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Court of Appeals of Minnesota.

STATE of Minnesota, EX REL. Antwone FORD, petitioner, Respondent,
v.
Tom ROY, Commissioner of Corrections, Appellant.

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Washington County District Court, File No. 82-CV-16-2295

Attorneys and Law Firms

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Considered and decided by Jesson, Presiding Judge; Connolly, Judge; and Reyes, Judge.

UNPUBLISHED OPINION

JESSON, Judge

Respondent Antwone Ford was incarcerated after he was eligible for supervised release because he could not locate approved housing. After multiple review hearings and release revocations, Ford filed a habeas corpus petition challenging his continued incarceration. The petition was denied by the district court, considered by this court, and remanded for further findings on the efforts the Department of Corrections made to assist Ford in finding housing. Before the district court could consider the case on remand however, Ford was released to complete treatment in Hennepin County. While the Department of Corrections argued that the case became moot with Ford's release, the district court disagreed, held an evidentiary hearing, and issued an order directing the Department of Corrections to take a variety of actions to prevent Ford's potential future re-incarceration. The Department of Corrections appeals. Because Ford's release renders this case moot at this time, we reverse.

FACTS

Respondent Antwone Ford pleaded guilty to third-degree criminal sexual conduct in 2008. He was sentenced to 36 months in prison, but the sentence was stayed and Ford was placed on probation. After various probation violations, Ford's sentence was executed in 2013, and conditional release was imposed. On Ford's supervised-release date in February 2015, he did not yet have an approved address to go to upon release, which is a requirement for level-III sex offenders such as Ford.[1]

Because Ford did not have an approved residence, he was transferred to the Blue Earth County jail on his release date, where he attempted to plan his release by making phone calls. After approximately two weeks, he was unable to find a residence and the Department of Correction's (DOC) Hearings and Release Unit (HRU) held a hearing on his alleged supervised-release violation—failing to find appropriate housing. The HRU hearing officer revoked his release for 90 days. Hearing officers revoked his release for the same reason four more times.

During his subsequent incarceration, Ford and the DOC attempted to find appropriate housing by contacting relatives who were either unwilling or unable to provide him housing in areas throughout Minnesota, Wisconsin, and North Dakota. Ford's county of commitment, as well as the county in which he has historical ties, is Blue Earth County. There is an Intensified Supervise Release (ISR) house in the county, in Mankato, which traditionally houses offenders who struggle to find housing. But Ford was unable to stay at the house due to a Mankato city ordinance that prohibits housing sex offenders at that location. Ford found a landlord in Ramsey County willing to rent to him, but Ramsey County refused to supervise him because he had no historical ties to the area and because of the high concentration of offenders in the zip codes of his proposed residences.

***2** While incarcerated and after his fourth release revocation, Ford filed for habeas corpus relief. In his habeas petition, he argued the DOC was unlawfully continuing to incarcerate him and that the Mankato city ordinance that restricted his ability to live in the ISR house in Mankato was preempted by state law and violated his due-process rights.

The district court held a hearing on Ford's habeas petition. The court heard legal arguments but did not conduct an evidentiary hearing because it determined there was no dispute of material facts. The district court concluded that Ford could not challenge the city ordinance since Mankato was not a party to the action and that the DOC's continued incarceration of Ford was lawful.

Ford appealed the district court's decision to this court, and this court issued an order opinion which reversed and remanded the case in order for the DOC to develop the record regarding efforts made to find housing for Ford, in compliance with this court's decision in *State ex rel. Marlowe v. Fabian*, 755 N.W.2d 792 (Minn. App. 2008). *State ex rel. Ford v. Roy*, No. A16-1769 (Minn. App. Feb. 1, 2017).

Shortly after this court issued its order opinion, Ford was released from custody to Alpha Human Services (Alpha House) in Hennepin County to complete sex-offender treatment. This is a 13- to 18-month program, the first four stages of which are "residential," meaning participants live at the treatment center. While residing at the treatment center, Ford will be supervised by a DOC agent. But in the final two stages of treatment, participants no longer live at the treatment center and often move to another housing option, the Portland House, also located in Hennepin County. When participants move to the Portland House, they are considered to be living in the community and supervised by Hennepin County. When and if Ford reaches that stage of the treatment program, the DOC will likely request that Hennepin County supervise Ford. The county can choose to accept or reject this supervision.

When this case returned to the district court on remand, the DOC argued the case was moot because Ford had already been released to Alpha House. But the district court disagreed and determined it could not disregard this court's instructions on remand to develop a record of the DOC's efforts to find housing for Ford. It conducted an evidentiary hearing where the DOC's field-service director, the executive director of the HRU, Ford himself, his supervised-release agent while in Hennepin County, his supervised-release agent while in Blue Earth County, and his case manager from Stillwater prison, all testified.

The DOC's field-service director, Allen Godfrey, detailed all of the DOC's efforts to find housing for Ford including attempts to place him with five different relatives; the mother of his child; numerous landlords in Mankato, St. Paul, Minneapolis, and Fairmont; and a variety of affordable housing agencies. The DOC also assigned a mental-health planner to assist Ford by attempting to get him into three mental health related programs. And the DOC tried to get Nicollet County jail to house Ford three-quarter time to allow him to leave the jail to look for employment. In total, Godfrey estimated that the DOC made approximately 70 contacts regarding housing on Ford's behalf.

Godfrey explained the DOC's relationship with Community Corrections Act (CCA) counties, which are counties that provide their own supervised release versus DOC supervision. According to Godfrey, CCA counties can choose whether to supervise offenders, and the DOC cannot force them to do so, though there are dispute resolution processes for conflicts. And if a CCA county does not agree to supervise, the DOC generally will not place that individual in that county under DOC supervision.

