the abuse of discretion standard. . . . 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. . . . We do not . . . determine whether a conclusion different from the one reached could have been reached. . . . A verdict must stand if it is one that a jury reasonably could have returned and the trial court has accepted. . . .

"Thus, if asked to review the trial court's ruling on a weight of the evidence claim presented to it, an appellate court is not to independently make credibility determinations or assign weight to evidence. Furthermore,

our task is not to assess the jury's credibility determinations and assignment of weight to evidence. Rather, our task is to review, for an abuse of discretion, the trial court's assessment of the jury's credibility determinations and assignment of weight to evidence." (Citations omitted; internal quotation marks omitted.) Id., 750–51.

The following additional evidence, on which the jury reasonably could have relied, and procedural history are relevant to our review of the trial court's assessment of the jury's verdict on the reckless burning count. To facilitate his plan to leverage one Chinese agency against another, the defendant traveled to a Walmart store to purchase an accelerant. Although the defendant had never used the Sterno flammable gel before, he chose it because he believed that he would be able to see it, thus making it easier to manage. He did not, however, read the entire warning label on the bottle, which stated that the product should be used only in well ventilated areas and away from heat, sparks, and open flames. While the defendant was carrying out his plan, he also did not have a fire extinguisher nearby, despite lighting the candle and sheet in close proximity to the accelerant.[4] Nor did he have any other contingency plan in the event that the fire became unmanageable.

In the defendant's motion to set aside the verdict, he argued that the jury's verdict on the reckless burning count was contrary to the weight of the evidence. Specifically, he claimed that his behavior was not reckless because he consciously regarded the risks by carefully planning the conditions under which he would start the fire. On April 9, 2019, the court heard oral argument on the motion. The court rejected the defendant's argument, concluding that "an individual can think about

[4] At trial, the defendant estimated that the open flame was approximately five feet away from the Sterno.

their conduct, but in deciding to pursue a course of conduct, they can, in fact, act recklessly. And here the jury found that that is what happened. The jury found, in accordance with the evidence, that the defendant consciously disregarded a substantial and unjustifiable risk. The verdict was not against the manifest weight of the evidence . . . .'' Accordingly, the court denied the motion.

On appeal, the defendant largely seeks to reargue certain evidence relating to the manner in which he ''staged the scene''—evidence that was assessed by the jury. His argument ignores other evidence necessarily assessed by the jury, including the following. The jury heard evidence that the defendant spread Sterno, an accelerant, around the house at around 2 a.m. while his wife, their children, and his parents were asleep upstairs. He then lit a candle and used it to set a sheet on fire for approximately thirty to sixty seconds within five feet of some of the Sterno. The defendant engaged in such conduct without reading the product's warning labels fully, without having any experience using this particular Sterno product, without having a fire extinguisher nearby, and without any other contingency plan in case his plan went awry. Although the defendant testified that he selected the Sterno gel because he thought that he would be able to see and manage it, the jury reasonably could have found that the defendant, in failing to read and abide by the warning label and in failing to have a contingency plan, consciously disregarded a substantial and unjustifiable risk. Because there was a reasonable basis for the jury to find that the defendant's intentional starting of the fire recklessly placed the house in danger of destruction or damage, we conclude that the trial court did not abuse its discretion in denying the defendant's motion to set aside the verdict on the ground that the verdict was against the weight of the evidence.

The defendant further argues that the court abused its discretion in denying his motion because the court appears to have relied exclusively on the jury's verdict and neglected to conduct its own assessment of the evidence. We disagree with the defendant's characterization of the court's analysis. The court, in denying the defendant's motion, concluded that "an individual can think about their conduct, but in deciding to pursue a course of conduct, they can, in fact, act recklessly" and that the "jury found, in accordance with the evidence, that the defendant consciously disregarded a substantial and unjustifiable risk." The court then stated its own conclusion that the "verdict was not against the manifest weight of the evidence . . . ." These statements indicate that the court independently weighed the evidence and that it did not substitute the jury's analysis for its own in accordance with the standard governing a trial court's consideration of a weight of the evidence claim.[5] See *State* v. *Soto*, supra, 175 Conn. App. 747–48.

In sum, we conclude that the trial court did not abuse its discretion in denying the defendant's motion to set aside the verdict as to the reckless burning count on the ground that the verdict was contrary to the weight of the evidence.

The judgment is affirmed.

In this opinion the other judges concurred.

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[5] In addition, to the extent the defendant suggests that the court was required to make detailed factual findings in connection with its denial of the defendant's motion to set aside the verdict, we note that he has not cited any authority that stands for such a proposition, and we are not aware of any.

C & H SHORELINE, LLC *v.* LORRAINE RUBINO ET AL.
(AC 43197)

Moll, Alexander and DiPentima, Js.

Syllabus

The plaintiff home cleaning company, C Co., sought to recover damages from the defendants for breach of contract in connection with the defendants' failure to pay for services rendered. The parties' agreement contained a one year limitation provision that provided that no action relating to the subject matter of the agreement could be brought more than one year after "the claiming party" knew or should have known of the cause of action. The trial court found that by September, 2016, C Co. was aware that the defendants were refusing to pay and did not commence the action until March, 2018. The court therefore found in favor of the defendants on their special defense that the action was time barred under the agreement. On C Co.'s appeal to this court, *held* that the trial court properly rendered judgment in favor of the defendants on the basis that C Co.'s claims were contractually time barred; this court concluded that, because C Co. offered a reasonable interpretation of the limitation period, that the term "claiming party" referred only to the customer, and the defendants offered a competing reasonable interpretation, that the term "claiming party" was otherwise not defined in the agreement and the agreement consistently used the terms "client," "customer," and "provider" when referring to the parties individually, so that the newly introduced term meant any party bringing a cause of action relating to the agreement, the limitation provision was ambiguous and applied the contra proferentem rule, resolving the ambiguity against C Co. as the undisputed drafter of the agreement and concluding that the one year limitation period applied to any contracting party; accordingly, because there was no dispute that C Co. commenced the action after one year from the time it knew or should have known of it, its claims were contractually time barred.

Argued January 6—officially released March 16, 2021

Procedural History

Action to recover damages for, inter alia, breach of contract, and for other relief, brought to the Superior Court in the judicial district of New Haven and tried to the court, *Hon. Jon C. Blue*, judge trial referee; judgment for the defendants, from which the plaintiff appealed to this court. *Affirmed.*

Frank J. Kolb, Jr., for the appellant (plaintiff).

Michael P. Barry, for the appellees (defendants).

Opinion

MOLL, J. The sole issue in this appeal is whether the one year limitation period set forth in the parties' agreement[1] applies to the claims brought by the plaintiff. The plaintiff, C & H Shoreline, LLC d/b/a Servpro, appeals from the judgment of the trial court rendered in favor of the defendants, Lorraine Rubino and John Rubino. On appeal, the plaintiff argues that the court improperly concluded that the contractual limitation period barred the plaintiff's claims. We affirm the judgment of the trial court.

The trial court's memorandum of decision sets forth the following relevant facts and procedural history. "[The plaintiff] does business as 'Servpro.' . . . [The plaintiff] . . . commenced the present action by service of process on March 26, 2018. . . . The complaint consists of six counts. The first count alleges breach of contract. The second count alleges unjust enrichment. The third count alleges quantum meruit. The fourth count alleges conversion. The fifth count alleges breach of the implied covenant of good faith and fair dealing. The sixth count alleges negligent misrepresentation. All counts relate to a contract between [the plaintiff] and Lorraine Rubino signed on January 7, 2016. Substantively, [the plaintiff] claims that the [defendants] hired it to clean their summer home after a flood caused by bursting pipes and haven't paid for services rendered. The [defendants'] substantive defense is that [the plaintiff] failed to perform its contractual duties.

[1] Although the contract at issue was signed only by Lorraine Rubino on the part of the defendants, for ease of reference, we refer in this opinion to the contract as "the parties' agreement." The fact that the defendant John Rubino is not a signatory to the parties' agreement is not a subject of this appeal.

"In addition to its substantive defense, the [defendants] . . . asserted a special defense [as its first special defense] that, '[t]his action is barred by paragraph 7 of the parties' agreement.' The special defense refers to paragraph 7 of the January 7, 2016 contract between the parties . . . . The paragraph in question provides that: '7. Any claim by Client for faulty performance, for nonperformance or breach under this Contract for damages shall be made in writing to Provider within sixty (60) days after completion of services. Failure to make such a written claim for any matter which could have been corrected by Provider shall be deemed a waiver by Client. NO ACTION, REGARDLESS OF FORM, RELATING TO THE SUBJECT MATTER OF THIS CONTRACT MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CLAIMING PARTY KNEW OR SHOULD HAVE KNOWN OF THE CAUSE OF ACTION.' . . . The contract defines [the plaintiff] as the 'Provider.' The term 'Client' is not expressly defined (Lorraine Rubino is identified as 'Customer'), but the term presumably refers to the recipient of services. The term 'claiming party' is not defined." (Emphasis in original.)

The action was tried to the court, *Hon. Jon C. Blue*, judge trial referee, on June 19, 2019. On July 11, 2019, the court rendered judgment in favor of the defendants on all counts of the plaintiff's complaint, concluding that the defendants' first special defense was dispositive of the action. With respect to its interpretation of paragraph 7 of the parties' agreement, the court concluded that the one year limitation provision contained therein was unambiguous and applied to the plaintiff's claims. The court reasoned as follows: "Paragraph 7 consists of three sentences. The first two sentences expressly refer to claims by 'Client.' The third sentence, containing the one year limitation period in question here, does not. The third sentence instead expressly refers

to 'the claiming party.' 'Claiming party' is not a defined term in the contract. Under these circumstances, 'claiming party' can be safely assigned its meaning in ordinary English as 'a party making a claim.' This meaning is reinforced by the third sentence's express reference to the time when 'the claiming party knew or should have known of the cause of the action.' A 'claim' is 'a cause of action.' . . .

"The typeface of the contract reinforces the conclusion that the third sentence of paragraph 7 has a meaning significantly broader than that of the first two sentences. The first two sentences are in ordinary print. The third sentence is entirely in capital letters and boldface print. The contractual typeface, like the contractual language, emphasizes the fact that the third sentence has an independent—and crucially important—meaning." (Citations omitted.)

In rendering its decision, the court recognized that, in a separate case, another Superior Court judge had reached a different conclusion with respect to the identical paragraph of the same Servpro contract executed here. In *Servpro of Milford-Orange-Stratford* v. *Byman*, Docket No. CV-11-6008337-S, 2012 WL 2044570, *2 (Conn. Super. May 11, 2012), the court concluded that, in "[v]iewing the contract in its entirety, it is clear that paragraph [7] is a warranty provision and that the sentence relied upon by the [defendant customers] contemplates claims *brought by a customer*, including claims for faulty performance, nonperformance or breach of contract. In this regard, the court agrees with the plaintiff [service provider] that the intention of paragraph [7] is not to limit the plaintiff's ability to seek reimbursement for goods and services." (Emphasis in original.)

The court in the present action went on to conclude, in the alternative, that a judicial finding of ambiguity with respect to the one year limitation provision would

not aid the plaintiff because any ambiguity would be construed against the drafter. Relevant to this conclusion, the court found that "the contract is a boilerplate instrument prepared by [the plaintiff]. It was not a negotiated contract. [The plaintiff] does not contest this issue." The court also referred to the parties' agreement as "Servpro's standard contract of adhesion . . . ."

Having concluded that the one year limitation provision applied to all parties to the contract, the court found in favor of the defendants on their first special defense as to all counts.[2] In this connection, the court found that the plaintiff "did not commence this action within the limitation period mandated by its own contract . . . . [The plaintiff] was fully aware by the end of August, 2016, that the [defendants] did not intend to pay for the services allegedly rendered. Lorraine Rubino credibly testified that she informed [the plaintiff] of her intention to refuse payment during the summer of 2016. A business record compiled by [the plaintiff] . . . indicates that this conversation occurred on June 7, 2016. Giving [the plaintiff] every benefit of the doubt, the conversation occurred no later than September 1, 2016. . . . [The plaintiff] commenced the present action by service of process on March 26, 2018. That date was, at a minimum, more than one year and six months after [the plaintiff] knew or should have known of the cause of action. The action is consequently time barred by [the plaintiff's] own contract." The court therefore rendered

[2] We pause to note that reasonable contractual limitation periods have long been deemed valid under Connecticut law. See, e.g., *Monteiro* v. *American Home Assurance Co.*, 177 Conn. 281, 283, 416 A.2d 1189 (1979) ("[s]ince a provision in a fire insurance policy requiring suit to be brought within one year of the loss is a valid contractual obligation, a failure to comply therewith is a defense to an action on the policy unless the provision has been waived or unless there is a valid excuse for nonperformance; and such a condition requiring suit to be brought within one year does not operate as a statute of limitations"). Here, the *validity* of the one year limitation period in the parties' agreement is not disputed.

judgment in favor of the defendants on all counts of the plaintiff's complaint. This appeal followed.

Because the plaintiff's claim challenges the court's interpretation of the parties' agreement, we begin our analysis by setting forth the applicable standard of review and general principles of law relevant to the construction of contracts. "The law governing the construction of contracts is well settled. When a party asserts a claim that challenges the trial court's construction of a contract, we must first ascertain whether the relevant language in the agreement is ambiguous." (Internal quotation marks omitted.) *EH Investment Co., LLC* v. *Chappo, LLC*, 174 Conn. App. 344, 357–58, 166 A.3d 800 (2017). "When the language of a contract is ambiguous, the determination of the parties' intent is a question of fact . . . . [When] there is definitive contract language, [however] the determination of what the parties intended by their contractual commitments is a question of law. . . . It is implicit in this rule that the determination as to whether contractual language is plain and unambiguous is itself a question of law subject to plenary review." (Internal quotation marks omitted.) *Gold* v. *Rowland*, 325 Conn. 146, 157–58, 156 A.3d 477 (2017).

"We accord the language employed in the contract a rational construction based on its common, natural and ordinary meaning and usage as applied to the subject matter of the contract. . . . Where the language is unambiguous, we must give the contract effect according to its terms. . . . Where the language is ambiguous, however, we must construe those ambiguities against the drafter [sometimes referred to as the contra proferentem rule]. . . . A contract is unambiguous when its language is clear and conveys a definite and precise intent. . . . The court will not torture words to impart ambiguity where ordinary meaning leaves no room for ambiguity. . . . Moreover, the mere

fact that the parties advance different interpretations of the language in question does not necessitate a conclusion that the language is ambiguous. . . . In contrast, a contract is ambiguous if the intent of the parties is not clear and certain from the language of the contract itself. . . . [A]ny ambiguity in a contract must emanate from the language used by the parties. . . . The contract must be viewed in its entirety, with each provision read in light of the other provisions . . . and every provision must be given effect if it is possible to do so. . . . If the language of the contract is susceptible to more than one reasonable interpretation, the contract is ambiguous." (Citations omitted; internal quotation marks omitted.) *Cantonbury Heights Condominium Assn., Inc.* v. *Local Land Development, LLC*, 273 Conn. 724, 735, 873 A.2d 898 (2005).

We continue with a review of paragraph 7 of the parties' agreement, which, as stated previously, provides: "Any claim by Client for faulty performance, for nonperformance or breach under this Contract for damages shall be made in writing to Provider within sixty (60) days after completion of services. Failure to make such a written claim for any matter which could have been corrected by Provider shall be deemed a waiver by Client. NO ACTION, REGARDLESS OF FORM, RELATING TO THE SUBJECT MATTER OF THIS CONTRACT MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CLAIMING PARTY KNEW OR SHOULD HAVE KNOWN OF THE CAUSE OF ACTION." (Emphasis in original.)

The parties disagree about the applicability of the third sentence of paragraph 7, which contains the one year limitation period, to the plaintiff's claims. The plaintiff argues that because the first two sentences of paragraph 7 relate solely to claims brought by the "Client," it necessarily follows that the term "Claiming Party" in the third sentence refers only to the customer.

In contrast, while urging us to adopt the trial court's conclusion, the defendants counter that paragraph 7 is unambiguous and that the term "Claiming Party," which is otherwise not defined in the parties' agreement and appears only once therein, means any party asserting a cause of action. Relatedly, the defendants highlight the fact that the parties' agreement consistently uses (1) the terms "Client" and "Customer" when referring solely to the party receiving the services and (2) the term "Provider" when referring to the Servpro franchisee providing the services. The defendants argue that it follows, therefore, that the newly introduced term—"Claiming Party"—means any party bringing a cause of action relating to the parties' agreement. In the alternative, the defendants argue that, even if the use of the term "Claiming Party" were deemed ambiguous, the plaintiff's claim still fails because, in the absence of the trial transcript being made a part of the record, there is an inadequate record on appeal. We agree that the plaintiff's claim is unavailing.

Because the plaintiff offers a reasonable interpretation of the third sentence on the one hand (i.e., akin to the one espoused by the court in *Servpro of Milford-Orange-Stratford* v. *Byman*, supra, 2012 WL 2044570, *2) and the defendants offer a competing, reasonable interpretation on the other hand (i.e., the one espoused by the court in the present case), we conclude that the third sentence of paragraph 7 is ambiguous as to whether the term "Claiming Party" refers only to the client or, instead, to any party asserting a cause of action relating to the contract. "If the language of the contract is susceptible to more than one reasonable interpretation, the contract is ambiguous." (Internal quotation marks omitted.) *Cantonbury Heights Condominium Assn., Inc.* v. *Local Land Development, LLC*, supra, 273 Conn. 735.

Having determined that the third sentence in paragraph 7 of the parties' agreement is ambiguous, and because the plaintiff does not suggest that there is any countervailing extrinsic evidence to support a finding that the parties understood the third sentence to apply only to claims brought by the "Client" or "Customer," we apply the contra proferentem rule, which resolves the ambiguity against the plaintiff as the undisputed drafter. See *Cruz* v. *Visual Perceptions, LLC*, 311 Conn. 93, 108, 84 A.3d 828 (2014) (contra proferentem rule should be invoked "only as a last resort if [the trial court] is unable to resolve the ambiguity . . . by considering the extrinsic evidence").

In sum, we construe the ambiguity in the third sentence of paragraph 7 of the parties' agreement against the plaintiff as the drafter and conclude that the one year limitation period contained therein applies to any contracting party asserting a cause of action. Because there is no dispute that the plaintiff commenced the present action after one year from the time it knew or should have known of its cause of action, we conclude that judgment was properly rendered in favor of the defendants on the basis that the plaintiff's claims were contractually time barred.

The judgment is affirmed.

In this opinion the other judges concurred.

MEMORANDUM DECISIONS

CONNECTICUT APPELLATE REPORTS

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MEMORANDUM DECISIONS

JON ST. PIERRE *v.* COMMISSIONER OF CORRECTION (AC 43370)

Elgo, Cradle and Suarez, Js.

Argued March 2—officially released March 16, 2021

Petitioner's appeal from the Superior Court in the judicial district of Tolland, *Bhatt*, *J.*

Per Curiam. The judgment is affirmed.

