

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 2, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 02-2996

Cir. Ct. No. 02-CV-577

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

KATHY SCHULZ,

PETITIONER-APPELLANT,

v.

**WISCONSIN DEPARTMENT OF HEALTH AND FAMILY
SERVICES AND WISCONSIN DIVISION OF HEARINGS
AND APPEALS,**

RESPONDENTS-RESPONDENTS.

APPEAL from an order of the circuit court for Dane County:
MICHAEL N. NOWAKOWSKI, Judge. *Affirmed.*

Before Deininger, P.J., Dykman and Snyder, JJ.

¶1 PER CURIAM. Kathy Schulz appeals from an order dismissing her petition for certiorari review of a decision of the Wisconsin Division of Hearings and Appeals. The trial court concluded that a decision on the merits of the petition

would have no practical effect on the parties, making the case moot. We agree, and therefore affirm the dismissal.

¶2 Under the provisions of WIS. STAT. § 50.033 (2001-02),¹ the Department of Health and Family Services (DHFS) licensed Schulz to operate an adult family home, defined in WIS. STAT. § 50.01(1)(b) as a place where three or four adults unrelated to the operator live and receive care, treatment or services beyond room and board. DHFS's license applied to a home Schulz operated at 2904 Waubesa Avenue in Madison. Under § 50.033(2), the license was not transferable.

¶3 DHFS revoked Schulz's license in June 2000. On her administrative appeal, the Division of Hearings and Appeals affirmed the revocation in January 2002. She then commenced this review proceeding. However, while the case remained pending in the trial court, Schulz sold the residence at 2904 Waubesa Avenue, and moved to Edgerton, Wisconsin. There she continued to care for two unrelated adults, but was not subject to licensure under WIS. STAT. § 50.033, which only applies to homes providing care to three or four persons. Because Schulz had essentially abandoned her license, and sold the premises it applied to, the court dismissed the action as moot.

¶4 “It is well settled that a case is moot when a determination is sought on a matter which, when rendered, cannot have any practical legal effect upon an existing controversy.” *Doe v. State*, 2003 WI 30, ¶18, 260 Wis. 2d 653, 660 N.W.2d 260. In other words, a moot question is one which circumstances have

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

rendered purely academic. *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425. Courts generally dismiss moot cases, absent frequently reoccurring issues or ones of great public importance. *State v. Leitner*, 2002 WI 77, ¶¶13-14, 253 Wis. 2d 449, 646 N.W.2d 341.

¶5 The trial court properly dismissed Schulz's petition as moot. A decision in her favor would not have restored her license, because she abandoned it. It applied to a residence that she sold. Had she lost on the merits, her circumstances would have remained exactly the same.

¶6 Notwithstanding the fact that her license is no longer at stake, Schulz contends that the case is not moot because DHFS's revocation may adversely affect future efforts to obtain a license for her Edgerton residence. However, she does not now need a license to operate a two-person home at that residence, and it is only speculation whether she might apply for a WIS. STAT. § 50.033 license in the future, or that the revocation in this case might adversely affect her application. We are not persuaded that some potential, future effect is sufficient to require further proceedings in an otherwise moot case.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

