

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

S.B.,

Docket No.: DPPC-23-0520

Petitioner,

Dated: April 9, 2026

v.

Disabled Persons Protection Commission,

Respondent.

ORDER OF DISMISSAL

In October 2023, the Disabled Persons Protection Commission (commission) determined that petitioner S.B. committed “registerable abuse” under G.L. c. 19C, § 15. This appeal followed. After a stay to allow a related criminal case to play out, the parties tried and failed to negotiate a settlement. The matter was calendared for a hearing. In March 2026, the commission reported that it was modifying its decision and finding that S.B. committed only non-registrable “abuse.” See 118 C.M.R. § 14.02(5)(a)(1). On that basis, the commission now moves to dismiss. S.B. has not opposed the motion.

“A case becomes moot when no actual controversy remains, or the party claiming to be aggrieved ceases to have a personal stake in its outcome.” *Fannie Mae v. Branch*, 494 Mass. 343, 347 (2024). As a specific application of that principle, when a newer decision of a court or an agency has superseded an older decision, and the focal point of the disagreement has migrated to the new decision, then an appeal from the older decision generally is moot and dismissible. See *V.M. v. R.B.*, 94 Mass. App. Ct. 522, 524-25 (2018); *Alaska v. United States Dep’t of Agric.*, 17 F.4th 1224, 1226 (D.C. Cir. 2021). This rule obviously tends to favor the outcome that the commission seeks here.

Mootness is a non-jurisdictional doctrine: tribunals retain the discretionary authority to decide cases that have become moot but that involved adjudicable controversies when they were commenced. *See Styller v. Zoning Bd. of Appeals of Lynnfield*, 487 Mass. 588, 595 (2021); *Thaddeus v. Secretary of Exec. Off. of Health & Hum. Servs.*, 101 Mass. App. Ct. 413, 417 (2022). In the current case, it would not make practical sense to keep the appeal live. The parties have not briefed or tried the merits. *See Josh J. v. Commonwealth*, 478 Mass. 716, 717-18 (2018). The case does not appear to involve issues that would tend to recur, becoming moot each time before they can be reviewed. *See Globe Newspaper Co. v. District Att’y for Middle Dist.*, 439 Mass. 374, 378-79 (2003). And it probably would be improper for DALA to grant S.B. any relief other than the form of relief that she does not need: i.e., a determination that she has committed no “registrable” abuse. *See* G.L. c. 19C, § 15; 118 C.M.R. §§ 14.02(5), 14.03(4). *See generally Commissioner of Revenue v. Marr Scaffolding Co.*, 414 Mass. 489, 493 (1993).

It is reasonably clear that the commission’s new decision—that S.B. committed only non-registrable abuse—is not appealable to DALA. *See* G.L. c. 19C, § 15; 118 C.M.R. §§ 14.02(5), 14.03(4). It is less clear whether the new decision can be challenged in the Superior Court, whether under the administrative procedure act or otherwise. *See generally School Comm. of Hudson v. Board of Educ.*, 448 Mass. 565, 575-78 (2007); *Board of Health of Sturbridge v. Board of Health of Southbridge*, 461 Mass. 548, 557 (2012); *Lindsay v. Department of Soc. Servs.*, 439 Mass. 789, 802-04 (2003); *Grandoit v. Massachusetts Comm’n Against Discrimination*, 95 Mass. App. Ct. 603, 606-09 (2019). That issue will be for the parties and the Superior Court to address if necessary.

In view of the foregoing, it is ORDERED that:

1. If it has not already done so, the commission shall provide S.B. with a copy of its revised decision, or with a date-bearing document in another format that formally announces the commission's determination that S.B. has not committed registrable abuse.
2. The motion to dismiss is ALLOWED and this appeal is DISMISSED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals