

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Lowell Department of Veterans' Services,
Petitioner,

Docket No.: VS-25-0516

v.

Executive Office of Veterans Services and
Joseph Brutus,
Respondents.

ORDER OF DISMISSAL

Mr. Joseph Brutus is a veteran and a student. This appeal originated with his application for veterans' benefits under G.L. c. 115. The Lowell Department of Veterans' Services (Lowell) received the application and denied it. In September 2025, the Executive Office of Veterans Services (EOVS) reversed Lowell's decision and granted Mr. Brutus's application. Lowell took this timely appeal.

While the appeal was pending, EOVS sent Mr. Brutus and Lowell an "amended decision and order." EOVS explained there that it had reconsidered the matter and was now affirming Lowell's denial decision. Seeing no remaining need for its appeal, Lowell moved for voluntary dismissal. See 801 C.M.R. § 1.01(6)(g). Mr. Brutus has not responded to the motion despite being invited to do so both by DALA and by Lowell.

The papers raise difficult questions. Substantively speaking, the applicable regulation denies certain benefits to a veteran "who voluntarily removes himself or herself from the labor market in order to attend . . . a college or university." 108 C.M.R. § 7.04(1). Excused from this rule are veterans studying "part-time," a term the regulation does not define. *Id.* The context may tend to suggest that studies exceed the "part-time" ceiling when they are extensive

enough to “remove[] [the veteran] from the labor market.” *Id.* But neither this interpretive point nor its precise application to Mr. Brutus have been briefed and litigated.

Procedurally speaking, the open question revolves around the validity of EOVS’s “amended decision and order,” issued after this appeal was docketed. It is true that adjudicatory tribunals generally possess the authority to reconsider their own decisions. But it is less clear whether that authority reaches decisions that have already been placed, through a notice of appeal, within the jurisdiction of an appellate tribunal. *See* G.L. c. 30A, § 14(1); *Quinn v. Gjoni*, 89 Mass. App. Ct. 408, 411 (2016); *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982); *Graves v. Principi*, 294 F.3d 1350 (Fed. Cir. 2002); *Cerullo v. Derwinski*, 1 Vet. App. 195 (1991); *Lorain Educ. Ass’n v. Lorain City Sch. Dist. Bd. of Educ.*, 544 N.E.2d 687 (Ohio 1989); *Petition of City of Shawnee*, 687 P.2d 603 (Kan. 1984); *American Smelting & Ref. Co. v. Arizona Air Pollution Control Hearing Bd.*, 550 P.2d 621 (Ariz. 1976).

Ultimately, these questions do not need to be decided here. With Lowell’s motion for voluntary dismissal having remained unopposed, no live controversy is being prosecuted. *See* 801 C.M.R. § 1.01(7)(g)(2); *Fannie Mae v. Branch*, 494 Mass. 343, 347-48 (2024). It is therefore ORDERED that the motion is ALLOWED and the appeal is DISMISSED.

Dated: October 16, 2025

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer Street, 4th floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala