If you went to the Supreme Court today to check on Justice Ginsburg’s health, you were in luck. She asked the very first question (and many after) in oral argument in *New York State Rifle & Pistol Association Inc. v. City of New York, New York*. If you came to hear a robust discussion of whether New York City’s now-repealed gun regulation violates the Second Amendment, you would have been disappointed. The Justices spent most of their time asking the lawyers arguing the case about whether it is moot. A case is moot if no live dispute exists between the parties.

New York City’s “premises” license allowed a licensee to “have and possess in his dwelling” a pistol or revolver. A licensee was only allowed to take his or her gun to a shooting range located in the city. Challengers want to bring their handgun to their second home and to target practice outside the city. As of July 2019, New York City and the State of New York now allow premises licensees to transport handguns through the City to take them to shooting ranges or second homes.

New York City argues the case is moot because “the new statute and regulation give [the challengers] everything they have sought in this lawsuit.”

Before oral argument conventional wisdom was that the four more liberal Justices would lean towards ruling the case is moot. All such Justices asked questions indicating they are interested in voting that way.

The New York State Rifle & Pistol Association and the United States offered at least three reasons the case isn’t moot. First, the Association argued that the challengers admitted they violated the limitations of the premises license and that they could be subject to disqualification for a license under the new regime. The attorney arguing for New York City disavowed the possibility of punishment of the challengers, who have been re-licensed twice since the litigation began.

Second, the Association argued that it didn’t get all it wanted in the new law because travel must be continuous and uninterrupted from their home to an out-of-the city range. They aren’t sure under the new law whether they can stop and get a cup of coffee. New York City responded that the case is moot regardless because this is a question relevant to the new law and not the old law.

Finally, the United States argued the case isn’t moot because the challengers may be able to seek money damages. But the Association admits it hasn’t sought money damages.

The five more conservative Justices were hard to read on mootness. For example, Chief Justice Roberts sought assurances from New York City’s attorney that it wouldn’t prejudice anyone for previous license violations—indicating he may not think this is a ground for mootness—but he may support mootness on another basis.

Before oral argument conventional wisdom was that if the Justices rule on the merits of New York
City’s former regulation they will hold that it is unconstitutional. Nothing happened at oral argument indicating that this won’t happen. While both the attorneys arguing in favor of the former rule being unconstitutional repeatedly stated that the “text, history, and tradition” are on their side only Justice Alito seemed enthusiastic about delving into the constitutionality of the old law.

The Supreme Court should rule in this case by the end of June 2020.