

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Madeleine Clement,**  
Petitioner,

No. EA-24-0636

Dated:

v.

**Executive Office of Aging and  
Independence,<sup>1</sup>**  
Respondent.

**ORDER OF DISMISSAL**

Petitioner Madeleine Clement lodged this appeal in October 2024. She described the appeal as a challenge to a decision of the Executive Office of Elder Affairs, now known as the Executive Office of Aging and Independence (AGE). Upon review of the appeal, First Administrative Magistrate Rooney ordered Ms. Clement to show cause why it should not be dismissed for lack of jurisdiction. Ms. Clement has made several responsive submissions. AGE has also presented its own position.

Viewed in the light most favorable to Ms. Clement, the record reflects the following facts. At some point, she suffered from abusive conduct. Seeking assistance, Ms. Clement consulted an AGE website. Based on Ms. Clement's input, the website suggested that she contact Mystic Valley Elder Services (MVES).

MVES is a non-profit organization that AGE has designated as a "protective services agency." Bodies so designated are authorized by law to investigate reports of abuse and to take certain types of protective action. *See* G.L. c. 19A, § 17; 651 C.M.R. § 5.01 et seq. When Ms.

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<sup>1</sup> The caption is hereby amended to the extent that the respondent's current name is substituted for the name originally appearing on the notice of appeal, namely the Executive Office of Elder Affairs.

Clement presented her report of abuse to MVES, MVES determined that the matter “does not fall under [MVES’s] jurisdiction.” That determination is the one that Ms. Clement seeks to challenge here.

DALA is an administrative agency created by statute, G.L. c. 7, § 4H. It has the legal authority to hear only the specific types of matters assigned or referred to it under applicable statutes, regulations, and interagency agreements. *See id.*; *Commissioner of Revenue v. Marr Scaffolding Co.*, 414 Mass. 489, 493 (1993). Ms. Clement has not identified any statute, regulation, or agreement that would empower DALA to adjudicate an appeal from a decision of a protective services agency. AGE has reported its belief that no such authority exists. The statutes and regulations that AGE has cited as applicable to protective services agencies do not appear to include appeal-related provisions of any kind.

The trial courts of the Commonwealth are courts of general jurisdiction. *See* G.L. c. 212, § 4; G.L. c. 218, § 4. AGE’s submission also outlines additional forms of assistance that Ms. Clement may be able to pursue. But DALA has no power to take action in this matter. When a tribunal lacks jurisdiction, “the only function remaining to [it] is that of announcing the fact and dismissing the cause.” *Phone Recovery Servs., LLC v. Verizon of New England, Inc.*, 480 Mass. 224, 230 (2018).

Accordingly, it is hereby ORDERED that this appeal is DISMISSED. Any appeal from this decision must be brought in the Superior Court within 30 days.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate