Circuit Court for Montgomery County
Case No. C-15-CV-24-004228

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1782

September Term, 2024

JONATHAN POMERANZ

v.

MARYLAND MOTOR VEHICLE ADMINISTRATION

Arthur,
Ripken,
Kehoe, Christopher B.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: December 17, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal involves a challenge by appellant, Jonathan Pomeranz ("Pomeranz"), to the Circuit Court for Montgomery County's grant of a motion to dismiss pursuant to Maryland Rule 2-322 in favor of appellee, the Maryland Motor Vehicle Administration (the "MVA"). In July of 2024, Pomeranz submitted an online application to the MVA in which he self-reported his sleep apnea diagnosis, as required. The MVA then requested that Pomeranz submit additional documentation regarding the diagnosis, indicating that his driving privileges could be suspended if he failed to comply. Pomeranz filed suit in the circuit court in response to the MVA's request, seeking a declaratory judgment that the agency had exceeded its statutory authority. The MVA moved to dismiss the complaint. Pomeranz then submitted the requested documents prior to the court ruling on the motion to dismiss, but after the MVA had sent Pomeranz a second notice indicating that his driving privileges would be suspended for failing to respond to its initial request. The circuit court granted the MVA's motion to dismiss. Pomeranz filed this timely appeal, presenting the following issues for our review:[1]

[1] Rephrased from:

> 1. Did the Circuit Court err in dismissing the Petition for failure to exhaust administrative remedies where Maryland Code, State Government § 10-125(a)(1) expressly authorizes "a petition for declaratory judgment on the validity of any regulation, whether or not the person has asked the unit to consider the validity of the regulation[?"]
>
> 2. All parties agreed below that facial challenges to regulations are exempt from an administrative exhaustion requirement. Appellant challenges the Maryland Motor Vehicle Administration's statutory authority to regulate sleep apnea at all and argues that the regulation was adopted contrary to Maryland law. Did the Circuit Court err in determining that the Petition did not constitute a facial challenge?

1. Whether the circuit court erred in determining that Pomeranz was required to exhaust administrative remedies before filing suit.

2. Whether the circuit court erred in determining that the complaint failed to constitute a facial challenge to the MVA's statutory authority to regulate drivers diagnosed with sleep apnea.

Because Pomeranz's claims are moot, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

On July 12, 2024, Pomeranz submitted an online "change of address" form to the MVA, a section of which required that he disclose any sleep apnea diagnosis. On July 15, 2024, the MVA issued a notice to Pomeranz, requesting additional documentation regarding his diagnosis (hereinafter the "Requested Documents") and indicating that failure to submit the Requested Documents "may result in a suspension of [] driving privilege[s]." The due date to submit the Requested Documents pursuant to this initial request was August 29, 2024.

On August 7, 2024, Pomeranz instituted this action, seeking a declaratory judgment that "COMAR 11.17.03.02[] is invalid with respect to the requirement" that drivers with sleep apnea report their diagnosis to the MVA. Pomeranz also sought a declaratory judgment on the basis that the MVA exceeded its statutory authority because 1) the MVA has no authority to define disorders requiring reporting, and 2) sleep apnea is not a disorder characterized by lapses of consciousness under Maryland Code, Transportation § 16-119.

The MVA moved to dismiss the complaint, asserting that 1) the complaint failed to state a claim upon which relief could be granted, and 2) Pomeranz failed to exhaust his administrative remedies, therefore barring his claim for declaratory relief. On September

3, 2024, the MVA sent Pomeranz an additional notice, advising him that his driving privileges would be suspended effective September 20, 2024, due to his failure to submit the Requested Documents by the August deadline. Pomeranz subsequently submitted the Requested Documents.

Thereafter, the circuit court granted the MVA's motion to dismiss on October 28, 2024. Pomeranz filed this timely appeal on November 8, 2024.

Several months later, in March of 2025, the MVA notified Pomeranz that the Requested Documents had been reviewed and that his driving privileges had been "medically approved" without the need for additional documentation and without any penalty to Pomeranz's driving record.

DISCUSSION

THE QUESTION OF WHETHER THE CIRCUIT COURT ERRED IN GRANTING THE MVA'S MOTION TO DISMISS IS MOOT.

A. Party Contentions

Pomeranz contends that the circuit court erred in dismissing the complaint because section 10-125 of the State Government Article to the Maryland Code (1984, 2021 Repl. Vol.), under which Pomeranz brought this action, does not require a petitioner to exhaust administrative remedies before filing suit. Pomeranz posits that the circuit court also erred in failing to find that the complaint sufficed as a facial challenge to the MVA's statutory authority to regulate sleep apnea.

The MVA avers that this Court should defer to its decision-making because there is a longstanding precedent establishing that courts defer to agency decisions. The MVA also

contends that we lack jurisdiction because there is no longer a live controversy between the parties, as Pomeranz submitted the Requested Documents, and no penalty ensued. Last, the MVA asserts that regulating physical and mental conditions that may affect a driver's ability to operate a vehicle is well within its statutory authority.

B. Standard of Review

"We review *de novo* the grant of a motion to dismiss[.]" *Gomez v. Jackson Hewitt, Inc.*, 427 Md. 128, 142 (2012) (citation omitted) (emphasis in original). That is, the scope of our review is limited to whether the trial court properly applied the law to the case at hand. *See Est. of Brown v. Ward*, 261 Md. App. 385, 409 (2024). "[W]e will accept all well-pled facts in the complaint, and reasonable inferences drawn from them, in a light most favorable to the non-moving party[.]" *Blackstone v. Sharma*, 461 Md. 87, 111 (2018) (internal citation and quotations omitted) (alteration in *Blackstone*). However, we may "affirm[] [the trial court's ruling] on any ground adequately shown by the record," *Gomez*, 427 Md. at 142, and "will [] find dismissal proper if the alleged facts and permissible inferences . . . fail to afford relief to the plaintiff." *Sprenger v. Pub. Serv. Comm'n of Maryland*, 400 Md. 1, 21 (2007) (internal citation and quotations omitted).

C. Analysis

"Generally, appellate courts do not decide . . . moot questions." *Sugarloaf All., Inc., v. Frederick Cnty., Maryland*, 265 Md. App. 199, 227 (quoting *In re Karl H.*, 394 Md. 402, 410 (2006)), *cert. granted*, 492 Md. 410 (2025). "A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant." *Giant of Maryland, LLC v. Taylor*, 221 Md.

App. 355, 366 (2015) (quoting *Suter v. Stuckey*, 402 Md. 211, 219 (2007)). *Accord Syed v. Lee*, 488 Md. 537, 578 (2024). Stated differently, "an issue is moot where 'past facts and occurrences have produced a situation in which, without any future action, any judgment or decree the court might enter would be without effect.'" *Sugarloaf*, 265 Md. App. at 227 (quoting *La Valle v. La Valle*, 432 Md. 343, 351 (2013)). The Supreme Court of Maryland, in *Lloyd v. Board of Supervisors of Elections of Baltimore County*,[2] enunciated the exceptions to the mootness doctrine:

> [I]f the public interest clearly will be hurt if the question is not immediately decided, if the matter involved is likely to recur frequently, and its recurrence will involve a relationship between government and its citizens, or a duty of government, and upon any recurrence, the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision, then the Court may find justification for deciding the issues raised by a question which has become moot, particularly if all of these factors concur with sufficient weight.

206 Md. 36, 43 (1954). Absent such circumstances, we abstain from reviewing moot questions on the premise that doing so would amount to an advisory opinion, "a long forbidden practice in this State." *Hatt v. Anderson*, 297 Md. 42, 46 (1983) (citation omitted); *see also Dep't Hum. Res., Child Care Admin. v. Roth*, 398 Md. 137, 143 (2007) ("This Court does not give advisory opinions; thus, we generally dismiss moot actions without a decision on the merits.") (citation omitted); *see also* Md. Rule 8-602(c)(8) ("The

[2] In December of 2022, the name of Maryland's highest court was changed from the Court of Appeals to the Supreme Court of Maryland. For the purposes of *Lloyd*, and *Hammen*, cited *infra*, references to the Supreme Court of Maryland correspond with the Court of Appeals, the Court's name at the time of those decisions.

court shall dismiss an appeal if[] . . . the case has become moot."). *Accord Clark v. O'Malley*, 186 Md. App. 194, 216–17 (2009).

The *Hammen* case offers guidance for the instant action. *See Hammen v. Balt. Cnty. Police Dep't*, 373 Md. 440. In *Hammen*, a retired employee requested videotapes from his former employer to use in an administrative proceeding. *See id.* at 442–43. The former employer initially refused to comply, challenging whether it was required to relinquish the footage, which led the retired employee to file suit in the trial court. *Id.* However, the former employer later acquiesced and furnished the requested videotapes to the retired employee. *See id.* at 443–44, 451. As a result, the Supreme Court of Maryland ruled that "there [was] apparently no longer any existing controversy" because the retired employee received "that which he sought." *See id.* at 451. In other words, the Court found that the case was moot.[3] *See id.* at 444.

The instant case is moot because "there is apparently no longer any existing controversy" between the parties. *See id.* at 451. In *Hammen*, the Supreme Court of Maryland found that a party's act of furnishing documents that it initially refused to produce mooted "any existing controversy" between it and the opposing party that sought said documents. *See id.* The same holds true in the case at hand.

Here, the MVA solicited the Requested Documents in July of 2024 and indicated that it may suspend Pomeranz's driving privileges if he failed to comply with the request

[3] The Court found that the case was moot but decided to exercise its discretion to consider the merits of the case for reasons inapplicable to the case before us. *See Hammen*, 373 Md. at 444.

by August 29, 2024. Pomeranz initially declined to furnish the Requested Documents and instead filed this action, challenging the MVA's authority regarding its request. However, Pomeranz later submitted the Requested Documents to the MVA after the agency sent him a second notice, and before the circuit court ruled on the motion to dismiss. The act of doing so, as in *Hammen*, mooted "any existing controversy" between Pomeranz and the MVA because Pomeranz produced "that which [the MVA] sought[.]" *See id.*

We also note that the MVA later issued a letter that notified Pomeranz that his application had been approved without the need for further documentation; the letter did not mention any adverse action taken regarding Pomeranz's driving record. Thus, "any judgment or decree th[is] [C]ourt might enter would be without effect." *See Sugarloaf*, 265 Md. App. at 227 (quoting *La Valle*, 432 Md. at 351). *Accord Taylor*, 221 Md. App. at 366; *Syed*, 488 Md. at 578. Moreover, the instances where we may opine on an otherwise moot case are inapplicable in this action. *See supra*. That considered, we decline to issue what would amount to no more than an advisory opinion based on this action's current posture, "a long forbidden practice in this State." *See Hatt*, 297 Md. at 46; *see also Roth*, 398 Md. at 143 ("[We] do[] not give advisory opinions. . . ."); *Sugarloaf*, 265 Md. App. at 231 (conveying that moot cases are "nonjusticiable"); Md. Rule 8-602(c)(8) (stating that courts have discretion to dismiss moot cases).[4] *Accord Clark*, 186 Md. App. at 216–17.

[4] We do not opine as to whether the MVA has the authority to solicit the documents sought in this case, nor whether the MVA has the authority to suspend licenses for failure to comply with said solicitation.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.