ESTATE OF JAMES E. FRY ET AL. *v.* ANGELO P. LOBBRUZZO ET AL. (AC 43479)

Alvord, Cradle and Lavery, Js.

Argued March 4—officially released March 16, 2021

Defendants' appeal from the Superior Court in the judicial district of Stamford-Norwalk, Housing Session at Norwalk, *Spader*, *J.*

Per Curiam. The judgment is affirmed.

MATTHEW BOUTILIER *v.* COMMISSIONER OF CORRECTION (AC 43580)

Alvord, Cradle and Lavery, Js.

Argued March 4—officially released March 16, 2021

Petitioner's appeal from the Superior Court in the judicial district of Tolland, *Bhatt*, *J.*

Per Curiam. The judgment is affirmed.

U.S. BANK, N.A., SUCCESSOR TRUSTEE
v. THOMAS J. HICKEY ET AL.
(AC 43792)

Bright, C. J., and Moll and Bishop, Js.

Argued March 3—officially released March 16, 2021

Defendants' appeal from the Superior Court in the judicial district of Stamford-Norwalk, *Genuario*, *J.*

Per Curiam. The judgment is affirmed and the case is remanded for the purpose of setting new law days.

ANTOINE OSBOURNE *v.* COMMISSIONER
OF CORRECTION
(AC 43019)

Moll, Cradle and Pellegrino

Argued March 8—officially released March 16, 2021

Petitioner's appeal from the Superior Court in the judicial district of Tolland, *Bhatt*, *J.*

Per Curiam. The judgment is affirmed.

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NOTICES

CONNECTICUT BAR EXAMINING COMMITTE

The following individuals applied for admission to the Connecticut bar by Uniform Bar Examination score transfer in February 2021. Written objections or comments regarding any candidate should be addressed to the Connecticut Bar Examining Committee, 100 Washington Street, 1st Floor, Hartford, CT 06106 as soon as possible.

Kathleen B. Harrington
Deputy Director, Attorney Services

Blumenfrucht, Anne of Brooklyn, NY
Brooks, Zachary Alexander of Norwalk, CT
Katechia, Jhansi Hemakshi of Glastonbury, CT
Meador, Kathryn Delaine of Pikeville, KY
Neski, Elliot Shepherd of Stamford, CT
Pelton, Stayce Alexa of Brookline, MA
Voskerijian, Shont Hagop of New Hyde Park, NY
Welwood, Ryan Thomas of Boston, MA
Wheat, Erika Kathryn of Fall River, MA

CONNECTICUT BAR EXAMINING COMMITTEE

The following individuals applied for admission to the Connecticut bar without examination in February 2021. Written objections or comments regarding any candidate should be addressed to the Connecticut Bar Examining Committee, 100 Washington Street, 1st Floor, Hartford, CT 06106 as soon as possible.

Kathleen B. Harrington
Deputy Director, Attorney Services

Garrison, Samantha Lynn of Stamford, CT
Thompson, Danielle Lynn of Stonington, CT

Notice of Certification as Authorized House Counsel

Upon recommendation of the Bar Examining Committee, in accordance with § 2-15A of the Connecticut Practice Book, notice is hereby given that the following individuals have been certified by the Superior Court as Authorized House Counsel for the organization named:

Certified as of January 29, 2021:	
Rosa A. Lee	Booking Holdings, Inc.
Certified as of February 2, 2021:	
Yelena Ambartsumian	Zuvic, Inc.
Certified as of February 3, 2021:	
Caroline S. Coursant	Otis Worldwide Corporation
Certified as of February 12, 2021:	
Jeffrey D. Fox	Interactive Brokers LLC
Certified as of February 13, 2021:	
Violetta V. Argueta	HomeServe USA Corp.
Certified as of February 15, 2021:	
Nadine M. Thornton	Stone Point Capital LLC
Certified as of February 22, 2021:	
Marina Gerts	Charter Communications
Certified as of February 26, 2021:	
Stephen A. Martin	Kaman Distribution Group

Hon. Patrick L. Carroll III
Chief Court Administrator

Notice of Administrative Suspension of Attorneys

ORDER: The following list of attorneys having been presented by the Client Security Fund Committee pursuant to Practice Book Section 2-79(a) for purposes of placing those attorneys so listed on administrative suspension from the practice of law for failing to pay the client security fund fee for calendar year 2019, due June 17, 2019, as required by Practice Book Section 2-70, and it appearing from the records of the Client Security Fund Committee that the following attorneys have not paid the fee for said calendar year, it is hereby ORDERED that the following attorneys are deemed administratively suspended from the practice of law in this state until such time as payment of the fee, and a reinstatement fee of $75.00, is made. Pursuant to Practice Book Section 2-79(a), such suspension shall be effective upon publication of the list in the Connecticut Law Journal.

By the Court,
Hon. David Sheridan
Date: February 26, 2021

Juris No. Name

406061 DAVID P ABATEMARCO
403792 DAVID VARNUM ABBOTT
401145 ROSS MARTIN ABELOW
412907 JONATHAN DAVID ABRAHAM
407575 VICTOR H ABRAVAYA
410442 CRAIG THOMAS ABRUZZO
405049 F RANDOLPH ACKER
420533 STEPHEN M ACKLEY-ORTIZ
300209 CHARLOTTE MARY ACQUAVIVA
307315 JANE M ADAMO
426485 BRUCE HOWLETT ADAMS
309653 CHRISTINE ANNE ADAMS
433876 ERIN ELIZABETH ADAMS
305826 ROBERT T ADAMS
306842 LINDA LARSON ADAMSON
416025 AMY MARIE ADORNEY
402449 ARTHUR AFFLECK
409887 OLIVER A AGHA
308689 KRISTI M AGNIEL
423203 CHRISTIAN UCHESON AGUOCHA
408583 BARRY DANIEL AHEARN
410853 CHRISTOPHER JAMES AHEARN
428132 DENISE B AHERN
300226 FRANCIS MICHAEL AHERN
432723 MARGARET MARY AIKEN
300229 L JEFFREY AKER
418257 MEREDITH M AKERLIND
401362 JOSEPH MICHAEL ALBERO
300231 FELIX ALBERT
421817 CHRISTOPHER O ALBIZU
424674 JOHN DAVID ALBRIGHT
411898 DAVID ALDERMAN
404799 LORI ANN ALESIO
435774 DAVID JAMES ALEXANDER
405563 HEIDI J ALEXANDER
421309 JEFFREY MICHAEL ALEXANDER
305338 THOMAS KACZMARCYK ALEXANDER
300244 JAMES ALFORD
430316 ALEXIS LYNN ALIRE
426460 COREY J ALLARD
405297 FRANK PAUL ALLEGRETTI
434219 MICHELLE AI CHAU TRAN ALLEGRET
403975 FRANK E ALLEN
415141 OTIS GEORGE ALLEN
407861 KAREN MCCLINCH ALONSO
413938 LORI JEAN ALPERT
426572 JOSE LUIS ALTAMIRANO
300267 LAURENCE PAUL ALTERMAN
306709 LISA MILLER ALTMAN
427108 ALICIA M ALVAREZ
410967 DONNA L ALVAREZ
413398 LOREN PAGE AMBINDER
402121 EDWARD ANTHONY AMBROSINO
404802 FRANCIS C AMENDOLA
403271 MADELENE CLARE AMENDOLA
421313 ANTHONY AMETRANO
406959 LINDA R ANDERS
430319 ERIN MARIE ANDERSON
410243 JANET AGOGLIA ANDOLINA
302657 CHRISTINE I ANDREW
303884 KAREN E ANDREWS
401363 HOWARD F ANGIONE
413720 BRIAN MARTIN ANSON
415759 PENNY H ANTHOPOLOS
402202 RONALD H ANTONIO
403272 RICARDO A ANZALDUA-MONTOYA
404353 MORTON APFELDORF
401365 JOHN ALBERT ARANEO
437113 PAUL ARCE V
420181 ALAIN ARMAND
411987 DAWN KIRBY ARNOLD
411560 JEFFREY F ARONIS
420541 JEANNE REGAN ARONSON
418762 NOREEN DEVER ARRALDE

400445 ARDA ARSLANIAN
431643 TAMARA SHYAMA ARZT
423219 RAYMOND L ASAY
425911 LAUREN M ASHBROOK
409455 JOHN LAWRENCE ASHELFORD
407362 LAURA ANN ASINAS
300344 GREGORY T ATKINSON
303153 LYNN ATKINSON
306284 SARA LOU AUGENBRAUN
423220 HANS HENRY AUGUSTIN
431233 FRANK AUTERI
428960 KYLE THOMAS AUTY
415678 ANNALEI AVANCENA
415174 JENNIFER LINGNER AVENIA
307829 ARLENE FRANCIS AVERY
437116 GRACE GLORIA AVILES
403068 NAT JOHN AZZNARA
305815 ERIC M BABAT
404328 LANCE B BABBIT
418575 EMILE JOACHIM BABIN III
433887 LOUIS W BACH
418309 TANYA MARIE BACHAND
415023 RIK ANDREW BACHMAN
406030 CHRISTOPHER ANTHONY BACOTTI
411239 PATRICIA GAIL BADE
408768 DAVID G BAGHDADY
420548 DARREN D BAHAR
421831 PAULA J BAILEY
402049 DENISE ANNE BAILEY-LAROUCHE
401152 MICHAEL BAIN
427903 FARAMARZ BAJOGHLI
439002 ARIANNA COLETTE BAKER
429651 DAVID EDWARD BAKER
401153 MARILYN BALCACER
420550 AIMEE-JOAN CAPARAS BALDILLO
408750 BRIAN MERRITT BALDWIN
416825 SHELLY LYNN BALDWIN
409713 DANIEL BALINT
405542 ANTHONY ALONZO BALL
431351 ANNE BALLA
308953 KEN E BALLANTYNE
309543 ROGER SCOTT BALLENTINE
405302 EMILY LYNN BALLER
435164 KRISTEN MICHELLE BANDURA
101215 PETER L BANIS
427114 TIFFANY ELIZABETH BANNON
306655 ROBERT A BARAD
102373 MARY ELIZABETH BARAN
428969 VICTOR JOHN BARANOWSKI III
303493 ROBERTA JILL BARBANEL
419083 GEORGE PAUL BARBARESI
428478 JOSEPH CAMERON BARBARIE
421833 DANIEL BARBER JR
408910 STEPHEN JOSEPH BARBER
410756 STEPHEN BARD
307101 JUDITH BARES
406915 AMY L BAREST
414369 SPENCER ZANE BARETZ
425897 COURTNEY LYNN BARGER
417730 JULIE B BARKER
434609 RACHEL LAUREN BARMACK
424696 ANANYA BARMAN
419557 JAMES STODDARD BARNES
300802 THOMAS JOSEPH BARNES
301187 JOSEPH WILLIAM BARNETT
413173 LISA MARIE BARNETT
405062 BRADFORD JAY BARNEYS
427573 ASHLEY BARON
428493 STEPHEN ROCCO BARRESE
301197 EDWARD V BARRETT
433425 JAMES ARTHUR BARRETT
420182 ERIKA M D BARRIE
301201 AUDREY BARRIS
411625 VALERIE MARGARET BARRISH
406761 COLEEN ANN MARIE BARRY
002215 JOHN F BARRY JR
401369 KEVIN MATTHEW BARRY
419558 NATALIA MAUREIRA BARTELS
002262 PETER J BARTINIK
401154 MICHAEL JOSEPH BARTLEY
419924 NICOLE BARTNER
418204 CRAIG ALAN BARTON
411780 JOHN MARSHALL BARTON III
428062 JESMIN K BASANTI
413939 JANET BASHFORD
415900 JENNIFER R BASSETT
414509 IVETTE BASTERRECHEA
307936 ANITA D BASTIKS
400447 CHRISTINE A BASTONE
309044 MARY BATTIS
002570 BRIAN E BAYUS
413270 VIRGINIA L BEACH
427965 KATE ANN BEARDSLEY
408344 BRUCE H BEATT
408621 AMY LOUISE BEAUCHAINE
407368 JAMES JOSEPH BEAUDREAU III
305376 MICHAEL F BECHER
301256 CAROLYN ELIZABETH BECK
401155 DANIEL SCOTT BECKER
428061 AMY J BEECH
303072 BEVERLY ANNE BELCAMINO
308343 HARVEY BELKIN
437895 ALESSIA TAMARA BELL
426520 ANGELA CHRISTINE BELL
415684 KAREN J BELL
310017 ROBERT VINCENT BELTRANI
301304 DANIEL P BEN-ZVI
403492 MICHELLE DIANE BENESKI
406966 THOMAS JAMES BENISON
408916 WILFREDO BENITEZ
307938 JOEL B BENJAMIN
437125 PATRICK CAREY BENNETT
436795 FARAH LEILA BENSLIMANE
101171 DINA R BERGER
405746 KENNETH ALAN BERGER
412808 JUDITH BERGER-EFORO
428984 KAREN MICHELE BERGGREN
413724 MARNIE GILLA BERK
308962 RICHARD J BERKA
408109 ALISON BETH BERKLEY
401371 JEFFREY WARREN BERKMAN
406763 ROBERT JOSEPH BERKOWITZ
301318 STEVEN H BERKOWITZ
411432 BRADLEY WOLFE BERMAN

421324 PETER B BERNIER JR
406093 ANDREW HOWARD BERNSTEIN
308668 HAROLD F BERNSTEIN
405745 MARK R BERNSTEIN
411372 MEREDITH L BERNSTEIN
004037 NORMAN J BERNSTEIN
305381 ADAM SAMUEL BERSIN
004174 ROBERT J BERTA
411248 EDWARD JAMES BETCHER
430003 KAREN BEZNICKI
426510 DEEPA BHARGAVA
424712 LUIGI BIANCO
407111 ELLEN N BIBEN
411433 G THOMAS BICKFORD
413057 ROBERT HUNTER BIDEN
004387 JOHN P BIGDA
406969 DANIEL BILDNER
414713 PETER JAMES BILELIS
425718 ANDREW ROBERT BILODEAU
101938 WILLIAM A BINGHAM
420568 WAYNE BINOWSKI
414838 ROBIN M BISCHOF
421849 AISHA BIVENS
004699 BREWSTER BLACKALL
100290 HARRY BLACKBURN
413806 SEAN GREGORY BLACKMAN
004730 EDWARD BLAIR
417454 JULIE DECKER BLAKE
309006 RICHARD BLAKE
308439 H JAMES BLAKESLEE
305531 JAMES B BLANEY
307939 MAUREEN T BLANEY
403574 DAVID IAN BLEE
301410 STUART JAY BLENNER
308378 PETER J BLESINGER
411250 DEVRA ANNE BLOCK
411435 NANCY J BLOCK
432742 ELANA CARRIE BLOOM
413553 MARK JOEL BLOOM
418159 IVAN K BLUMENTHAL
402847 JAMES BOAK
430350 HOLLY NACHT BOBROW
100635 DAVID BODINE
421566 EMILIO G BOEHRINGER
420784 LAURA BOEHRINGER
438714 CARYN MARIE BOGATCH
301439 GLENN NED BOGDONOFF
414141 JASON EDWARD BOGLI
419569 ALLISON MARY BOGOSIAN
424719 FREDERICK A BOLAND
423249 KIMBERLY J BONEHAM
415401 ANDREW FRED BONITO
409862 GAIL BONNER
420043 LAURA MARIE BOOKER
301926 JOEL ANTHONY BOONE
005218 JOSEPH S BORKOWSKI
102472 JOHN K BOSEE
411592 TERESIA LINNETTE BOST
415905 RALPH GREG BOWEN
401157 THOMAS MICHAEL BOWERS
101762 ALLEN P BOYARSKY
102218 WILLIAM H BOYD
423254 DANA REDWAY BOYLAN
403927 WAYNE M BOYLAN
422767 JAMES J BRACKEN IV
427125 LYMAN SHERWOOD BRADFORD IV
421231 BECKY L BRADLEY
407145 LAURA L BRADLEY
430362 JOHAN OLOF BRAG
416031 MARC WATERMAN BRAGIN
401381 PETER BEVIER BRANDOW
420579 JEFFREY LAWRENCE BRANDT
404539 LAURA MARIE BRANK
410255 MEREDITH NORMINGTON BRASCA
421330 ANNEMARIE LEONARDINI BRAUN
413726 JON WILDER BRAYSHAW
307941 ANTONIO BRAZ
307942 PAUL JOHN BREDICE
301535 IRVING AARON BREITOWITZ
424188 LIORA BRENER
301575 DANIEL EDWARD BRENNAN
418718 LESLIE BRENNAN-SOMPS
401384 DAVID MARSHALL BRENSILBER
303159 SHEILA J BRENT
309023 VINCENT PAUL BRESHNAHAN JR
429014 ERIC ANDREW BRESLOW
410014 CRISTY LYNN BRESSON
301551 BAYARD R BRICK
400678 SIMON J BRIGHENTI JR
406106 GEROW DAVID BRILL
418907 BRENDA BRINZ-VANDEWEGHE
413388 PATRICK STEPHEN BRISTOL
401385 JANEANN BRITT
405197 TRACY LOMBINO BRITTIS
306453 ISABELLE FARRELL BRITTON
420524 CHARLSA D BROADUS
306873 JAMES P BROCHIN
433911 JULIE ANNE BRODER
400984 SUSAN W BRODKIN
402850 JANET ADELE BROECKEL
401387 JOHN GERARD BROETSKY
305335 SHARON BRONTE
403784 PATRICIA CYNTHIA BROOKE
410101 KARA L BROOKS
006511 LYNN ALAN BROOKS
404318 WAYNE NORRIS BROOKS
302211 RICHARD DAVID BROOME
305854 SAMUEL BROQUE
430164 ALICIA J SANGIORGIO BROTHERS
403536 CLAUDE MOTT BROUILLARD
403294 ARTHUR F BROWN III
402706 AVERY LOUIS BROWN
403326 CAROLYN DUNPHEY BROWN
412589 CHRISTINE D BROWN
301600 CHRISTOPHER VANDYCK BROWN
421868 KEITH M BROWN
101586 LUCILLE E BROWN
427129 MELISSA JEAN BROWN
301607 MICHAEL K BROWN
405310 SAUL CRAIG BROWN
429728 CHRISTOPHER M BROWNE
418770 CHARLES BRIAN BRUNDAGE
306306 CHIRSTOPHER J BRUNO
404825 DAWN CHRISTA BRUNO

416865 EDWARD C BRUNO
410988 GWENDOLYN KISHA BRUNSON
409237 PETER F BRUSH
432366 RICHARD BRYAN
406976 LISA LOUISA BRYANT
429023 SANDRA LYNN BRYANT
405973 ROBERT NICHOLAS BUA
305113 ROBERT ALAN BUCCI
410788 THOMAS W BUCCI JR
423263 COLLEEN MARIE BUCKLEY
411077 REGINA HILLMAN BUCKLEY
423264 RICHARD EARL BUCKLEY
102257 PERRY C BUDDINGTON
417659 BRYAN T BUDNIK
306549 GREGORY P BUFTHITIS
403296 GLENN MILLS BUGGY
307121 PAUL D BUHL
400988 ANDREA LOUISE BULL
404831 ERIC BUONAMASSA
432367 CHRISTOPHER J BUONTEMPO
411789 CATHLEEN ELIZABETH BURGESS
370548 BRIAN F BURKE
303390 EILEEN BURKE
370550 JOHN A BURKE
429028 JOHN FRANCIS BURKE
304131 JUNE ANNE BURKE
437732 MICHAEL JOSEPH BURKE
305858 THOMAS ALBERT BURKE
007495 STEPHEN BURLINGAME
102010 EILEEN P BURLISON
401397 JAMES A BURROWS
007528 WALTER L BURROWS JR
412293 SMITA G BUTALA
370589 NANCY L BUTTERFIELD-SCHONS
410443 SAMANTHA ADDONIZIO BUTTS
420027 CARI J BUXBAUM
411581 JAMES I BYER JR
301003 STEPHANIE FOUNTAIN BYNUM
404251 CHRISTOPHER J BYRNE
408252 JAMES P BYRNE
417358 STEVEN BYRNE
419009 ELIZABETH BYRNE-CHARTRAND
422775 MEGAN A BYRNES
430377 LISA BYRNS
424191 ANTHONY R CACCAMO
101742 JEFFREY P CADOUX
420143 SUSANNE MARIE CAHILL
300465 DAVID M CAIN
422776 AMY MARIE CALABRESE
424751 PETER ANTHONY CALATOZZO
410461 JOHN DAVID CALDER
420597 ALFRED J CALI
418593 CHRISTOPHER T CALIO
415655 DAWN SEARS CALLAGHAN
423274 BRIAN ROBERT CALLAHAN
422124 NICOLE ANN CALLAHAN
421881 TRAVIS WILLIAM CALLAHAN
403584 ERIN MARIE CALLAN
100751 ROSALIE CALVE
422777 INDIRA JOY CAMERON-BANKS
410462 LAWTON M CAMP
408166 ANDREW JAMES CAMPBELL
413898 DAVID RICHARD CAMPBELL
421337 GOLDEN CAROLE CAMPBELL
405344 JEANMARIE CAMPBELL
406777 KATHLEEN ELIZABETH CAMPBELL
428033 LATRICE CAMPBELL
310070 M VICTORIA CAMPBELL
303862 MARK A CAMPBELL
411583 MICHAEL RENWICK CAMPBELL
309657 VICTORIA CAMPBELL
404837 CHRISTINE ELIZABETH CAMPIONE
401309 DAWN RUSSO CAMPSON
409509 MARY ANN CANDELARIO
307694 MARIANNE CANDITO
412551 JOSEPH CHARLES CANTONI JR
306877 BRENDAN THOMAS CANTY
433924 RYANNA TYLER CAPALBO
309037 ELIZABETH BLANCHE CAPEN
008320 LEWIS E CAPLAN
410263 BRUCE STEVEN CAPLIN
407234 ANDREW JULIUS CAPPEL
417243 PATRICIA A CAPPETO
421021 AMANDA L CAPPILLO
430385 VINCENZO SALVATORE CARACCIOLO
303164 DENNIS WALTER CARAHER
419524 MICHAEL A CARBONE
429212 KELLY ANNE CARDEN
433434 KEITH ANTHONY CARDOZA JR
407849 BRETT CAREY
423031 DANIEL FRANCIS CAREY
419272 JENNY ANN CARLES
406780 DON ANTHONY CARLOS JR
300537 ALLYN MYLES CARNAM
404064 BETH A CARPENTER
300541 DANIEL EDGAR CARPENTER
400440 KIMBERLEY A CARPENTER
306332 CHRISTOPHER R CARPENTIERI
418429 PETER CARPIO
307945 MICHAEL B CARRICK
306333 JOSEPH FRANCIS CARROLL JR
008654 KEVIN L CARROLL
008727 JOHN J CARTA JR
008772 ARTHUR F CARTER
308417 JOHN HENRY CARTER JR
402015 MARTIN LUTHER CARTER
414147 MICHAEL RICHARD CARTER
008782 WILLARD R CARTER
427139 SHEREE CARTER-GALVAN
308111 JOAN M CARTY
412294 LAURA JEAN CASARANO
424668 SHEILA S CASCIO
422779 BARBARA ANNE CASEY
401412 JOANNE KILDUFF CASHIN
306662 GEORGE JOHN CASPAR III
102077 THOMAS P CASPER
406781 AVI D CASPI
401413 ROBERT JOHN CASSANDRO
308113 WILLIAM M CASSARINI
427899 KATHLEEN A CASSIDY
100299 RAUL C CASTELLS
307355 ANTHONY CATALANO
303865 FRANK ANTHONY CATALANO JR
424762 MICHAEL C CATALANOTTO

421893 ANNE FLORENCE CATAPANO
307847 PASQUALE A CAVALIERE
402713 JOSEPH JUDE CAVALLARO
409899 JANET DENISE CEBULA
409730 VIKTORIA KAROLINA CECH-VINHAIS
412408 JOHN DOUGLAS CECHINI
430400 ADAM S CEDERBERG
413189 CHRIS EDWARD CELANO
009025 JOSEPH CELENTANO
419177 LYNN JEAN CELLA-COYNE
420613 STEPHEN ALPHONSE CERRATO
420230 CARRIE LYNN CERRETO
429919 TAMAR ELIZABETH CHALKER
424770 RASHAD V CHAMBERS
431734 JULIANA CHAN
307358 DEBORA CHANDLER
428081 EDWARD W CHANG
300614 JIH-KUEI CHANG
413193 SHELLEY C CHAO
429046 JENNIFER KATHRYN CHAPLA
420615 ANDRE KEITH CHARBONNEAU
303444 JAMES MORRISSON CHASE
432770 JEFFREY M CHASE
307132 MICHELLE SCOTT CHASE
431572 LISA A CHENEY
417781 IVA T CHENG
408563 MEI-WA CHENG
401420 ERIC DAVID CHERCHES
307312 ROBERT D CHEROFSKY
403303 APRIL LYNN CHERRY
009335 LAWRENCE C CHESLER
426423 REBECCA CHEVALIER
417854 MELISSA MARASIGAN CHIA
309050 RANDALL JOHN CHIERA
402249 DEBRA KAY CHIN
403587 BARBARA JEAN CHISHOLM
412584 JOSEPH CHIU
413195 JOANNE DELMASTRO CHIULLI
428595 DAVID VACCO CHOMICK
309051 REGINA CHOU
404082 ARTHUR JIN DONG CHOY
405992 MICHAEL EDWARD CHOY
407605 THOMAS ATHANASIUS CHRISTOPHER
427650 MOLLY ELIZABETH CHRISTY
309839 GEORGE RICHARD CIAMPA
414151 ANTHONY CHARLES CICIA
418504 ROBERT JOHN CIPPITELLI
300656 ANTHONY LAWRENCE CLAPES
413815 GEORGE WESLEY CLARK
432703 NICOLE A CLARK
305392 ROBERT JAMES CLARK
300674 RONALD J CLARK
409656 BENNETT D CLARKE
411262 AMY CHRISTINE CLAUSS
300685 JAMES A CLAYTON JR
407607 JOHN N CLO
415377 PRIYA SINHA CLOUTIER
420627 DAVID KENNEDY CLUNE
415944 PATRICIA ANN COCCHIA
300703 JOHN BRYSON COCHRAN
433937 ADAM B COELHO
434671 CHRISTOPHER JOHN COEN
414865 CRAIG JEFFREY COFFEY
419328 AARON GRAY COHEN
417364 AMY S COHEN
405093 DARREN BART COHEN
102563 DAVID E COHEN
310020 ELLIOT COHEN
414525 JEFFREY EVAN COHEN
404383 JONATHAN REIMAN COHEN
309467 JONATHAN T COHEN
300873 LAWRENCE A COHEN
300874 LORIS L COHEN
418102 MICHAEL ARI COHEN
101831 RUDOLPH A COHEN
305550 SUSAN C COHEN-RICH
403471 LISA COLCHETE J S
401166 PATRICIA SOPHIA COLELLA
413199 GRANETTA MARUTH COLEMAN
307884 JOSEPH P COLEMAN JR
405838 TIMOTHY ASHTON COLEMAN
427151 SIMONE ROSEMARIE COLEY
306986 LUCY ANNE COLLETT
407612 ANN MARIE COLLINS
420629 GARY H COLLINS
010460 MARSHALL R COLLINS
302909 MICHAEL FRANCIS COLLINS
010512 THOMAS W COLLINS
409250 WILLIAM G COLLINS
438959 ADAM COLON
405559 NEAL C COMSTOCK
010620 MARY GRACE CONCANNON
401180 PATRICIA ANN DAVIS CONDON
426240 SHANNON D CONGDON
307363 ROBERT VINCENT CONKLIN
305552 ELIZABETH E CONLIN
427154 DAVID JOSEPH CONN
417933 JAMES P CONNORS
406785 KATHERINE MITCHELL CONSTAN
414257 JOSEPH MICHAEL CONZA
430421 BRIAN CHRISTOPHER COOK
403594 IVY ILYSSA COOK
420028 TARA PAM COOK-LITTMAN
010079 B COOMARASWAMI
404843 LEONARD BARRY COOPER
303364 STEVEN D COOPER
424207 ANDREW NICHOLAS COPPO
300973 GEORGE COPPOLO
405849 JAMES JOSEPH CORBETT
401980 NANCY HASLEY CORBETT
101477 J WALTER CORCORAN
300984 WILLIAM JOHN COREY JR
407761 DENISE D CORIN
309067 THOMAS FRANCIS CORRIE
407617 BRIAN NOEL CORRIGAN
406992 NANCY DENARDO CORRIGAN
426912 VICTORIA MARIE COSENTINO
304331 RITAMAE GOBER COSGROVE
428471 LORI ANN COSTELLO
419573 CARRIE B COTE
419599 RAYMOND A COTE
418776 ANTHONY LOUIS COTRONEO
303565 ANTHONY F COTTONE
306579 J JEFFREY COUGHLIN

309068 MARSHALL ASHBY COURTNEY
411944 AMY MELISSA COUTANT
413479 CHERYL REYNOLDS COVELLO
417369 JENNIFER L COVIELLO
421927 ANNEMARIE FRANCES CRAIG
305876 MARK ROBERT CRAMER
307957 SONIA BURGOS CRANNAGE
425312 CHRISTINA YOUNG CRAWFORD
428136 JASON GETHING CRAWFORD
421299 JUEL R CRAWFORD
401171 JOAN MARSHALL CRESAP
301055 CATHERINE CRICHTON
102846 LORY A CRISORIO
401173 ROBERT JOHN CRISPI
418162 RALPH JOSEPH CRISPINO
405343 MARY CRITHARIS
420037 CATHERINE RYDER CRITTON
013032 RICHARD J CROMIE
302499 THOMAS L CRONAN III
426489 VINCENT JOHN CRONAN
438832 LISA M CRONIN
410876 MICHAEL JAMES CRONIN
408878 HENRY H CRONK
409908 MOIRA ANN CROUCH
307775 EUGENE F CROWE
303124 BARBARA E CROWLEY
434678 CHRISTOPHER MARK CROWLEY
100781 RALPH C CROZIER
408939 JAY D CRUTCHER
431745 E LEWIS CRUZ
408940 LUIS CRUZ
301084 FLOYD CORNELIUS CULHANE JR
301090 PETER F CULVER
013298 RICHARD H G CUNNINGHAM
416044 MICHAEL A CUOMO
306885 WILLIAM EDWARD CURBOW
416831 PHILIP L CURCIO
410382 BRIAN F CURRAN
424802 JOSEPH K CURRAN JR
409737 M KATE CURRAN
301100 WILLIAM E CURRY JR
419222 ANDREW JOSEPH CURTIN
403119 DEIRDRE FILAN CURTIS
305260 MICHAEL CUSHING
301115 JOHN AUGUST CVARCH
101478 FRANK H CZAJKOWSKI
426477 STEPHANIE ELISSA CZAP
301944 AMY A D ADDETTA
414400 ERNEST NICHOLAS D AGOSTINO
404866 ROCCO F D AGOSTINO
404545 CHRISTINE CLAIRE D ALESSANDRO
430441 ZANDRA D AMBROSIO
403327 JOY MARGARET D AMORE
401203 DOMENICK L D ANGELICA
407012 KIM C D SOUZA
420643 DAVID G DAGITZ
403596 NORA JEAN DAHLMAN
309980 MARILYN CERNAK DAIGNAULT
419416 JAMES F DAILY III
402059 BERNARD CHARLES DALEY
408115 DENNIS JOHN DALTON
403949 GEORGE DALTON
370615 HARLON LEIGH DALTON
410041 CYNTHIA ANN DALY
404852 STEPHEN DALY
307887 PATRICK J DAMANTI
303880 JAMES GRAHAM DAMON III
303879 JENNIFER MARTYN DAMON
427692 AMY LOUISE DANCAUSE
414159 VIRGINIA A DANFORTH
402128 JOHN JAMES DANIELS
410283 JUSTIN JARMAN DANIELS
404573 RICHARD LAWRENCE DANIELS
418778 JEFFREY JOHN DANILE
405108 JOSEPH MARTIN DARA
423320 HELENA DARAS
405672 HOLLY QUACKENBUSH DARIN
410693 WILLIAM A DARRIN JR
413978 JEAN-MARC MARCEL DAUTREY
408116 JOHN FRANCIS DAVENPORT
307707 PETER F DAVEY JR
412898 VANESSA V DAVEY
405112 BRUCE JONAS DAVID
426591 EVA Y DAVID
409253 JILL ALLISON DAVID
417252 C SIMON DAVIDSON
305413 DAVID FRANCIS DAVIDSON
419610 DONALD NORMAN DAVIDSON JR
427381 HEATHER ELIZABETH DAVIES
403987 BRET JAY DAVIS
410284 HELEN ANNE DAVIS
300815 J DANIEL DAVIS JR
302127 STEWART LYNDEN DAVIS
432794 PAMELA JILL DAVIS-SCHWARTZ
426538 KYLE C DAWSON
405322 AMY CARRON DAY
411606 MELISSA BETH DAY
424818 SCOTT DAY
427771 WILLIAM TIMOTHY JOHN DE LA MAR
301669 SHERRY C DEANE
425835 ROSEANN MARIE DEBELLIS
402061 MARK LOUIS DEBENEDITTIS
404855 JEREMIAH A DEBERRY
420654 MONICA LYNN DEBIAK
305291 BRUNO JOSEPH DEBIASI
416046 ROBERT PATRICK DEGEN
409739 JANET MIRIAM DEGNAN
417669 FRANK DEGRASSE
411949 ALBERT DEGREGORIS
424819 JEAN-CLAUDE F DEHMEL
428531 NICOLETTA DEL VECCHIO
371539 ROBERT D DELANEY
305884 ROSS DELANEY
432796 MICHAEL PAUL DEMARCO
428632 ROSEMARY JACQUELINE DEMPSEY
421360 NATALIE A DENNERY
404857 PETER JONATHAN DENNIN
302916 ANTHONY JOSEPH DEPAUL
419617 SCOTT E DERBY
309093 MICHAEL DERGARABEDIAN
418611 SOHANKUMAR SURESHINGH DESAI
408823 MARGARET HAMILTON DESAUSSURE
411604 PETER ANTHONY DESTAFFAN
424830 KRISTINA DETMER

412824 JOHN PATRICK DEVER
413210 ERICKA DEWEY
410669 PATRICIA DEWITT
403604 ANN CECELIA DI BUONO
370268 JOHN DAVID DIAMOND
404858 ROBERTA LYNN DIAMOND
405753 ROBERT DIAZ
425916 JOSEPHINE MARIE DICOSMO
426310 M MELCEDITHA DIEGOR
015359 LUCIEN P DIFAZIO JR
429100 LAUREN VICTORIA DILEONARDO
415193 JONATHAN PATRICK DILLEY
415378 THOMAS J DILLON
405348 LILLIAN DILORENZO
422804 SABRINA JANINE DIMAURO
309099 PATRICIA CORINNE DINEEN
407866 MITCHELL ANDREW DINKIN
015600 ANDREW M DIPIETRO JR
015621 FRANCIS J DISCALA
370290 MARK ROBERT DISLER
102926 DAWN M DITTMAR
101204 THOMAS M DIVENERE
416117 PHYLLIS MICHELLE DIVINS
415147 LON ERIC DOBBS
429103 KIMBERLY N DOBSON
301718 MARTIN HENRY DODD
305890 DANIEL LEE DOHERTY
423329 PATRICK F DOHERTY
429104 MATTHEW MICHAEL DOLAN
102814 PAUL A DOMINIANNI
401193 STEPHANIE DONATO
309101 JOHN CHARLES DONELKOVICH
408881 JAMES JOSEPH DONNELLAN
430460 ELIZABETH CLAIRE DONOGHUE
402062 JAMES FRANCES DONOHUE
429106 FIONA TERESA DONOVAN
435966 GARY LEON DONOYAN
370336 THOMAS HOWARD DOOLEY
401196 ANN-CHRISTINE DORAN
420670 ELISSA KIM DOROFF
411386 RISA ILENE DORSKY
404581 JUDITH DOS SANTOS
306892 MARIO F DOTTORI
412828 BRYAN CHRISTOPHER DOUGHERTY
305202 HYACINTH V DOUGLAS-BAILEY
417486 MIRIAM DOWD
427171 CAROLINE SARINA DOWNS
307484 MARY ANN DOYLE
414399 THOMAS MARTIN DOYLE JR
426633 RACHEL STOBER DRANOFF
306273 JANET BEA DREIFUSS
402197 JOSEPH W DREXLER
305892 BARRY MARK DRIESMAN
406099 DENNIS WAYNE DRISCOLL
370388 MARIANNE DROST
426697 RAFAEL JOHN DROZ
309742 DAVID VICTOR DRUBNER
101002 LEONARD M DRUCKER
303455 DAVID J DRUCKMAN
403608 F RUSSELL DU PUY III
409145 JANETTE E DUBIN
402867 PAUL R DUBINSKY
417489 SARAH ELIZABETH DUBITSKY
303078 DAVID LEWIS DUBROW
407417 RACHEL MARIAN DUFAULT
414429 SHEILA LAHEY DUFFY
407419 JOHN CONOR DUGGAN
419434 FRANK DUMONT
401200 SHARYN MAITLAND DUNCAN
404141 JAMES J DUNHAM JR
307385 PATRICK SYNAN DUNLEAVY
415148 RAYMOND A DUNN
102093 RAYMOND B DUNN
435747 BRITTANY ANAIR DUNNE
418440 TIMOTHY DUNPHY
309472 MICHAEL P DUNWORTH
410212 CYNTHIA T DUPONT
406801 RICHARD PETER DUPREY
424216 ROBERT JOHN DURBIN
423342 KIRKANDRE DELGADO DURRANT
431773 KRISTYN MARIE DUSEL
413906 FONDA Y DUVANEL
309108 JILL ERIKA DWORKIN
406802 CHRISTOPHER DAVID DWYER
407422 JAMES JOSEPH DWYER
407625 DANIEL EDWIN DYER
306586 BENJAMIN I DYETT JR
401202 KENNETH IAN DYM
411398 CAROLENE S EADDY
101636 JOHN T EARLY
429114 BENJAMIN THOMAS EASTMAN
306456 GARY M EATON
309111 TIMOTHY JAMES EATON
403110 BARBARA JAN EBENSTEIN
300003 MARTIN S ECHTER
303888 CHERYL E ECKHARDT
407629 HAROLD NELSON EDDY JR
414545 ERIC JAMES EDEN
306230 JETA-LYNN EDWARDS
307665 CHRISTIAN E EDYE
300021 PATRICIA A EHLERS
410241 HELEN ZAJAC EICHMANN
301952 JOHN CHARLES EICHNER
405490 RANDI S EISENSTEIN
430474 MYRIAM ELAMRAOUI
300031 DAVID WAYNE ELKIN
407015 ROBERT SCOTT ELKINS
411612 JESSICA G ELLIOTT
303243 R BRIAN ELLIOTT
309694 RICHARD MARTIN ELLIS
421971 ROBERT E ELLIS
427175 STEVEN LAZAR EMANUEL
410488 BRADFORD CORCORAN EMMET
423355 PETER A EMMI
404776 KATHLEEN M ENDRELUNAS
412830 RITA L ENG
303893 MARK CHRISTOPHER ENGEL
102343 PALMER Y EPLER
409526 DOUGLAS A EPSTEIN
300069 RAFAEL EPSTEIN
406489 ROBERT WILLIAM ERB
413735 JILLIAN LEE ERDOS
407632 JOSEPH PAUL ERIOLE
307158 FRANCES ERLICHSON

