

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 13, 2005

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. 2004AP3064

Cir. Ct. No. 2004SC033311

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**VOLUNTEERS OF AMERICA NATIONAL
SERVICES,**

PLAINTIFF-RESPONDENT,

v.

DIANNE KHAN,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: MICHAEL J. DWYER, Judge. *Dismissed.*

¶1 FINE, J. Dianne Khan appeals, *pro se*, from the trial court's grant of a judgment evicting her from an apartment owned by the Volunteers of America National Services, and dismissing her counterclaim for racial discrimination. The judgment of eviction was entered November 17, 2004. Khan

moved out of the apartment in the early part of December, 2004. Volunteers of America then sought dismissal of Khan's appeal as moot. The motions judge denied the motion on Khan's representation that her appeal also encompassed the dismissal of her counterclaim. The order denying Volunteers of America's motion to dismiss recognized that "[t]he question of mootness can be addressed in the parties' briefs." We dismiss the appeal as moot.

¶2 First, Khan does not argue in her brief on appeal that the trial court erred in dismissing her counterclaim alleging racial discrimination, although she does mention in passing that she believes that she was discriminated against because of what she says is her disability. She did not, however raise that issue before the trial court, and we will not generally consider matters raised for the first time on appeal. *See Wirth v. Ehly*, 93 Wis. 2d 433, 443–444, 287 N.W.2d 140, 145 (1980). Moreover her passing reference to alleged discrimination because of disability is woefully undeveloped. *Vesely v. Security First Nat'l Bank of Sheboygan Trust Dep't*, 128 Wis. 2d 246, 255 n.5, 381 N.W.2d 593, 598 n.5 (Ct. App. 1985) (declining to decide issues inadequately briefed). Thus, the reason for the motions judge's earlier denial of the motion filed by Volunteers of America to dismiss the appeal as moot is no longer operative.

¶3 Second, Volunteers of America's brief on appeal again seeks dismissal of Khan's appeal as moot. She does not address that issue in her brief, and has filed a document saying that she will not file a reply brief. Accordingly, we take as conceded Volunteers of America's contention that the appeal is moot. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493, 499 (Ct. App. 1979) (matter not refuted deemed admitted). Accordingly, we dismiss the appeal.

By the Court.—Appeal dismissed.

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)4.

