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BORDEN, J., with whom NORCOTT, J., joins, concurring. I agree with and join the majority opinion. I write separately, however, to register my substantive agreement with the reasoning of part II of Justice Katz's dissenting opinion, although I do not join in its result.

In part II of her dissenting opinion, Justice Katz cogently analyzes why *Martinez v. Dept. of Public Safety*, 263 Conn. 74, 818 A.2d 758 (2003), in which I joined Justice Norcott's dissent, was wrongly decided. I agree with Justice Katz in that regard, for all of the reasons stated in Justice Norcott's dissent therein; see *id.*, 88–93; as well as all of the reasons stated by Justice Katz in the present case. Nonetheless, I decline to vote to overrule *Martinez* because it was an en banc decision that was very recently issued by this court. Under these circumstances, a due respect for stare decisis, especially in the area of statutory interpretation, counsels against such prompt judicial action.

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