420258 THEODORE JAMES ERVIN
018365 DAVID R ERWIN
420686 HEATHER WHITE ESKEY
409748 PETER DAVID ESSER
409402 LISA SPEAR ETHRIDGE
306898 WILLIAM CHRISTOPHER EUSTACE
403616 ELIZABETH HELEN EVANS
419996 ALICIA FABE
308169 DAVID RUSSELL FAGELSON
102042 CHRISTOPHER C FAILLE
403065 NISHA ANTONY FALCIGNO
411958 GABRIEL I FALCON
400463 JOHN P FALCONE
305579 LAWRENCE W FALKIN
305294 JOSEPH R FALLON
370452 JOHN HENRY FALSEY
400464 ROSEMARY FANELLI
308328 ANTHONY PAUL FARLEY
408957 LYNN M FARRAND
410294 KEVIN MICHAEL FARRELL
411448 KEVIN PATRICK FARRELL
417756 SLOAN WILLIAM FARRELL
409527 ELIZABETH ANN FAUGHNAN
429750 WILLIAM STANLEY FAULKNER
417420 VICKY FAUPEL
406113 CHARLES JOSEPH FAVATA
433450 JONATHAN DANTE FAZZONE
307392 JESSE MICHAEL FEDER
406138 L WENDELL FEDERER
423364 STACY LYNN FEDORCHUK
370486 STEPHEN PHILIP FEIGIN
415640 AUDREY CATHERINE FELD
303035 RICKI ANN FELDMAN
424858 ROBIN B FELDMAN
370501 ABIGAIL FELICIANO-GOMEZ
370502 DAVID SHERMAN FELMAN
406808 ARTHUR A FELTMAN
400467 NICOLE LYNN FELTON
307892 CHRISTOPHER R FENELON
306458 KATHLEEN S FENELON
413831 SUSAN G FENTIN
411618 DONNA SIOBHAN FENTON
019443 CHARLES P FERLAND
402261 ANGELO G FERLITO
424860 ISIS CATHERINE FERNANDEZ
306739 MICHAEL FRANCIS FERNON
427178 BRIDGET ANN FERNQUIST
403117 KAREN ELISABETH FERRARE
423370 JENNIFER CHRISTINA FERRER
413426 LORRAINE FERRIGNO
370633 JOSEPH C FERRUSI
019530 LAWRENCE A FIANO
410053 GARY RUDOLPH FIEDLER
406028 NANCY ELIZABETH FIELDING
418443 HOWARD REGINALD FIELDS
416193 IAN MATTHEW FIELDS
305582 JOSEPH FRANCIS FIELDS
424223 WALTER LEVI FIELDS JR
405754 LINDA WANDA FILARDI
407429 KEITH STANLEY FILEWICZ
402874 LAWRENCE JEFFREY FINEBERG
403121 ERIC STUART FINGER
306616 ANDREW FREDERICK FINK
306517 SUSAN BETH FINK
309997 SCOTT CRAIG FIRESTONE
408007 JOANNE FIRSTENBERG
370673 JOHN P FISCHER
413907 KAHLIA ELENA FISHER
437191 LAURA ALLISON FISHER
303899 RONALD FISHMAN
413786 JONATHAN J FITTA
402185 JAMIE JOHNSON FITZGERALD
303181 PATRICE MARIE FITZGERALD
406810 JAMES GERARD FITZMAURICE
020215 WALTER T FLAHERTY JR
413694 ERIC VAUGHN FLAM
102007 BRETT FLAMM
424224 JOANNE D FLANAGAN
421987 JOHN DAVID FLANAGAN
431272 ADAM PAUL FLEISCHER
426668 LAURA ANNE FLEISCHMANN
308121 PETER EMMET FLEMING III
414100 KELLY A FLINT
412644 ANTON F FLIRI
305407 JONATHAN PALTIEL FLOM
431526 DAVID FLORIN
427028 KIA D FLOYD
406812 ELLEN M FLYNN
101114 THOMAS F FLYNN III
416761 PATRICK MICHAEL FOGARTY
307970 ROBERT W FOLCHETTI
418273 ROCHELLE F FOLCKEMER
406813 KATHLEEN DENISE FOLEY
419527 JOHN STEPHEN FOLMSBEE
438117 SANDI FONG
409921 R NADINE FONTAINE
370984 GARY LEVAUNT FORD
404878 KEVIN THOMAS FORDE
308864 DAVID ANDREW FORDIANI
416873 ALBERT JOHN FOREMAN
302419 JAY MERRILL FORGOTSON
400477 ANDREA EVE FORMAN
435551 JAMES FORMAN
303423 DIANE PRIOR FORNUTO
424226 JOMO CLAUDE FORRESTER
020625 MATTHEW J FORSTADT
307170 CHRISTOPHER FOSTER
420708 THOMAS JOHN FOTE
307171 SHIRLEY ANN FOUNTAIN
400479 PATRICIA L R FOWLER
408184 RONALD A FOX
402619 SUSAN ELLEN FOX
407642 ROBERT FRANKLIN FOXWORTH III
370995 JAMES L FOY
436629 JILL FRADIN-RHODES
403622 ELIZABETH BELLO FRANCHINA
307172 CHRISTOPHER P FRANCO
412958 JAMES J FRANCOEUR
101178 RICHARD FRANK
303365 ROBIN JO FRANK
020847 ROGER J FRECHETTE
415197 LINDA MOLUMPHY FREEHILL
408688 MICHELLE A FREEMAN
100088 PHILIP FRENCH

020985 RICHARD J FRICKE
414041 JUDITH HESSION FRIEDMAN
420713 RUTH LYNN FRIEDMAN
412959 STEVEN ADAM FRIEDMAN
421232 THOMAS P FRIEDMAN
102184 MARTIN H FRIMBERGER
304266 LINDA ANNE FRITTS
426881 BRENDAN FROEHLICH
429956 CANDICE DESIREE FROST
423390 JOSEPH PAUL FUCCILLO
407432 ASTRID REGINA FUENZALIDA
403626 BRADLEY JOEL FUNNYE
404263 TINA ANN FUOCO
304269 DAVID JOHN FURIE
021160 JOHN B FURMAN
306909 DAVID FUSCO
422823 PATRICK JAMES GAFFNEY
424234 MARK P GAGLIARDI
309639 GREGORY ANTHONY GALBO
401215 DOUGLAS JUSTER GALL
100774 ELIZABETH A GALLAGHER
426767 WILLIAM JOSEPH GALLAGHER
420718 KELLY MARIE GALLIGAN
310047 ANTHONY JOSEPH GALLINARI
303851 SUSAN BOHACS GALLO
100129 DENNIS E GAMACHE
405138 THOMAS MARTIN GAMBINO
021632 KENNETH M GAMMILL
307893 SUSAN J GANZ
431789 TODD G GARBATINI
301969 ELLEN KAYE GARBER
420277 YVONNE FRANCENE GARBETT
414270 ALANA MARIE GARBUS
402880 DANIEL ANTHONY GARDELLA
417684 CHRISTOPHER H GARDEPHE
309610 KAREN RUTH GARDINER
401104 TROY ALAN GARDNER
433584 CHRISTINE ELIZABETH GARG
429144 KUMAR ANKUR GARG
426764 KRISTEN GARLANS
413512 DAVID CHRISTOPHER GAROFOLI
424238 KEISHA SHANTELL GATISON
435689 SARA GATTIE
101935 DONALD G GAUDREAU
429959 CHRIS GAUTHIER
425914 GRACE GAVIGAN
414557 MELISSA B GEETTER
422007 JOSEPH L GEGENY
424886 JOHN F GEIDA
411967 PETER GREGORY GEIS
307716 J SUZANNE GEISS
403630 BRUCE HOWARD GELBAND
429147 NICHOLAS S GELFUSO
407256 ROBERTA GELLER
309882 JANE ANDREA GELMAN
423397 COURTNEY ELIZABETH GENGLER
309883 CATHY BRIER GENNERT
403341 ELIZABETH A GENOVA
403128 PAULA JEANNE GENOVESI
419925 TINA JOAN GEORGIADES
421381 ROBERT G GERAGE
409871 JOHN JOSEPH GERAH JR
022192 WAYNE C GERLT
430515 IAN LEWIS GERMAN
437209 ELIZABETH GENEVIEVE GERMANO
414415 MICHAEL J GESCHWER
404385 ERIC A GESS
305915 JANETTE ROWE GETZ
302935 ROBERT E GHENT
418185 ALAN MICHAEL GIACOMI
420726 STEPHEN CHARLES GIAMETTA
100654 GORDON GIANNINOTO
101913 EDWARD F GIBBONS
408654 SARAH HAMLIN GIBSON
429150 BURTON VERDI GIFFORD JR
303186 RICHARD W GIFFORD
405575 KELLY GILCHRIST
412948 WENDY LISA GILDIN
419665 DESIREE CHRISTINA GILER MANN
405576 PAULA S GILES
400497 NANCY L GILLESPIE
022506 PETER W GILLIES
422014 JENNIFER O GILLIS
411634 MATTHEW VINCENT GILLIS
424891 AMANDA BURRELL GILMAN
101690 SCOTT J GILMORE
022674 SIDNEY GIMPLE
431278 ARTHUR GINGRANDE
420283 DEBORAH A GINTER
301786 ANTHONY VINCENT GIORDANO
421990 PATRICIA MARY GIRARD
405142 JOHN M GIRARDI
420732 LORRAINE MICHELE GIROLAMO
407038 GERARD GIULIANO
410890 BRUCE PETER GLADSTEIN
428608 ALEXANDER JOACHIM GLAGE
409927 ELIZABETH ANNE GLASSER
424245 JEFFREY SCOTT GLASSMAN
308298 KENNETH BRIAN GLASSMAN
439075 BRIAN J GLENN
410793 MICHAEL RONALD GLICKMAN
400503 BRUCE WILLIAM GLOVER
309998 GARY LEE GLUSKIN
408963 JAMES JOSEPH GODBOUT
429963 JOHN PATRICK GODBOUT
415937 CHRISTOPHER DAVID GOEBEL
309661 CHARLES E GOLDBACH
423409 PETER J GOLDBACH
402886 RICHARD L GOLDBERG
418520 MICHELLE L GOLDBERG-CAHN
421389 JACK BENJAMIN GOLDEN
307409 JOHN A GOLDENBERG
403138 STEVEN W GOLDFEDER
307410 MITCHELL GOLDKLANG
371154 CHARLES D GOLDMAN
420736 JOHN THOMAS GOLDMAN
405959 MIRI GOLDMAN
409119 MICHELE GOLDMEER
300823 STEPHEN J GOLDNER
406817 AIMEE DAVIS GOLDSTEIN
305921 BRYAN STEVEN GOLDSTEIN
023665 HENRY L GOLDSTEIN
408964 JERRY DAVID GOLDSTEIN
410306 JORDAN MARC GOLDSTEIN

421866 ERIN L GOLEMBIEWSKI
418522 KEVIN GOMEZ
405145 PATRICK EDWARD GONYA JR
304342 MARCELLA GONZALES-PHILLIPS
403139 BONNIE SUE GOODMAN
417388 LAURIE BETH GOODMAN
309160 LYNN IDA GOODMAN
407439 ALISON RANDI GORDON
405378 CHERYL ANN GORDON
307413 DANA GORDON
023982 RICHARD M GORDON
401438 TODD ANDREW GORDON
309163 WILLIAM JAMES GORDON
403344 KEVIN GORI
407440 FRANK MCLEAN GORMAN
309486 BRENDAN THOMAS GORMLEY
400748 SHEILA MARIE GOSS
406074 ARLENE KASPER GOTTLIEB
101795 RUTH A GOTTLIEB
424904 NATASHA NELLY GOUEY-GUY
408125 EDWARD MANNING GOULD
404890 MICHAEL N GOULD
405380 OLYMPIA GOUVIS
417506 WILLIAM FREDERICK GOVIER
429161 KATRINA MONIQUE GOYCO
302244 STANLEY GRABIA
371190 JAMES JOSPEH GRADY
305926 RICHARD MARC GRAFFAM-RODRIGUEZ
418167 PAULA EVE GRAFSTEIN-SUAREZ
405381 COLLEEN ANN GRAHAM
304693 CHRISTOPHER GRAHAME-SMITH
440064 JORDAN LEIGH GRANDE
419677 SUZANNE ELIZABETH GRAVES
426309 JENNIFER L GRAY
415940 FIONA MARIE GREAVES
412597 CLAUDIA J GRECO
427984 RYAN PATRICK GRECO
420747 ROBERT ALAN GREEBEL
401439 GREGORY EDWARD GREEN
409361 KATHERINE GAIL GREEN
419902 STACEY FERN GREENBERG
404611 RHONDA ELLEN GREENBLATT
410893 DAVID R GREENE
024536 JAMES W GREENE
024770 PETER E GREENE
401440 RICHARD MARK GREENE
428156 SCOTT GERALD GREENE
406560 THEODORE JAY GREENE
410577 SUSAN MELISSA GREENSTEIN
414282 KELLIANNE GREENWOOD
100995 THOMAS P GRIFFEN
309173 ELIZABETH A GRIFFIN
309174 STEVEN DODD GRIFFIN
371230 FORREST L GRIFFITH III
420290 MICHAEL GERARD GRIMM
309531 SHARYN F GRINDROD
304369 A HOWARD GRIZZARD
403639 LAURENCE ANDREW GROB
427200 JAYE ANN GROCHOWSKI
401441 DENNIS WILLIAM GROGAN
371239 GLEN A GROSS
407187 JENNIFER WELSH GROSS
025374 MARK GROSS
415524 STEVEN R GROSS
414564 MICHAEL JOSEPH GROSSANO
301791 DONALD E GROSSFIELD
416064 GREGG H GROSSMAN
309176 KERRY M GROVER
405385 ROBIN ELLYN GRUBER
413951 TERESA A GRUBER
429175 D FRANCESCA GRUER
403997 JAMES ANTHONY GRUTZMACHER
404267 KATHLEEN VOUTE GUDMUNDSSON
416206 MARK GUERRA
309938 J HANSON GUEST
301793 THOMAS J GUIDERA
371256 RICHARD JOHN GULIANI
428008 ANTHONY DOMENIC GULLUNI
413840 NICHOLAS ALEXANDER GUMPEL
412599 JAY S GUNSHER
414026 ALEXANDER J GUREVICH
404897 CHRISTINA GUST
304477 JAMES B GUST
418233 TODD WHITNEY GUSTAFSON
309177 MARK ALAN GUTERMAN
307423 DAVID A GUTOWSKI
302526 MARK WROTH GYOROG
420755 TRENTON C HAAS
408322 THOMAS CHRISTOPHER HABERLACK
309178 MARK ANTHONY HADDAD
306368 SALLY ANN HAGAN
025969 THOMAS J HAGARTY
424252 MICHAEL T HAGER
403215 MARLENE REISS HAHITTI
371274 SUSAN J HAINE
414870 STACY ANN HAINES
430545 MICHELE ELISSA HALICKMAN
309810 JOHN HENRY HALL JR
410974 JACK ANDREW HALPRIN
416238 ERICA R HALSTEAD
422031 JAMES A HAMILTON
309641 REGINALD WAYNE HAMILTON
371291 STUART ALLAN HAMMER
427202 BERNARD CHANG HAN
406657 KENNETH SAWKHOON HAN
423429 STEPHEN F HANNIGAN
419684 DAVID ELIAS HANNOUSH
420295 MARTHA BROOKE HANSEN
407056 STEPHEN SCOTT HANSEN
414568 WILLIAM ROCKEFELLER HANSON
401443 JOSEPH DAVIL HARALSON
416355 JOHN ANTHONY HARLOW III
401228 ANNE ELLIS HARNES
410795 LAURETTE AMY HARPER
422843 OTIS T HARPER II
430553 DANIELLE M HARRIS
405411 HEIDI ELLEN HARRIS
307981 JAMES PHILIP HARRIS
303912 JOHN BARNEY HARRIS
409271 MICHAEL PAUL HARRIS
430555 PHILIP HARRIS
405578 MARK IRA HARRISON
302530 JUDITH A HART

400513 SHARON MARIE HARTLEY
307428 MINDY ELLEN HARTSTEIN
411460 CYNTHIA HARTWELL
371320 BRUCE HASBROUCK
426393 SARA DEE HASKAMP
421404 KEITH A HATHAWAY
415154 STEPHANIE HATZAKOS
303190 CATHERINE M HAVENS
304550 KENNETH W HAYDEN
302941 MICHAEL J HAYES
421442 SONJA J HAYES
304552 HELEN HAYNES
371393 ROBERT THOMAS HAYOZ
309985 ANDREA ROSE HAZELL
403148 BRIAN MICHAEL HEALY
304555 CHRISTOPHER R HEALY
415248 MATTHEW EDWIN HEALY
405160 DANIEL H HECHT
304557 DAVID RONALD HECKMAN
410896 DANIEL D HEDIGER
416211 STACEY AMES HEENEY
402983 ELLEN ROBERTS HEFTER
404900 MARK BRIAN HEIDINGER
429187 JENNIFER LOIS HEIGHT
100084 WILLIAM J HEINRICHS JR
403645 WARREN STUART HEIT
426602 JULIE CHERI HELLBERG
420772 MELANIE DIAMANT HELLER
302745 JAMES RICHARD HELMS
027210 SAMUEL J HENDERSON
430561 KATE HENNING
416213 ANDREA BIRNBAUM HERBST
413240 MARY CHRISTINE HERDMAN
306754 LENORE SYDNEY HERMAN
425905 ROBERT OVILA HEROUX
422040 DEBORAH ANN HERRINGTON
309189 JONATHAN SCOTT HERRON
309950 JOSHUA GIDEON HERSCHBERG
409543 JENNIFER DALE HERSH
409366 JOSHUA ZALMAN HERSH
411979 ILENE C HERZ
402906 ALLEN JAY HERZFELD
415609 LINDA K HERZNER
027320 JAMES W HESLIN JR
406635 JAMES JORDAN HESS
304566 RICHARD MATHESON HESS JR
422041 MARGARET AMY HETHERINGTON
404624 JENNIFER CHAPIN HICKOX
411306 ROLAND RICHARD HICKS
424260 JOHN J HIGHTOWER
422042 RENEE LYNN HILDRETH
401449 CELAYNE G HILL
407674 THOMAS JOHN HILLGARDNER
424948 CARRIE ELIZABETH HILPERT
305426 GLEN D HIRSCH
403362 KHUONG HO
430566 BERTRAND H HOAK JR
430567 HOLLY SHINO HOBART
400759 MARC STEVEN HODES
411274 DEIRDRE E HOEBICH
414183 ROBERT JOSEPH HOEFFERLE
422850 JESSICA LEE HOFF
421411 ROBERT BRIAN SIEGEL HOFF
414421 DOLLY HOFFMAN
303037 MARLA J HOFFMAN
414184 PATRICIA LEE HOFFMAN
400763 BARBARA L HOLDREDGE
423443 BRIAN RICHARD HOLE
410508 PATRICIA ANN HOLLAND
407337 LESLIE STEPHEN HOLLO
402910 ROBERT A HOLMES
100611 RICHARD L HOLMS JR
401238 JOSEPH KENNEDY HOLOHAN
412845 BJORN J HOLUBAR
400221 DAVID M HOLZBACH
411980 CHARLES EDWARD HOOD
305622 JAMES J HOOGHUIS
426155 ALISA FAY LEFKOWITZ HOOVER
407941 KIRSTEN C HOPES-MCFADDEN
371480 WILLIAM HAYES HOPKINS
304590 JOHN MICHAEL HORAK
306232 DIANA HORAN
308466 MICHAEL JOHN HORNBROOK
304593 BARBARA R HOROWITZ
305211 DAVID ADAM HOROWITZ
307437 KENNETH PAUL HOROWITZ
406468 DREW FRANCIS HORRELL
304597 MARTHA MCQUEENY HOSP
309439 JANE MARIE HOUDEK
028195 JOHNESE WHITE HOWARD
416877 JAMES JOHN HUBEN
371507 LEE MCCARTHY HUBER
304606 MEGAN A HUDDLESTON
371511 RANDALL AVERY HUFFMAN
405155 JANE ELIZABETH HUGHES
419701 JESSICA MARGUERITE HUHN-KENZIK
429203 DUSTIN RICHARD HUI
430574 ANN-GAIL BREGIANES HULT
102565 PATRICK T HULTON
405167 CYNTHIA L HUMMEL
408780 JEFFREY KENNETH HUNSINGER
434723 ALEX STEPHEN HUOT
405939 STEVEN PAUL HURLEY
407063 STEVEN DAVID HUTENSKY
309889 CLIFFORD C HYATT
416218 RAYMOND JOSEPH IAIA
403202 KATHLEEN NICOLE IANNOTTI
426915 GINA REIF ILARDI
413046 MARY INCERTO-TOMLIN
409111 VICTORIA M INGBER
404001 WILLIAM ROBERT INGRAM
370013 ROBERT J INTRAVIA
307902 ISTRATE IONESCU II
427211 DERRICK PHILIP IRELAND
407009 RANDI ISAACS
302946 MARK SAMUEL ISENBERG
403652 STUART MARC ISRAEL
413243 ROBERT JAMES JABLONSKI
410723 ALLISON LOUISE JACOBS
370186 BARRY JACOBS
303476 JEFFREY L JACOBS
423452 JENNIFER BETH JACOBSON
408269 RICHARD PATRICK JACOBSON
410087 SETH JACOBY

309891 NANCY TRENT JAKUBIK
307442 ANDREW L JALOZA
370082 CHRISTOPHER G JAMES
416360 DAVID WILLIAM JAMISON
414423 DAVID JAY JANOW
370090 DEBORAH DARMSTAETTER JANS
407885 LIZANNE M JANSSEN
303919 DIANE MARIE JANULIS
405758 FRITZ GERALD JEAN
412312 MARIE N JEAN
427946 MICHAELLE JEAN-PIERRE
302250 WILLIAM THOMAS JEBB II
305628 RUTH JEBE
301704 DEBRA MALONE JENNINGS
102882 JOHN KINCAIDE JEPSON
431387 JACK RYAN JERZYK
300763 BEVERLY JOHNS
424269 ALBERT JAMARJ JOHNSON
100006 ALBERT R JOHNSON JR
406031 ALLEN HERBERT JOHNSON JR
309642 ANGELA MAIORANO JOHNSON
101364 COLIN D JOHNSON
439094 DAVID CROMWELL JOHNSON JR
102304 KATHY A JOHNSON
402430 KIMLA JOHNSON
412848 LANCE JOSEPH JOHNSON
429989 LARISSA BENEDICT JOHNSON
421416 LOUISE ANNA JOHNSON
401244 MAUREEN WROBBEL JOHNSON
029743 MELVIN E JOHNSON
408982 REBECCA L JOHNSON
102601 RICHARD R JOHNSON
370134 KARL DONALD JOHNSTON JR
305629 DOLORES ARLENE JONES
370141 DONALD T JONES
437239 EMILY THERESE LOUISE JONES
415945 ERIC HAROLD JONES
422606 LESLIE E JONES
302405 LESLIE O JONES
370147 RICHARD D JONES
424273 DANA AMY JONSON
308139 BARBARA ELAINE JORDAN
403095 KATHY MARY JORDAN
307988 STEPHEN D JORDAN
030056 RICHARD J JOSEPH
302543 TAFFY JOWDY JR
400772 CAROLYN ANN JOY
403159 BRIAN MICHAEL JUDGE
371929 KURT R KABOTH
416963 PAUL KACHEVSKY
030129 EDWARD KACZMARCYK
303480 STEWART A KAGAN
433594 HENRY DAVID KAHN
030225 MITCHEL E KALLET
432874 ELIZABETH WADE KALOYANIDES
308202 MOIRA EMIKO KAMGAR
030298 JUDITH KAMPF
411026 DANIEL JOSEPH KANE
402272 RHODA B KANET
371949 NEIL LESLIE KANZER
417551 MANISHA HEMISH KAPADIA
424979 DANA LYNN KAPLAN
411984 DINA SARA KAPLAN
430596 JASON L KAPLAN
100109 PATRICIA KAPLAN
428572 SHEELA GOPA KAR
422860 PANAGIOTIS KARAHALIOS
412972 PETER WILLIAM KARDARAS
301807 JAMES L KARL II
435849 JOANNA IVY KARLITZ
030525 JOHN S KARLS
427988 JURGITA KAROBKAITE
309701 KAREL SUE KARPE
409548 ALAN J KATZ
403791 BENNETT KATZ
424282 EDDAN ELIZAFON KATZ
309758 LINDA S KAUFMAN
302546 JODY L KAVA
400518 TERRANCE LOUIS KAWLES
428594 JUSTIN MARC KAYAL
422863 JORDAN DANIEL KAYE
303687 DEBORAH R KEARNS
434042 SEAMUS MICHAEL KEATING
417522 MICHAEL J KEEFE
101392 RAYMOND J KEEGAN
425937 GLENN WILLIAM KEIDERLING JR
305357 JEFFREY ROBERT KEITELMAN
416075 BARBARA ANN KELLER
406840 MATTHEW KELLER
404915 RICHARD ALAN KELLER
100079 JAMES KELLY
304830 MARGARET ANN KELLY
304831 GAIL M KEMP
427220 BRIAN WILLIAM KEMPER
400483 HILARY JOY KEMPNER
304834 RALPH L KENDALL JR
403161 BRENDAN KENNEDY
422125 ELIZABETH B KENNEDY
403379 JESSICA KISH KENNEDY
410514 MARY CAMERON KENNY
407913 THOMAS LOUIS KENT
414293 KIM ELISA KERBER
418530 AMY L KERN
417271 MICHAEL DAVID KERN
412851 BRIAN C KERR
437799 SUSAN PENDLETON KERR
372014 WILLIAM J KERRIGAN
404920 STEVEN ALAN KERSCHENBAUM
305084 MARGARET LYONS KESSLER
414101 STEVEN ALLEN KESSLER
414294 RUSSELL JAY KESTENBAUM
418620 ANN FAVALE KETCHEN
407690 ALBERT KHAFIF
430609 ASIM MASOOD KHAN
418416 SARA AZARM KHORAMI
101355 LINDSEY C KIANG
302379 PENLEY TOFFOLON KIDD
429232 RICHARD EDWARD KIELBANIA
421840 KATHLEEN KIELY KIELY-BECCHETTI
420803 EVANS H KILLEEN
425812 JASON ALEXANDER KILLHEFFER
101411 THEODORE R KILLIAM
426549 MEENAH KIM
403416 LISA KIMMEL

407693 CHRISTOPHER GENE KING
307995 EDWARD LARKIN KING
304840 JOHN SPALDING KING
405178 RICHARD A KING
400780 SHAWN MICHAEL KING
411669 WILLIAM SPENCER KING
439407 ROBERT SCOTT KIPNESS
417338 CHARLES GORDON KIRKMAN JR
304843 RANDY A KIRSCH
412853 EDWARD N KISS
402138 RICHARD MARK KLAPOW
304850 LEWIS MITCHELL KLEE
406035 ADAM HY KLEIN
419438 JESSICA KLEIN
407783 JULIE ANN KLEIN
417396 LOUIS HENRY KLEIN
417397 ILYA KLEYNERMAN
306828 LISA W KLINE
303090 PETER A KLOCK
412885 SARAH SCOVA KLUG
420312 MARK ROBERT KNALL
425737 RAMON KEITH KNAUERHASE
411670 PATRICK SULLIVAN KNIGHTLY
409674 JAMES CHARLES KNOX
305958 LYNNE M KNOX
428664 BEN R KOCIUBINSKI
419933 MICHAEL T KOGUT
308537 RICHARD A KOHLBERGER
435858 CATRINA CARTAGENA KOHN
404928 NICHOLAS G KOKIS
416081 JOHN ANDREW KOKOLAKIS
427935 CATHERINE LAKE KOLLET
403666 ROBERT NEIL KOLTUN
422509 NATHAN Z KORN
400524 ALAN L KORZEN
303073 KAREN ELIZABETH KOSKOFF
307214 NANCY MCCALLUM KOSTAL
372072 WILLIAM THEODORE KOSTURKO
410753 THOMAS KOTTLER
425003 RAYMOND JOSEPH KOTULSKI
411990 JAN EDWARD KOWALSKI
411473 KATHY KOWLER
422110 PETER KOZIOLKOWSKY
422097 KATHLEEN HAE KYUNG KRAFT
405367 LISA MICHELLE KRAL
435292 ALEXANDER JOSEPH KRANTZ
310004 RICHARD ALAN KRANTZ
411991 THOMAS J KRATOCHVIL
032402 HELEN KRAUSE
414191 MARK JAMES KREMIN
418570 MICHAEL KRENICKY
417273 DAVID PATRICK KREPPEIN
101719 EVELYN L KRETA
413261 JOHN RICHARD KROGER
402324 GARY THOMAS KROPKOWSKI
307998 DAVID ALAN KRUEGER
422869 ROY HANS KRUEGER
420820 TRICIA LYNN KRUPNIK
408784 PETER GEORGE KRUZYNSKI
434613 BETH KUBLIN
412554 ERIC WARD KUHN
372101 EDWARD ROBERT KUMP
430631 JUSTIN DEREK KUMPULANIAN
419306 JAYA SINHA KUMRA
429256 IGOR G KUPERMAN
412135 ROBIN A KURANKO
415252 GLEN A KURTIS
423497 CHRISTOPHER TYNER KURTZ
411830 ERIK LOUIS KUSELIAS
405666 PATRICIA CAROL KUSZLER
431480 COBY STOCKARD KUTCHER
405185 KENNETH JOHN KUTNER
401026 EDWARD KWAKU KWAKWA
416085 JOHN WILLIAM KWIATKOWSKI
410521 THOMAS O KWON
425819 CHRISTOPHER KYLIN
434052 GRACE E KYNE
413096 CHRISTOPHER JOHN LACADIE
434733 HEATHER M LACEY
437258 DAVID MARTIN LACHANCE
421430 JAMEN MICHAEL LACHS
415783 KELLY EILEEN LACLUYZE
403386 GREGORY B LADEWSKI
413264 KEVIN LADIEU
425013 DAVID A LAFAZIA
101003 RICHARD W LAFFERTY
415417 MARK L LAFONTAINE
303702 THOMAS K LAGAN
404276 ANDREW ROBERT LAITMAN
372366 KEITH D LAKEY
417425 DANA LAMACCHIA
417316 MARA SULLIVAN LAMANNA
408129 GREGORY ROSS LAMARCA
305005 DAVID SCOTT LANDMAN
307670 JEANNINE JULIANN LANE
372374 KARL D LANGE
412318 LOU ANN LANGFORD
307497 DONNA J LANZETTA
404059 MARILYN RUTH LAPIDUS
302557 DOUGLAS M LAPIN
435301 YESHAYA A LARKIN
307141 MARY KATHRYN LAROSE
406848 STUART JAMES LAROSE
305435 BRADLEY P LARSON
415254 KRISTOFER ARTHUR LARSON
425019 DANIEL MILTON LAUB
401479 JOHN CHARLTON LAUTERBACH JR
430006 BRIAN CHRISTOPHER LAVIN
372403 GEORGE VINCENT LAWLER
301821 MARY ANN LAWLOR
421435 CRAIG RICHARD LAWRENCE
102367 HOWARD A LAWRENCE
403947 MARC J LAWRENCE-APELBAUM
402751 SUSAN JEAN LAWSHE
413459 JASON MARC LAZAR
432891 WILLIAM FREDDY LAZCANO
400794 ROBERT HUGH LAZUK
411676 MARY M LEACH
411327 ADAM CHARLES LEARMAN
416882 PATRICK WILLIAM LEARY
417533 STEVEN BRUCE LEAVITT
405420 MICHAEL A LEBIT
372413 ALAN LEBON
407083 MARC ANDREW LEBOWITZ

401481 STEVEN MARK LECHER
425023 CAROLYN AMY LEDER
420316 DAVID A LEE
308421 DUCAN ROGERS LEE II
372423 ELWYN CORNELIUS LEE
425799 KYUMIN KEVIN LEE
408131 MARGARET LEE
413158 SUSAN SOOYEON LEE
412092 EDMOND FRANCIS LEEDHAM III
412555 SOPHIE VAN TIL LEEDHAM
407084 MAURA BETH LEEDS
100113 SANDRA VILARDI LEHENY
372432 ALAN FRANK LEHMAN
302953 RICHARD D LEHR
438160 ALISON RENEE LEMIRE
306936 RAYMOND JOSEPH LEMLEY
423514 TARA FRANCES LENICH
403671 ALISON JUNE LENIHAN
307220 JULIA A LENNEY
424294 MINDY SUZANNE LEON
402326 MARY ELIZABETH LEONARD
101732 SUZAN GROSSBEFG LEONARD
416768 GEORGE M LESNETT
408605 PAOLA MICHELE LEVATO
034011 DAVID M LEVIN
418817 CHRISTINE NOELLE LEVINE
401482 JEFFREY M LEVINE
402186 STUART MORTON LEVINE
308206 TEDD S LEVINE
425032 RON LEVINER
426574 ANDREW CRAIG LEVINSON
403673 PHYLLIS B LEVITAS
425874 SHERI M LEVSON
404322 DEBORAH MARA LEVY
400542 SAMUEL J LEVY
415891 JONATHAN LEWIS
427647 JULISSA LEZCANO
307224 MORTON H LIBBEY JR
402327 HAL LIEBES
401130 EVELYN HOPE LIEBKE
400543 BRADLEY NATHAN LIEBMANN
417280 JAMES THOMAS LIELL
418115 IAN ROLAND LIFSHUTZ
372489 JOHN RENATUS LILLIENDAHL III
101025 JOHN E LILLIS
404224 CATHERINE KWANG-CHIN LIN
300755 WALLACE E LIN
422131 JOSIAH SCOTT LINDSAY
416869 LISA K LINDSAY
431297 JEREMY T LINGENFELSER
306634 JOAN SUZANNE LINKER
306583 LISA RUTH LIPMAN
401486 MATTHEW ERIC LIPMAN
302776 DAVID A LIPS
411336 JEFFREY H LIPTON
303939 RITA C LISKO
409282 DONALD LOWELL LISKOV
420857 SANDRA LEE LITTLETON
305056 RICHARD ELIOT LITVIN
403171 FRANCES LIU
400804 JAIME G LLUCH
414197 JOSEPH A LO PICCOLO
430657 TINA ANN LOCASTO
416965 TIMOTHY LODGE
306775 DANIEL ADAM LOEWENSTERN
422136 JENIFER ANNE LOFTHOUSE
415956 DAVID LOGLISCI
434874 LARS HERMAN LOHMANN
404939 JOHN LOUIS LOMBARDI
305061 THOMAS EDWARD LOMBARDO
437931 JULIA VICTORIA LONDON
403401 DONNA-MARIA LONERGAN
307226 MARGET ELAINE LONG
436583 MARTIN JOSEPH LONG
422137 ELIZABETH ANNE LONGACRE
411913 FREDERIC HENRY LORD
305066 THOMAS SUMNER LORD
404657 LORI LYNN LOUCKS
307516 MARK JOHN LOUGHRAN
309245 VIRGINIA LOUGHRAN
414431 PAMELA BENNETT LOUIS
409554 JOHN J A M LOVELESS
405187 JULIE LANGER LOWITZ
405198 MARC J LOWITZ
303831 FRANK P LUBERTI JR
305617 BARBARA LUBIN
102989 R JACK LUCAS
425047 TRAVIS D LUCAS
102369 JOSEPH J LUCCHESI
303002 CHARLES E LUCENO
403176 GREGG DREW LUCHS
305074 TERRENCE PETER LUDDY
307766 ALEXANDER M LUDLOW
309766 CHARLES K LUK
309972 LEON K LUK
409377 ROSALYN EVE LUKACS
305078 ANNE ELIZABETH LUPICA
401489 ROBERT THOMAS LUPO
406855 EDWARD T LUSSEN
402932 MICHAEL NICHOLAS LYGNOS
418247 GEORGE J LYMAN
408997 RICHARD JEFFREY LYMAN
034852 DANIEL E LYNCH
411029 NANCY DAVIS LYNESS
402276 EDWARD JOSEPH LYONS
402668 GREGORY JOHN LYONS
305653 LOIS M LYONS-GIBSON
416429 MARCELA LOPEZ MACEDONIO
306312 JAMES JOSEPH MACHOWSKI
406858 KEVIN MACKAY
421444 ANNE MARGARET MACKLE
404941 DAVID CAMERON MACLEAN JR
102890 RICHARD E MACLEAN
406458 HEATHER MARIE MACMASTER
372788 EUGENE EDWARD MADARA
431299 KATHERINE MADERSKY
407095 ELIZABETH ANNE MAFALE
404942 WILLIAM ANTHONY MAGLIANO
035355 KENNETH L MAHER
035376 JOHN J MAHON
306940 DEBORAH LOUISE MAHONEY
308973 MARY ANN MAHONEY
412607 TIMOTHY JOHN MAHONEY
408790 SUSAN SALLARD MAIGNAN

408287 HIROE RUBY MAKIYAMA
418798 ANTHONY MICHAEL MAKRIDES
309903 SEDRICK G MALCOLM
410799 ROBERT PETER MALEWSKI
408276 ANJU MALHOTRA
401036 MARK RIDER MALINA
425060 MELISSA BETH MALLAH
407488 BRETT L MALOFSKY
035547 CRAIG D MALONE
302318 CHRISTOPHER JOHN MALONEY
407826 JENNIFER CHRISTIE MALONEY
413394 RICHARD R MAMMON
417791 JOHN ORESTE MANCINI
307019 ALBERT MANFREDONIA
404012 FRANCIS B MANN JR
410675 MONROE YALE MANN
307021 JAMES LUCIAN MANNELLO
404663 JENNNIFER ABBE MANNER
412005 ADAM TROY MARCHUCK
308976 MARY KATHERINE MARCON
425732 MARK WILLIAM MARCONE
404945 REYNA ELIZABETH MARDER
102782 JOAN ECKENWALDER MARGENOT
400554 JOSEPH M MARGER
420328 BERNICE ELLEN MARGOLIS
101776 MARC J MARGOLIUS
408329 RICHARD A MARGULIES
308980 THERESA ANN MARI
309989 SARAH MOODY MARIANI
426619 JOSH ST JOHN MARINELLI
436289 MICHAEL ALBERT MARINO
308981 MICHAEL RICHARD MARINO
305444 ROBERT MARKLE
405761 MICHAEL KRAMER MARKS
309973 MARY ANN MARLOWE
408599 GAIL MARR
403178 STEVEN ERIC MARSHALL
101403 MARTHA RAFFERTY MARTI
306955 B DIANE MARTIN
406709 DIANE LYNNE MARTIN
036427 DONALD L MARTIN
407491 JAMES A MARTIN
409287 JOHN JOSEPH MARTIN
406554 JOSEPH MICHAEL MARTIN
103013 SARA R MARTIN
438301 WILLIAM JAMES MARTIN
428143 PETER DOMINIC MARTINO
100780 PAUL J MARZINOTTO
401132 DEBORAH M MASON
417404 JONATHAN G MASON-KINSEY
415255 ARIANA MASS
308889 KATHLEEN SIMEONE MASS
412006 MARIA MASSUCCI
422152 HOWARD SETH MASTER
427254 GWEN STEWART MASTERS
416729 ANGELA SUSAN MATTIE
100335 EDWARD MATTISON
420334 LISA MATUKAITIS
423779 MELISSA MAXIM
407726 JODI MICHELE MAXON
413519 ELIZABETH MAXWELL-GARNER
419229 NICHELLE MONIQUE MAYNARD-ELLIO
400945 WILLIAM JOSEPH MAYO
308989 MICHAEL JOSEPH MAZZEI
411691 SHARON MC CONVERY
400275 PATRICIA C MCALLISTER
430023 ZACHARY FULTON MCBRIDE
407099 ANDREW JOSEPH MCCABE
422154 THOMAS EUGENE MCCABE
407728 ROBERT KEVIN MCCAFFERTY
404950 MARY ELIZABETH MCCAFFREY
308213 STEPHEN W MCCAFFREY
415513 ANDREW C MCCARTHY III
403544 DENNIS PATRICK MCCARTHY
405877 GARY JAMES MCCARTHY
404014 JUSTIN BRIAN MCCARTHY
404666 PEGGY LEWIS MCCARTHY
303053 TERESA MCCARTHY-VADIVELOO
307063 JOHN E MCCAULEY
411488 MOIRA MADELINE MCCOLLAM
427942 GABRIEL JAMES MCCOOL
102383 VALERIE L MCCORD
420886 TARA MCCORMICK
404668 ROBERT E MCCRACKEN JR
372897 HARRY R MCCUE
400562 DIAN KERR MCCULLOUGH
414602 MONIQUE DURANT MCCURLEY
412462 KAREN CURESKY MCCUSKER
307233 DOUGLAS J MCDADE
409602 DOUGLAS CHARLES MCDERMOTT
414783 LEONARD ANDREW MCDERMOTT
102948 CHRISTOPHER J MCDONALD
302319 MATTHEW JAMES MCDONALD
412463 GUY MADDEN MCDONOUGH
433499 ANDREW JOSEPH MCELROY
300761 GARTH W MCELYA
305670 MICHAEL FRANCIS MCENENEY
309075 DIANE CROSSON MCENROE
401269 MARK TRESHAM MCENROE
308993 MIRIAM KATHLEEN MCENROE
308763 EILEEN ELIZABETH MCGANN
406119 JAMES PETER MCGEVNA
405878 JOAN MARIE MCGILLYCUDDY
431302 DANIEL PATRICK MCGINN
421457 BARRY B MCGOEY
308994 PETER GERARD MCGONAGLE
405829 FRANK A MCGOWAN JR
415963 PATRICK JOHN MCGRATH
402219 PAUL ANTHONY MCGRATH
417544 FRANCIS STEPHEN MCGURRIN
041133 DAVID M MCHUGH
410538 SUSAN LYNN MCINTOSH
420891 JOHN ARNOLD MCINTYRE
404477 ANN MIZNER MCKAY
403114 CATHLEEN FAHEY MCKENNA
401606 JOSEPH F MCKEON JR
414437 MICHAEL JOHN MCKEON
404537 MARY BORDEN MCKERNAN
402945 CHRISTINE MCLAUGHLIN
409383 ROGER LEE MCLAUGHLIN
041378 MICHAEL S MCLAURIN
415256 JOHN E MCLEAN

102047 KATHLEEN A MCLEOD
406871 TIMOTHY W MCLERON
423553 KEENAN-MARIE MCMAHON
408674 BRIAN PATRICK MCMANUS
309519 WILLIAM E MCMANUS
405840 L LONDELL MCMILLAN
407937 RUTH ANNE MCQUADE
414438 LAWRENCE JOSEPH MCSWIGGAN
411007 CHRISTOPHER KENNETH MEAD
418955 TODD MACKENZIE MEADOW
419298 JUSTIN PATRICK MEAGHER
414610 ALEXANDRA DANIELLE MEASE-WHITE
420183 ELIZABETH D MEHLING
405440 OMID EDWARD MEHRFAR
419787 JOHN PAUL MELE
422162 JOHN GREGORY MELLY JR
307239 MARK P MELLY
307093 MATTHEW ELIOTT MELMED
430703 STEPHANIE MICHELLE MELOWSKY
415007 CRAIG FRED MELTZER
037228 L SCOTT MELVILLE
303395 MARK MELZER
411351 DIANE C MEMINGER
309974 ELIO RAFAEL MENA
037330 ALAN MENDELSON
100089 RICHARD A MENO
430713 AURELIA M MENSH
372965 GORDON GALE MENZIES
405684 GEORGE JOHN MERCER
037395 JOHN F MERCHANT
418121 SUSAN BETH MERCHANT
426343 KRISTY M MERINGOLO
424311 DHAMMA TARA MERION
403183 GABRIEL ANTHONY MERO
423563 SARAH CURRIER MERRILL
411493 CYNTHIA KULAS MESSEMER
405442 JOHN LAWRENCE MEUNKLE
438641 CHRISTOPHER ANDREW MEYER
427745 DAVID SCOTT MEYER
427264 LANCE H MEYER
037689 JOHN MEYERHOLZ
309613 MARGARET A MEYERING
102979 ROBERT M MEYERS
400571 MICHAEL C MEYERSON
411494 JENNIFER MARIA MIANI
037758 THOMAS P MIANO
037761 GARY R MICHAEL
417792 BENJAMIN WOODWARD MICHELSON
429322 MARGARET MOOG MIDDLETON
407294 SUSAN PODGWAITE MIKOS
409006 MICHAEL MARTIN MILAK
303959 ROBERT A MILANA
037927 LOUIS A MILANO JR
404959 DONALD ALEXANDER MILES
420900 KENNETH JUDE MILES
037948 MICHAEL S MILES
410333 ERIC PETER MILGRIM
426672 BRIAN JAY MILITZOK
403424 LINDA TERESA MILLARES
430714 DAWN MARIE MILLER
400826 ELISABETH ANNE MILLER
426792 GLENN MILLER
100061 GRANT H MILLER JR
403185 HOWARD MARC MILLER
420347 JESSICA L MILLER
423570 MEGAN ELIZABETH MILLER
435114 S SCOTT MILLER
100308 DANIEL MILLSTONE
412094 PATRICIA JANE MINARD
308021 FRANCIS ANTHONY MINITER
415967 THOMAS JOHN MINOTTI
413468 BETTINA MIRAGLIA
406091 ODISSEAS MIRIANTHOPOULOS
433507 BRIANNE NELSON MITCHELL
307547 GLENN MATTHEW MITCHELL
424317 JOSEPH PATRICK MITCHELL
301836 LESLIE K MITCHELL
420906 LISA DIANE MITCHELL
400578 LYNDA JEAN MITCHELL
409824 MARCUS LOVELL MITCHELL
409008 WILLIAM PAUL MITCHELL
373016 PETER M MITERKO
300765 NEAL C MIZNER
428496 ROBERT N MIZRAHI
420167 RICHARD ADAM MLYNEK
408065 MARJORIE MODESTIL
038415 ROBERT E MODI II
308027 MYRA DELAPP MOFFETT
423574 SHELLY-ANN NISHA MOHAMMED
432924 JAMES MICHAEL MOHER JR
430176 ALISON BEARDSLEY MOHR
300839 ROBERT L MOKS
308029 CHARLES JOHN MOLL III
309821 KENNETH J MOLLOY
401713 JOSEPH D MONACO
409704 ANN GRUNBECK MONAGHAN
413111 PAUL EDWARD MONAGHAN JR
308030 THOMAS J MONAHAN
038538 TIMOTHY F MONAHAN
406459 CHRISTOPHER MICHAEL MONE
427915 JENNIFER MAY MONGILLO
038575 JOSEPH MONIZ
437302 COLLEEN A MONROE
416232 ALEJANDRO MONROY
423577 LUIS J MONTALVO
419937 RICHARD MONTANEZ
430724 LESLIE HAUSNER MONTANILE
420908 PETER MATTHEW MONTANO
413465 JANINE MARALLO MONTONI
411353 MICHAEL SCOTT MOORBY
433981 EILEEN M MOORE
407832 JAMES DERWIN MORAN JR
401573 MICHELE MORDKOFF
309769 JAMES HENRY MORENO
401502 JOELLE ANNE MORENO
414262 CATRIONA M MORGAN
403078 EILEEN A MORGAN
308554 JOHN T MORGAN
418466 MALLORY SIOBHAN MORGAN
308402 PATRICK J MORGAN
308044 FRANCINE J MORRIS
415211 JOHN E MORRIS JR
402590 MICHELLE MORRIS

412012 PETER JOHN MORRIS
425111 JACOB CONRAD MORROW
411697 TYEDANITA MOSAKU
426682 SHARON ANN MOSCA
402144 KEITH OVID MOSES
305688 KEVIN L MOSLEY
406886 MICHAEL JAY MOSS
418328 RONALD JOSEPH MOSS
373070 JOHN A MOTTALINI
411496 WILLIAM FRANCIS MOUGHAN JR
413656 CATHERINE MUMMERT MOUNT
433511 JACQUELYN L MOUQUIN
417292 SHERIF K MOUSSA
406555 DANIEL GEORGE MOUZON
430034 ATOSSA MOVAHEDI
439245 FRANK RICHARD MOY
101500 MARY-ANNE MULHOLLAND
418805 THOMAS J MULLANEY
402591 DAVID JOHN MULLEN
418544 KIMBERLY ANN MULLER
407109 DANIEL TERENCE MULLIN
423587 KATHLEEN M MULLINS
412995 VERONICA MUNOZ
427272 JOHN MORLEY MUNRO
373952 ALFRED E MUNROW
412014 SETH MURASKIN
101300 DENNIS C MURPHY
307831 ELIZABETH GEAN MURPHY
423592 EMILY BROOKE MURPHY
039870 JOHN F MURPHY JR
308141 JOSEPH FRANCIS MURPHY
415257 MARCIA ANGELA MURPHY
305993 MICHAEL W MURRAY
404724 MORNA ANN MURRAY
439583 PAMELA J MURRAY
305994 SUSAN AMELIA MURRAY
308895 CAROLINE CHINETTI MUSMANNO
406681 SCOTT ALAN MUSSELMAN
308061 MARK ANTHONY MUZZILLO
411032 SETH MICHAEL MYERS
409787 RICHARD NACCA
309453 MICHAEL E NAFTOLIN
400590 PAUL JOHN NAJARIAN
302175 PETER A NALEWAIK
401405 CAMILLE CANIGLIA NANNI
417411 EDWARD F NARROW
423596 JOSHUA MORDECHAI NASSI
414623 ANA-CRISTINA NAVARRO
434764 JULIO NAVARRO
302795 VICKRAM FRANCIS NAZARETH
427275 JOHN PATRICK NEALON
431926 LILY NEFF
412468 LESLIE NEIDITZ
404293 EVE LORRAINE NELSON
042475 GRANT NELSON
413890 MARRIANNE NELSON
412019 THOMAS S NEMEC
426690 JASON G NEROULIAS
427278 MELISSA ANN NESHEIM
434766 JENNIFER NICOLE NETROSIO
408348 SUSAN E D NEUBERG
306479 JEFFREY DAVID NEUBURGER
431930 DONALD L NEVINS
420923 KENNETH A NEWBY
307249 DANIEL MARK NEWMAN
426773 CHAU NGO
307250 BRUCE GILBERT NICHOLLS
423603 ELLEN MARGARET NICHOLS
302259 GEORGIA L NICHOLS
413298 E DAVID NICHOLSON
403815 CATHERINE ANNE NICOLAY
406887 MARYANN ELIZABETH NIELSEN
404229 PAUL EDWARD NIESOBECKI
409789 THOMAS HENRY NIKKEL
417560 JAY MARTIN NIMAROFF
310028 WARREN CHARLES NITTI
043080 CHRISTOPHER NOBLE
427280 EDWARD SNOW NOBLE III
043123 THOMAS F NOONAN
308230 PAMELA J NORLEY
401279 MICHAEL ANTHONY NORMOYLE
309250 JUDITH A NORRISH
305701 OKSANA NOSAL
431403 ADAM MICHAEL NOSKA
412870 GWENDOLYN FIELD NOTO
043321 WARREN K NOVICK
427281 NATALIE GRACE NOYES
400593 MAURICE NYBERG
416733 ANNE LOUISE O BRIEN
407747 FERN ELIZABETH O BRIEN
419360 JENNIFER A O BRIEN
416851 KAREN O BRIEN
409966 KELLI MARIE O BRIEN
301845 VINCENT J O BRIEN
405461 JOHN DANIEL O BYRNE
407511 RICHARD ALLAN O CONNELL
043937 WILLIAM P O CONNELL JR
303272 ANN MARIE O CONNOR
430042 JOHN STEWART O CONNOR
417929 KATHLEEN P O CONNOR
423610 MARY ELLEN O CONNOR
405602 MICHAEL LIAM O CONNOR
410554 WILLIAM EMERSON O FARRELL
408066 LINDA PATRICIA O GORMAN
401283 PATRICIA O HAGAN-SCHOEN
413001 JANE R O HARA
432945 STEPHEN O LOUGHLIN
306404 SYLVIA N O MARD
303515 JOHN W O MEARA
302971 ANDREW JOSEPH O NEILL
423614 JOANNA D O NEILL
414072 BRIAN CHARLES O SHAUGHNESSY
405221 SUSAN ELIZABETH O SHAUGHNESSY
302802 MICHAEL JOSEPH O SULLIVAN
409297 ANDREW CHARLES OATWAY
102484 DAVID E OBAROWSKI
306855 MARK WILLIAM OBERLATZ
420364 INNOCENT IKECHUKWU OBI
410551 STENROOS ANGELA OBJAY
413457 JOANNE MARY OBRIEN
404978 LIZA ELLEN OCONNOR
309646 WESLEY MICHAEL ODELL
419361 STANLEY ODUKWU
305707 KEVIN OGRADY

436643 GREGORY O OGUNSANYA
425133 NAOTO OKURA
402778 STEPHEN JOSEPH OLDAKOWSKI
044290 EUGENE C OLEARY
414446 IRINA A OLEVSKY
307557 RICHARD JOSEPH OLIVIERI
428064 RACHEL MARIE OLSON
101698 CATHERINE S ONEGLIA
306079 ERIC ONORE
410841 CHRISTOPHER NEAL ORACHEFF
417250 ELIZABETH CORWIN ORAM
101238 DAVID J ORDWAY
306080 MARCIA GUY ORENSTEIN
416282 DANIEL LEE ORIGLIA
427527 ALIA ORNSTEIN
405781 JEFFREY LYNDON ORRIDGE
410139 GUY E ORTOLEVA
418808 NILS GUSTAVE OSTERBERG
412331 SALLY OTOS
414318 MEGAN JULE OUCHTERLONEY
423621 CHARISE RENE OVALLE
044742 WILLARD J OVERLOCK
422916 CHRISTOPHER NEIL OVERTON
414876 M LESLIE III OWEN
407115 CEM OZER
305708 MARCOS A PAGAN III
305327 MARK A PAGANI
414448 ADAM LAWRENCE PAGET
422917 SON YOB PAK
302592 MATTHEW T PALADINO
413963 CYNTHIA JOANNA PALERMO
425791 SHARI PALEY
406473 WAYNE GEOVAUGN PALMA
410341 CHRISTOPHER CHARLES PANARELLA
372572 ROBERT M PANISCH
309623 FREDERICK CHRISTOPHER PAPPALAR
416382 ALEXANDER GEORGE PAPPAS
426717 ELIZABETH ANN PARCELLA
411366 LAURENCE DENNIS PAREDES
419364 MICHAEL ERNEST PARHAM II
409593 ANDREW I PARK
411506 JENNY PARK
416383 JIN WOO PARK
414320 FRANKLIN MICHAEL PARLAMIS
429380 BEVERLY JEANETTE PARSONS
426664 DAVID FREDERICK PARTRIDGE
405994 SCOTT DAVID PARVEN
408217 DIANE MARIE PASQUARETTA
422212 ELIZABETH PASQUINE
433516 GREGORY GEORGE PATCHEN
426512 YOGENDRA B PATEL
406926 JOANNE S PATRICK
419220 JENNIFER COSSIFOS PATRISSI
306007 TERESA MARY PATTEN
406893 JOHN J PATTERSON
400601 PAUL DAVID PATTON
306010 LORRAINE R PAULHUS
411034 GEORGE FRANCIS PAVARINI III
305301 DOROTHY M PAVLICA
401505 SHERRI N PAVLOFF
424328 JUSTIN MICHAEL PAWLUK
045666 JASON E PEARL
307567 TODD ANDREW PECHTER
308901 CHRISTINE B PECK
402282 JOYCE D PEDERSEN
101332 FRANCISCO PEDRAZA
405467 LAWRENCE BENEDICT PELLEGRINO
411367 RICHARD JOHN PELLICCIO
309497 JOHN ANTHONY PELOSI
421485 ELISA J PENSAVALLE
406895 ELLEN P PEPPARD
372615 EDWARD W PEPYNE JR
372616 MARCIA ALLARA PERAZA
434630 KATHERINE L PERDUTA
402221 WILLIAM GABRIEL PEREZ
372619 PATRICIA B PERKINS
428096 E JAMES PERULLO
426689 PAULA PESCARU
415979 CONSTANCE C PETERS
408606 MARK STERLING PETERS
430046 RAYMOND PETERS
303091 EMIL FREDERICK PETERSEN III
403738 DIANNE M PETERSON
434131 EMILY ANN PETERSON
420481 JOANNA PETERSON
428054 SARAH ELAINE PETERSON
401056 DAVID BRYAN PETSHAFT
400605 MICHAEL F PETTA
306795 MARIE ROSE PEYRON
404299 DAVID MARTIN PFEIFFER
407938 JOHN JOSEPH PHELAN
303980 NEAL LAWRENCE PHENES
412376 TALI PELED PHILIPSON
404300 ELAINE CONSTANTINA PHILIS
402095 MARIA PICCIUCA
306039 RICHARD PILE-STROTHER
405723 CALEB MCIVOR PILGRIM
372649 ROBERT HARRY PILPEL
414324 COSTANZA PINILLA
302976 RONALD J PIOMBINO
303981 DEBORA A PITMAN
102774 WILLIAM K PITMAN
412878 JANET DIANA PITTER
302261 ROBERT J PLANTE
426809 SAMANTHA LAUREN PLITNICK
403709 LAWRENCE R PLOTKIN
436887 JAY D PLUMLEY
400607 JEFFREY L POERSCH
430090 KAREN STOLP POIRIER
401292 GEORGE JOHN POLES
400608 JOANNE FRANCES POLES
310030 DAVID MICHAEL POLLACK
404302 JESSICA GLASS POLLACK
303422 ANTHONY CHARLES POLVINO
372669 JOHN JAMES POMEROY
405234 KELLY ANN POOLE
309992 LAUREN KAYE POPPER
420029 BRIAN D JR PORCH
412615 PAUL L PORRETTA
410486 JEANNE DONOVAN PORTER
305463 SALVATORE D PORZIO
414210 IVAN MILES POSEY
407121 BARBARA C POTTER
422926 JEFFREY ERIC POTTER

306797 MARIA MADELEINE POTTER
310050 KIM DENISE POWE
047615 JOHN J POWERS
418331 ALEXANDER POWHIDA
418130 DAVID PETER POWILATIS
429405 PATRICIA A POWIS
409028 HENRY KWASI PREMPEH
410344 JOEL C PRESS
309789 MARTHA WATTS PRESTLEY
422928 JAMES PHILIP PRICE
403675 VALERIE A PRICE
439696 WHITNEY MICHELE PRICE
413759 ANDRES GUSTAVO PRIETO
428107 GUY PRIMOR
416394 RICHARD ABRAHAM PRIMUS
401296 PATRICIA E PRINCE
429406 DAVID R PROCTOR
417764 RACHEL MARIE PROULX
372690 JOHN PROVAN
305247 JOHN SCOTT PRUDENTI
436505 KEVIN A PRUE
047824 MATHEW A PUGLIESE
304058 THEODORE CONSTANTINE PULOS
413475 VINCENT THOMAS PUMA
417765 SUSAN MARY PUNCH
400613 JOSEPH FRANCIS PUSATERI
425174 JOHN MICHAEL PUZZIO
413012 ERICA OMES QUARTARONE
436343 NICHOLAS WADE QUESENBERRY
403212 STEPHEN JOHN QUINE
408101 WILLIAM JAMES QUINLAN
402285 MICHAEL QUIRINDONGO
303987 FRANK ANTHONY RACANO
405477 ADAM JAMES RADER
048565 FRANK RAFFA JR
400860 ROY JOSEPH RAFOLS
432714 ELIZABETH M RAGAVANIS
309781 CHRISTINA M RAGLE
429412 JILL HARRI RAKOFF
308414 DONN A RANDALL
423655 RENEE L RANDAZZO
309291 PAMELA JEAN RANDBY
422930 JENNIFER L RANDO
410928 ELIZABETH RANKIN
305720 SUZANNE MARIA RAPISARDA
416303 HUGH DUN RAPPAPORT
415828 KEVIN JOSEPH RASCH
048909 MALCOLM L RASHBA
404992 ANTHONY LOUIS RAUCCI
408689 STEVEN ALAN RAUCHER
418176 GWENDOLYN RAWLS
419366 MATTHEW ALLEN RAY
309714 JAIME M RECABO
402828 ROBERT J RECIO
429416 ADAM PHILLIP REDDER
437341 APURVA ADLA REDDY
411513 JEFFREY BRUCE REDNICK
372331 GILBERT J REGAN
415982 ROSE MAY REGISTRE
423658 CHRISTINE REHAK
308251 ROY E REICHBACH
433530 SIMON W REIFF
413796 BRIAN THOMAS REILLY
407760 DAVID M REILLY
417306 GREGORY BERTRAM REILLY
406903 JOHN ROBERT REILLY
417417 JUSTIN M REILLY
430787 MEGHAN ELIZABETH REILLY
402356 NAOMI DEVORAH REIN
306313 ELEANORE BEULAH GERST REINER
303211 DANIEL REITENBACH
372347 HOWARD SCOTT REITER
304988 MICHAEL P REITER
416239 JOHN MICHAEL REITWIESNER
400619 DIANNE RELLA
424344 DANIEL VICTOR REMER
372351 PAUL CHARLES REMUS
409569 DWIGHT H RENFREW JR
306654 STEPHEN MICHAEL RENNA
413966 KAREN ANNE RENNIE-QUARRIE
403217 DAVID SCOTT RETTIG
402339 ARCADIO JORGE REYES
430790 ALEX SYLVAN REYNOLDS
304967 ROBERT NOLAN REYNOLDS JR
421499 ARTHUR DAVID RHEINGOLD
306225 PAMELA BONNIE RIBAK
306800 CARLOTTA ELIZABETH WICK RICE
305726 DAVID LAWRENCE RICH
401138 ALPHIE JOSEPH RICHARD
428676 CANDICE MICHELLE RICHARDS
416123 DAVID LAUREN RICHARDS
416124 RAYMOND ROBERT RICHARDS
309297 SUSAN LAURA RICHARDSON
403715 ANNE PATRICE RICHTER
416888 MICHAEL THOMAS RICIGLIANO
416777 CHRISTOPHER MARSHALL RIES
414650 CONSTANCE LYNN RIESS
306802 DAVID MITCHELL RIEVMAN
305470 CHARLES C RIM
050335 JAMES P RING
408896 KEVIN THOMAS RIORDAN
418131 MATTHEW MCDONNELL RIORDAN
427669 NICOLE C RIORDAN
401299 ALAN SETH RIPKA
405243 ELLEN POBER RITTBERG
404997 RICHARD RIVERA
413761 SHELLEY ANN RIVERA
372261 DAVID HENRY RIVERS
410808 JOANNA IRENE RIZOULIS
401301 JOHN MICHAEL RIZZO
422410 LYNDA RIZZO-STOWE
406098 DONALD NICHOLAS RIZZUTO
402981 ROBIN I ROACH
426430 SUZETTE MCTIGUE ROAN
303992 JAMES MICHAEL ROBBINS
305728 SUSAN ILENE ROBBINS
307582 ALAN ROBERTS
430801 CHASITY VAREE ROBERTS
418681 JEFFREY HOWELL ROBERTS
101546 LEWIS J ROBERTS
102732 ANN C ROBINSON
306139 KEVIN R ROBINSON
405584 MARY A ROBINSON
414808 PAUL L ROBINSON JR

426702 TAMMY J ROBINSON
401302 TODD NATHAN ROBINSON
309303 BONNIE CUMMINS ROBSON
438910 CHARLES WILLIAM ROCCO
431315 KYLE A ROCHA
420983 TIMOTHY MICHAEL ROCHE
430802 PATRICIA MARIE ROCOURT
415985 JOHN M RODIA
403799 R P ROECKER
424354 PATRICIA LANG ROER
404306 DEBBIE LYNN ROFFMAN
426439 WILLIAM FRANCIS ROGEL
420384 HEIDI BETH ROGERS
402340 THOMAS EDWARD ROHAN JR
431317 HEATHER MAIREAD ROHDE
431418 JASMIN MARIE ROJAS
422962 SHARINA TALBOT ROMANO
308256 JILL A ROMER
407764 PATRICK NICHOLAS RONA
437353 BARRY MAXWELL RONNER
437354 ASHKON ROOZBEHANI
407298 DEIRDRE CAHILL RORICK
426723 AMYE M ROSA
304929 PETER J ROSA
301736 JERRY P ROSCOE
402342 KEITH ANTONIO ROSEBORO
372194 HARRIET B ROSEN
302185 KENNETH ELIOT ROSEN
401527 FREDERIC ROSENBERG
404144 GLEN LOUIS ROSENBERG
405413 LISA KOFF ROSENBERG
436356 RACHAEL ROSENBERG
401526 STEVEN LAWRENCE ROSENBERG
402343 ALAN ASA ROSENFELD
304939 DAVID ERIC ROSENGREN
427456 JOHN BUTTLER III ROSENQUEST
429438 JESSICA ROSENRAICH
307467 DANIEL P ROSENTHAL
430808 MAXWELL DAVID ROSENTHAL
405493 ANTHONY J ROSS
308257 BARBARA DANETZ ROSS
420387 LENWOOD M ROSS JR
407526 ROBERT PHILIP ROSS
402148 ANGELA MARIE ROSSITTO
307468 TANINA ROSTAIN
410568 IAN ROBERT ROTH
051910 KATALIN ROTH
409488 LINDA ROTH
426646 MONCIE ROWTHER
431322 RYAN ALAN ROY
413699 CONSTANCE LAUREL ROYSTER
052093 ZBIGNIEW S ROZBICKI
052095 JEFFREY A ROZEN
427296 MEGAN KAY PRICE RUBENSTEIN
414812 STEVE RUBINSHTEYN
307764 JEFFREY KEITH RUCKER
307272 KEITH BRIAN RUDICH
305737 WILLIAM PETER RUFFA
372147 SANFORD L RUGEN
404446 SARAH RUMAGE
427746 MARY ELIZABETH RUPP
309317 JOSEPH L RUSCITO
414655 JAMES JOSEPH RUSH
303145 MARY ANN RUSH
402414 ALLAN DAVID RUSSELL
427306 JESSE DAVID RUSSELL
419848 KEVIN MICHAEL RUSSELL
303279 MATTHEW MORISON RUSSELL
425798 MYCHEL KEMA RUSSELL-WARD
411384 EILEEN M RUSSO
439762 JOCELYN MARIE RUSSO
372159 RICHARD WOODSON RUTHERFORD
414458 SUZZETTE BAGAYBAGAYAN RUTHERFO
421493 HOLLY L RUTKO
052551 DANIEL B RYAN
432477 DANIEL RICHARD RYAN JR
430818 LEIGH H RYAN
416890 RODERICK WILLIAM RYAN
411278 TARA C F RYAN
305740 THOMAS J RYAN
303032 KATHLEEN A SABO
052779 STEPHEN P SACHNER
418403 JENNIFER L SACHS
052935 KALMAN A SACHS
409803 PETER WILLIAM SACHS
422259 JENNIFER ALISE SADAKA
428615 KEVIN RYAN SAHAIRAM
305475 ELYN R SAKS
407533 EILEEN SALATHE
415892 MATTHEW SALIBA
426603 ELIZABETH SALSEDO
406912 LEE JAY SALTZMAN
053355 FRANK SALZ
408742 CATHERINE ALICIA SAMMARTINO
430825 JANE SAMPEUR
302054 JON LESLIE SANDBERG
412337 RICHARD J SANDOR JR
100687 ALFRED SANTANIELLO JR
415346 ANTONY MICHEL SANTOS
400880 CARLOS MANUEL SANTOS
403468 ROBERT A SANVILLE
305477 JUDITH A SARATHY
426504 PAUL A SARKIS
407138 CHRISTOPHER JOHN SASSO
101727 DAVID SAUER
421514 MICHAEL JOHN SAUV
402799 RICHARD PAUL SAVITT
302836 JOSEPH CHARLES SCALA
423683 ROBERT A SCALERA III
411521 THOMAS SCAPOLI
100715 STEVEN H SCHAFER
402993 EDWARD B SCHARFENBERGER
303033 ELIZABETH J SCHEFFEE
305342 SCOTT NEAL SCHELL
410354 TRISHA RENEE SCHELL-GUY
409133 DONALD JOSEPH SCHELLHARDT
401646 JACK STUART SCHERBAN
408072 JOHN K SCHERER
404349 MARSHALL M SCHERER
407139 HARRY BENJAMIN SCHESSEL
308572 THOMAS SCHEUER
308085 PAULA L SCHIFFER
102953 STUART M SCHIMELMAN

304763 ELIZABETH SCHLAFF
424362 RUTH M D SCHLEIFER
405254 ALAN THOMAS SCHMIDLIN
419853 BRIAN T SCHMIDT
054532 NANCY L SCHMIDT
410355 MELANIE CAREN SCHNOLL-BEGUN
371871 RALPH F SCHOENE
424364 STEPHEN MATTHEW SCHONHOFF
403729 GREGG BARNET SCHOR
054675 ROBERT A SCHPERO
306810 PAUL ROBERT SCHREYER
427309 ZACHARY GERMANO SCHUCK
302407 THOMAS P SCHULER
101661 DAVID L SCHULMAN
309028 KATHLEEN BRADY SCHULTE
427928 JESSICA MICHELE SCHUR
401536 ALAN GREGORY SCHWARTZ
309345 DAVID ARLEN SCHWARTZ
403731 DAVID M SCHWARTZ
406044 KENNETH LAWRENCE SCHWARTZ
304003 RAIMONDE L SCHWARZ
055042 DWIGHT OWEN SCHWEITZER
407212 CAROL A SCOTT
419259 HEATHER M SCOTT
309573 JACK RALPH SCOTT
308266 JONATHAN CORY SCOTT
308919 MARK SCOTT
055419 HOMER G SCOVILLE
402223 ROBERT PHILIP SCOVILLE
406917 CRYSTAL LIZETTE SCREEN
404750 RUTH ANN SCROGGINS
414662 SABRINA ELAINE SEAL
425881 MUSA PETTY SEBADDUKA
409146 DOUGLAS MITCHEL SECULAR
308785 JOHN MICHAEL SEDENSKY
407777 KARIN FROMSON SEGALL
427855 ALLISON SEIDMAN
055757 RICHARD H SEIDMAN
414336 GREGORY JOSEPH SEITZ
412886 SENGAL MICAEL SELASSIE
421011 STEVEN JOSEPH SELBY
417585 LORI SEMRAU
304790 WILLIAM S SEPLOWITZ
421519 PATRICIA ANN-MARGARET SERAFINN
439263 JOHNATHAN P SEREDYNSKI
410357 GEORGE E SERMIER
412888 STUART DAVID SEROTA
309784 JOHN G SERPICO
402463 GLENN M SERRANO
404730 WADE A SEWARD
060759 THERESA M SGUEGLIA
305482 RITA MARGARET SHAIR
427948 VALENTINA SHAKNES
309677 LANCE PAYNE SHANNON
371799 TERENCE P SHANNON
414337 ANDREW IRWIN SHAPACK
309915 DAVID MARK SHAPIRO
407147 DAWN CAREN SHAPIRO
402288 WARREN JAY SHARE
428494 VARSHA MATHUR SHARMA
406115 LAURENCE SHAW
410844 CARRIE ANNE SHAY
402151 ELIZABETH PLANTZ SHAY
304008 BARBARA S SHEA
056735 WILLIAM T SHEA
407939 CHARLES R SHEARD
417868 DOUGLAS D SHEEHAN
411393 KEVIN PATRICK SHEEHAN
414224 THOMAS MARK SHEEHAN
435396 MONA SHELAT V
304741 PHILIP ARTHUR SHELTON
430851 HEMA V SHENOI
373780 HENRY LONGDON SHEPHERD III
407305 FELICE DIANE SHERAMY
405263 PAUL ANTHONY SHERRINGTON
410935 WEI SHI
304750 DAY R SHIELDS
433249 JOHN K SHIN
407149 SUSAN CHUNG-WON SHIN
424370 VICTORIA S SHIN
426414 ROBYN L SHINDLER-RASHID
421965 NYDIA SHIPMAN
439201 DYLAN THOMAS SHIRLEY
412810 JANE K SHORTELL
057530 I FREDERICK SHOTKIN
415845 STEFANIE LEE SHUB
420157 CLAIRE LOUISE SHUBIK
427844 JULIA MARGARET SHULLMAN
307605 TERI L SHULMAN
427966 CRYSTAL D SHUMAKER
306626 JEFFREY S SHUMEJDA
408073 CHRISTOPHER MARC SHUST
057702 JOSEPH A SICILIANO
304724 GREGOIRE ROBERT SIDELEAU
403227 HOWARD FREDRICK SIEGEL
307607 JOSHUA D SIEGEL
430082 RANDI ALISON SIEGEL
427901 ALEXIS C SIEKMAN
417037 JULIETTE SIGNORE
429472 KALEEM SIKANDAR
057775 IGOR I SIKORSKY JR
057908 ALAN B SILVER
426583 KAREN ESTHER SILVER
371785 THEODORE A SILVER
426336 FELIX H SILVERIO
408861 RANDI J SILVERMAN
305763 KEITH DAVID SILVERSTEIN
300785 STANLEY P SILVERSTEIN
430857 JENNIFER E SIMMONS
430084 LAUREN CORI SIMON
417869 WILLIAM A SIMONS
409318 DONNA LEA SIMS
306227 RUSSELL W SIMS
406924 DAVID E SINGER
401978 HOWARD MARC SINGER
404234 LAURIE ANN SINGER
410360 JOHN JOSEPH SINISKO
424372 ROBIN STEPHANIE SINTON
302194 STEVEN PAUL SION
058520 LOUIS J SIRICO JR
405769 LESLEY CAROLE SISKIND
421026 JOHN BYRON SITARAS
300857 WILLIAM E SKARREN
424373 ROBERT L SKELLEY

371758 JOHN THOMAS SKINNER
439206 CHRISTOPHER DAVID SKOCZEN
420398 BRENT ZEFF SKOLNICK
429479 SCOTT EDMUND SKRYNECKI
309650 JOEL SLAWOTSKY
308792 RICHARD CHARLES SLISZ
101212 SHAUN M SLOCUM
371735 ANTHONY W SLUSARZ JR
416858 ADAM EVAN SMALL
411529 MICHAEL ROBERT SMALL
400631 JOHN PETER SMARTO
306157 JACEK I SMIGELSKI
303399 ALFRED J SMITH JR
418823 BARBARA CECELIA SMITH
422953 CHARNINA RUNELLE SMITH
417733 CHERYL A SMITH
430862 COURTNEY PEIRCE SMITH
436897 ERIC M SMITH
433661 JANICE KEAYS SMITH
301737 JEFFREY A SMITH
304012 JENNIFER CLAIRE SMITH
424374 MICHAEL J SMITH
408809 NANCY JOY SMITH
410846 RODGER FIELD SMITH JR
303148 SANDRA KAY SMITH
409400 THOMAS A SMITH
410813 THOMAS ANDREW SMITH
371714 THOMAS LEWIS SMITH III
436426 JESSE DAVID SMOLIN
413647 STEVEN R SMTIH
435112 BRIGID MADEL DAVIS SNOW
414461 DAVID MARK SOBEL
402592 MOJGAN SOBHANI
417311 JENNIFER FREDI SOBOL
409051 MARK MICHAEL SOCHA
417870 MATTHEW AARON SOKOL
059988 MARK S SOLAK
409583 THOMAS R SOLI JR
422299 JOSEPH MICHAEL SOLIMENE
415167 LINO A SOLIS
413139 ADAM CRAIG SOLOMON
411045 RANDALL ALAN SORSCHER
306161 GREGORY JON SOUTHWORTH
306162 DOREEN SPADORCIA
407788 PETER VINCENT SPAGNUOLO
060218 ELIZABETH K SPAHN
303098 ALAN D SPARGO
415998 VICTOR JOHN SPATA JR
429487 ANTHONY JOHN SPATH
427945 SERGIO ANTHONY SPAZIANO
060333 JOHN A SPECTOR
300788 FRANK P SPINELLA JR
418182 CHRISTIAN MATTHEW SPLETZER
408103 PETER CHARLES SPODICK
400894 LORING NOEL SPOLTER
304017 CHRISTOPHER D SPOSATO
407963 JOSEPH W SPROULS
408763 DAVID MIGUEL SPRUANCE
404027 DAPHNE DARYA SRINIVASAN
410364 JACQUELINE A ST JOHN
414229 RENATO CHRISTIAN STABILE
301887 BLAKE D STAMM
308479 WILLIAM B STAMMER
422958 TARA LYN STANCHFIELD
060805 PAUL STANDISH
408235 MITCHELL ANTHONY STANLEY
402349 ROBYN B STANTON
439815 ASHLEY JAYNE STAPLETON
309932 PAUL HOWARD STARICK
060917 NOAH STARKEY
306166 AMY LOUISE STAROBIN
304646 BARBARA DEE STARR
414346 KENDRA L STEARNS
304648 HOWARD E STEIN
400897 JOSHUA OWEN STEIN
401322 DARRYL ROSS STEINBERG
422309 JASON SCOTT STEINBERG
433023 LEANNE HEATHER STEINBERG
309863 DAVID MILLER STEINER
439396 MARISSA F STEINER
432489 SUSAN ELIZABETH STELLATO
400383 ROBERT STENGEL
405990 CAROLYN PAULAMARIE STENNETT
304124 S DWIGHT STEPHENS
400660 TAMARA STEPTON
307624 ARTHUR RICHARD STERN
061224 KENNETH D STERN
309382 MIRIAM STERN
309383 ROBERT ALLAN STERN
418278 MATTHEW WILLIAM STEVENS
416250 TARA CONSTANCE STEVER
401325 ANNETTE Y STEWART
305488 CAROLYN SMITH STEWART
421044 NADIRA SHANI STEWART
439469 STEPHANIE LENA STICH
412940 MOLLY CUSSON STILES
403013 HARRY MCKINNEY STOKES
406148 MICHAEL ERIC STONE
417315 JEFFREY EVAN STORCH
422313 JOHN STORR
416251 HENRY CLAYTON STRADA
435923 RYAN P STRANKO
417003 CHRISTOPHER ANDREW STRATTON
402807 MICHAEL ATWATER STRATTON
305782 GLORIA A STRAZZA
101896 JEFFREY H STRICHARTZ
371639 WILLIAM F STRIEBE JR
422315 DAVID R STROBEL
409681 THOMAS JAMES STRONG
371642 STANLEY IRA STROUCH
411755 STEPHEN IAN STROUD
403236 RICHARD UNWIN STUBBS JR
430884 JACOB ZELL STUDENROTH
430091 MELISSA STACY STUDIN
309387 MARGARET RUTH STYSLINGER
062142 JOEL SUISMAN
414319 ERIN M SULLIVAN
409056 JAMES LAWRENCE SULLIVAN
062192 JOHN B SULLIVAN
309389 KATHERINE MCG SULLIVAN
409404 KEVIN JOSEPH SULLIVAN
307630 TERENCE M SULLIVAN
434208 KARA JEAN SUMMA
403493 NANCY RUBIN SUSSMAN

421537 JOELLE ANNIQUE SVAB
414673 ROBERT D SWARTOUT
425246 SHELLY ANNE SWEATT
404313 JOHN DEVEREUX SYZ
425254 CHRISTOPHER RICHARD SZEFC
418279 ANNA SZIKLA
412545 WILLIAM ENGLE TABER III
302633 KAREN ANN TAKACH
410367 ROBERT TAMBINI
413030 AMIT TANDON
410593 THOMAS JOSEPH TARALA
415586 JEANEAN M TARANTO
063060 HARGREAVES V TATTERSALL III
428700 BENJAMIN TAYLOR
303398 BRIAN B TAYLOR
304532 JANE CRUMP TAYLOR
439219 MICHAEL W TAYLOR
420411 OCTAVIA TAYLOR
407794 SUZANNE KATHERINE TAYLOR
418696 RUTH M TEITELBAUM
310012 JAN ANITA TEMPLEMAN
063280 JOHN E TENER
439222 HANNAH JANE TENISON
309395 ROSA ANNA TESTANI
420109 JAMES LATHROP THAXTON
419382 MATTHEW THOMAS THERIAULT
373948 WILLIAM JOHN THOM
404188 AUDREY D THOMAS
101851 DAVID R THOMAS
371343 JOHN EDWARD THOMAS
433034 KENNETH A THOMAS
305494 KENNETH L THOMAS
412494 RUTH MARTHA THOMAS
414235 PETER JOSEPH THOMPSON
410213 RICHARD LLOYD THOMPSON II
423737 BROOKE MEAGAN THOMSON
430901 ROBERT GLEN THOMSON
304026 HERBERT L THORNHILL JR
428091 PATRICK DAVID THORNTON
426189 STEPHANIE ANN TIBBITS
422326 WILLIAM MICHAEL TIERNEY
422967 KATHERINE ANNE TIGHE
433035 LOWELL TILLETT
405521 VICTOR TIMOSHENKO
304027 CHRIS TIMPANELLI
432497 CHRISTOPHER W TINSMAN
063715 BEATRICE A TINTY
428680 BRADLEY CARL TOBIN
409493 WILLIAM PERRY TOCCHI
303800 DAVID Y TODD
419261 KEVIN L TODD
306821 MARGARET BLAKE TODD
307688 KIMBERLY RONDA TODT
401346 BETTY NORA TOEPFER
302866 NORMAN PAUL TOFFOLON
417007 THOMAS JOSEPH TOLAN
423741 SARAH BETH SHERMAN TOLCHIN
400904 LAUREN M TOMAYKO
404977 PATRICIA E TORRENTE
405030 FRANK R TORTORA
421544 ALAN ERNEST TRACY
427583 PATRICIA MARGARET TRAINOR
401349 JOSEPH ALEXANDER TRANFO
409407 LAWRENCE RICHARD TRANK
064326 STEPHEN TRAUB
427698 JERROLD F TREHEY
418851 CAROLYN M TREISS
422941 SARAH ROQUE TRESSLER
308337 THOMAS B TRIMBLE
428689 PATRICK JAMES TROY
417740 WAYNE A TRUMBULL
401544 LEE-ANN RENEE TRUPIA
407175 GEORGE JOHN TSIMIS
425269 GREGORY A TSONIS
425270 CAMILLE JEAN-ESTHER TUCKER
305497 JUDITH BALL TUCKER
402294 MICHAEL J TULCHINER
307291 HARRY TUN
403837 MICHAEL JAMES TUOHY
064753 BERTLEN F TURNER
417039 IRA M TURNER
412059 THOMAS WILLIAM TVARDZIK
403503 JAMES SCOTT TWADDELL
411050 TIMOTHY ALLING TWINING
417009 CHRISTOPHER JAMES TWOMEY
405768 LYNN ANN TYTLA
409323 CHRISTOPHER UHL
407805 CHRISTOPHER FRANCIS ULTO
307635 ROBERT A UNGAR
065029 STEVEN F UNGER
414826 CINDY J UNKENHOLT
409061 JOSEPH DANIEL URADNIK
413508 FRANCIS CHRISTOPHER URZI
421083 PAULA-MARIE USCILLA
305791 HENRY JOHN USCINSKI JR
307926 DOMINICK UVA
410848 LOUIS F VALENTI
101578 JOHN W VALENTINE
404756 LOUISE VAN DYCK
304102 CARMEN ESPINOSA VAN KIRK
411411 CAROLINE ANN VAN RYN
409125 CORNELIUS SHREVE VAN-REES
307638 STEVEN TODD VANDERVELDEN
419556 JESSICA BANNON VANTO
303805 STEVEN WILLIAM VARNEY
404757 DAVID JOHN VAROLI
414352 CONSUELO ALDEN VASQUEZ
308285 J A VAUTOUR
404238 NANCY VAVRA
416397 KRISTIN MARIE RAFFONE VAZQUEZ
413773 STEPHEN THOMAS VEHSLAGE JR
415861 WENDY L VEILLEUX
433044 STEVEN CHRISTOPHER VELARDI
418852 JASON M VENDITTI
413194 TINA CHERICONI VERSACI
412899 VINCENT W VERSACI
432719 EMILY H VERSTEEG
426552 JARED DANIEL VERTERAMO
413364 DENISE INEZ VIERA
309995 ANTHONY PETER VIGNA
065450 THOMAS L VIGUE
423754 MARK ERIC VILLENEUVE
427340 VALERIE A VILSAINT
414685 PAUL B VIOLETTE

407806 NICOLE A VISAGGI
408301 GARY JOSEPH VISCIO
309406 MARY LOUISE VITELLI
434473 MIKHAEL VITENSON
400913 E CHARLES VOUSDEN
418565 GEMMA GABRIELLE WAANANEN
065802 KATHRYN M WACHSMAN
401554 RENA WACHTEL
403511 ANDREW JOHN WAGHORN
431343 BRIAN M WAGNER
421100 NATHAN JAMES WAGNER
405035 LOIS H WAGREICH
401556 BENJAMIN JAY WALDMAN
302875 MARY ELLEN WALKAMA
406005 KEVIN MICHAEL WALKOWSKI
411543 LISA NICOLE WALL
426691 BLAIR HARRISON WALLACE
414469 MICHAEL JOHN WALLACE
418283 MICHAEL RAYMOND WALLACE
427343 BRENDAN FRANCIS WALSH
422355 DAVID ALLEN WALSH
300795 HENRY A WALSH JR
416004 JOHN PATRICK WALSH
423760 KAREN MICHELE WALSH
309411 ROBERT CARLTON WALSH JR
413526 DONNA L WALTON
425285 ELAINE YIALING WANG
429536 JAMILIA TASHIMA WANG
404760 BEVERLY I WARD
404761 MARK BRIAN WARD
370843 THOMAS JOSEPH WARD
410227 DENISE MARIE WARNER
429290 ELIZABETH STILLWELL WARNER
370845 JON P WARNICK
428614 ELIZABETH ANNE WARREN
405525 JENNIFER CYNTHIA WARREN
416259 JIMMY WARREN JR
424402 LIONEL DAVID WARSHAUER
405037 MONA R WASHINGTON
403023 RONALD WASHINGTON
303814 WILLIAM K WASSERMAN
402296 DANIEL SCOTT WASSMER
309773 RAYMOND OLIVER WATERS JR
409067 BRIAN NEIL WATKINS
403515 JOHN MICHAEL WATKINS
411771 NGOZI BOMANI WATTS
421107 JASON SANFORD WEATHERS
413146 MICHAEL DAVID WEBB
304129 SHARON D WEBB
417320 JOHN CARL WEBBER
404137 LISA W WEBBER
418065 RICHARD HOWARD WEBBER
303815 RICHARD G WEBER
100011 STUART A WEBSTER
101715 WILLIAM A WECHSLER
412385 GEORGE HENRY WEEKS
430923 LOWELL PALMER WEICKER III
411773 DAVID C WEINSTEIN
412386 ROBYNE STACI WEINSTEIN
303816 YERACHMIEL EPHRAIM WEINSTEIN
102301 ANDREW WEISS
308633 CLAUDIA S WEISS
067017 JEFFREY S WEISS
407186 MICHAEL IAN WEISS
423009 AHRON WEISSMAN
305800 LAWRENCE ALAN WEISSMANN
418333 REPHOEL A WEITZNER
418567 TIMOTHY PAUL WELCH
308808 ARTHUR STANTON WELLS
300796 HOLLY RODGERS WESCOTT
402823 ARNOLD BERNARD WEST
438275 OLIVIA ASHLEY WEST
306976 JASON D WESTCOTT
305503 GAYL SHAW WESTERMAN
400412 LAURA L WESTLUND
417617 GLENN EDWARD WESTRICK
414243 JAMES WILLIAM WHALEN IV
400919 DIANE CAROL WHEELER
437641 SARAH WHEELER
431472 PAUL WHELAN
304065 CATHERINE LEWIS WHITAKER
101969 JARVIS WHITE
304154 ROCHELLE LITOWSKY WHITE
425712 WHITNEY LEIGH WHITE
302883 ELLEN EVANS WHITING
102931 JAMES L WHITING III
101449 PAUL B WHITMAN
067587 NORMAN E WHITNEY
430932 PAUL VINCENT WHITTY
436914 GABRIELLE ALEXANDRA WICHOWSKI
302885 ROSALIND ZELDINA WIGGINS
304127 KATHRYN ANNE WIKMAN
429550 GEOFFREY BRIAN WILHELMY
100042 JOHN R WILLARD
410610 BRENDA WILCOX WILLIAMS
303289 DAVIDSON D WILLIAMS
427354 DEBRA A WILLIAMS
401570 ELVIN VINCENT WILLIAMS
405532 IVANA I WILLIAMS
424410 LENWORTH LESTER WILLIAMS
407192 MICHAEL ROBERT WILLIAMS
401569 SARAH JANE WILLIAMS
417438 TAYA NICOLE WILLIAMS
101735 THOMAS J WILLIAMS
440166 TYLER IAN WILLIAMS
370741 JAMES D WILSON
417439 JULIA WILSON
306199 LORI RENE WILSON
426636 TANYKA T WILSON
102899 THOMAS P WILSON
410951 TIMOTHY M WILSON
101930 PATRICIA WILSON-COKER
424411 JAMES JOSEPH WILTZIUS
102533 RENEE F WINCHESTER
307656 ROBIN LISA WINICK
410861 LISA BESSEGHINI WINJUM
412348 MICHAEL JACOB WINSTON
401572 STEPHAN WISLOCKI
409429 WILLIAM ROBERT WITCRAFT JR
102319 OTTO P WITT
428017 R MARTIN WITT
402259 MARY WOEHR
101775 ENID SCOTT WOLCH

416008 CATHERINE ANNE WOLFF
300787 RUSSELL THOMAS WOLFGANG-SMITH
429557 ADAM JACOB WOLKOFF
400928 MARK JAY WOLLMAN
370698 RONALD WAYNE WOLSEY
400967 JAY THOMAS WOLTER
410237 TINA WOO
304074 JOHN DANIEL WOOD
068785 LAURENCE M WOOD
304128 SUSAN M WOOD
418710 DAVID ANDRE WOODARD
405043 JEFFREY S WOODARD
414698 SHAWN T WOODEN
302096 GARY J C WOODFIELD
430941 JESSICA AISHA WOODHOUSE
428032 BRETT CHRISTOPHER WOODIS
414477 PAMELA LEILA WOODLEY
403554 GLENN D WOODS
418711 PAMELA WOODSIDE
409121 GREGORY WOZNIAK
306556 STEPHEN P WRIGHT
304079 STEPHEN X WRIGHT
407566 JENNIFER LEIGH WRINN
425754 ANIA MARIA WROBLEWSKA
410765 JOHNATHAN PETER WYNN
420054 RAY ANDREW WYNTER
433572 YUJIA JULIA XIA
424412 FENG XU
416263 CHERI L YAGER
429562 RICHARD S YAPCHANYK
424447 BONITA CHERYLYNN YARBORO
413554 KUANG-CHANG YEH
069180 BARRY J YELLEN
410850 SUE CHONG YI
414006 DAVID PHILLIP YON
405292 STEVEN JOSEPH YOUNES
403920 JOYCE H YOUNG
409306 MARY M YOUNG
069275 PASQUALE YOUNG
300400 ROLAND FREDERIC YOUNG III
300402 STUART JAY YOUNG
413377 DONG YU HWAN
426346 ZHUANG YUAN
307703 JOHN YUASA
422986 ROBERT KEITH YULE
402826 JONATHAN DAVID ZABIN
401359 CHERIE LOUISE ZACKER
412068 ALBERT APGAR ZAKARIAN
411417 HARRIS JAY ZAKARIN
411434 MICHELLE LYNN ZAKARIN
303324 RICHARD JOSEPH ZAKIN
431429 SAWSAN Y ZAKY
409075 ROBERT CARL ZARNETSKE III
419390 JOSH PAUL ZEIDE
417747 AVA L ZELENETSKY
415871 CHRISTOPHER J ZEMAN
307663 GARY BURTON ZENKEL
415873 ANTHONY VINCENT ZEOLLA
403257 MICHAEL A ZEYTOONIAN
436409 SHUDAN ZHOU
306272 NOEL M ZIEGLER
305352 CATHERINE CORNELIA ZIEHL
300428 CHARLES JOSLYN ZIFF
421135 ANNE ZIMMERMAN
402115 JEAN-MARC ZIMMERMAN
309432 JENNIFER HOLLY ZIMMERMAN
429572 RYAN JACOB ZIMMERMAN
427827 DANIEL M ZINN
300436 CHRISTOPHER ZIOGAS
405534 CHARLES GEORGE ZISKIND
433067 JOSEPH ZOCCALI
418013 PATRICIA F ZOCCOLILLO
403030 BARRY STEPHEN ZORNBERG
431439 VERONICA NIEVES ZORRILLA
300446 STEPHEN ALOYSIUS ZRENDA JR
300453 SHIMEN BARRY ZUDEKOFF