Godfrey further explained the DOC's use of ISR houses, houses the DOC rents to provide housing for offenders placed on ISR, but noted that individuals can only reside in these houses if located in a county where the offender has historical ties, or if it is the county of commitment.[2]

***3** Ford testified and explained that he had submitted residences in Ramsey County that were rejected. He discussed his current participation in sex-offender treatment at Alpha House, and told the district court that he wanted to complete the program and felt he was doing well in it.

Following the evidentiary hearing, the district court issued its findings and order. The court concluded the DOC had not fulfilled its obligation under *Marlowe*, 755 N.W.2d 792, which requires the DOC to consider restructuring an individual's release to include viable housing options, and was not following its own policy 203.018 on the hierarchy of county of presumptive supervision.[3] It granted Ford's petition and ordered that:

> 2. The DOC shall fully comply with DOC Policy 203.018.
>
> 3. When Ford submits a proposed residence, including the Alpha House post-residential placement at Portland House in Hennepin County, the DOC shall treat the county where that residence is located as his presumptive release jurisdiction.
>
> 4. If that county refuses to accept supervision of Ford, for any reason, the DOC shall engage the dispute resolution process.
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> 5. If, after dispute resolution, that county still refuses to accept supervision, the DOC shall provide DOC supervision to Ford in that county, or modify Ford's conditions of release.

The DOC appeals.

DECISION

I. Ford's habeas petition is moot.

The DOC argues that because Ford was released to the community, his habeas petition challenging his continued incarceration is moot. We agree.

This court can only decide actual, justiciable controversies. *In re Matter of Dahlgren Twp.*, 906 N.W.2d 512, 520 (Minn. App. 2017); *State v. Brooks*, 604 N.W.2d 345, 347 (Minn. 2000), *as modified* (Mar. 15, 2000). And such a controversy only exists when a claim "in addition to adverse interests and concrete assertions of rights, [...] allows for specific relief by a decree or judgment of a specific character as distinguished from an advisory opinion predicated on hypothetical facts." *State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 321 (Minn. App. 2007). Appellate courts do not issue advisory opinions, nor do they decide cases merely to establish precedent. *State ex rel. Leino v. Roy*, 910 N.W.2d 477, 481 (Minn. 2018). When a justiciable controversy is not present, a case is moot. A case becomes moot when an event occurs making a decision on the merits unnecessary, or awarding effective relief impossible. *Limmer v. Swanson*, 806 N.W.2d 838, 839 (Minn. 2011). An issue may become moot based on circumstances occurring after remand. *See Tieso v. Hansen*, 349 N.W.2d 863, 864 (Minn. App. 1984) (noting an evidentiary hearing related to a custodial parent was ordered after remand from Minnesota Supreme Court, but the issue became moot based upon a parent's change in circumstances which rendered hearing unnecessary).

That is precisely what occurred here: after remand, upon Ford's release to Alpha House, his case became moot. This is particularly true given the limited relief available in a habeas proceeding. A court may only grant a petitioner "relief from imprisonment or restraint." Minn. Stat. § 589.01 (2016). And here, before the district court's decision on remand, Ford gained the relief sought—release to Alpha House.

***4** The district court here determined that, because this court on remand directed it to consider whether the DOC had complied with its obligations under *Marlowe*, an evidentiary hearing was needed. But *Marlowe* requires the DOC "to assist an offender in finding residential placement." 755 N.W.2d at 795 (citing Minnesota Department of Corrections policy 203.010). Because the DOC complied with the requirements of *Marlowe* when it secured housing for Ford at the Alpha House and released him, there was no longer a need for the district court to further consider this issue pursuant to *Marlowe*.[4]

But Ford argues the case is not moot because he remains on supervised release, which is a continuing restraint on his liberty. He takes issue with what he describes as two "conditions" of his supervision: (1) CCA counties' ability to refuse to supervise him in a county and what he predicts will be the DOC's subsequent refusal to supervise in that same county; and (2) his inability to live at the ISR house in Mankato due to a Mankato city ordinance. Because neither of these conditions restrain Ford's liberty at this time, we conclude they do not present justiciable controversies.

With regard to the first "condition," Ford postulates that when he completes the first four stages of the Alpha House sex-offender treatment, he will attempt to live in the Portland House, which will require Hennepin County—a CCA county—to supervise him, and the county will reject the request to supervise. And when the county refuses to supervise him, Ford believes he will once again be incarcerated. But "on appeal there must be a substantial and real controversy between the parties before a case will be considered by this court." *State v. Murphy*, 545 N.W.2d 909, 917 (Minn. 1996) (quotation omitted). Ford's future housing is unknown and does not pose a direct or imminent injury to Ford. Hennepin County has not yet refused to supervise him. Nor had he, at the time of the district court's consideration, progressed to the stage of the Alpha House program that requires alternative housing.

The same analysis applies to Ford's second argument that the Mankato city ordinance places an unlawful restraint on him. Ford has no current need to live at the Mankato ISR house—he is currently housed and supervised in Hennepin County. Neither of these "conditions," at least at this time, place a restraint on Ford's liberty. As a result, Ford's habeas petition is moot.

II. Exceptions to the mootness doctrine do not apply.

Even when a case is moot, there are exceptions to the application of the mootness doctrine. These exceptions allow for a court's consideration when an issue is likely to reoccur but would continue to evade judicial review or is functionally justiciable and has statewide significance. *Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015). Ford argues that there are three issues that this court should decide pursuant to these exceptions. Ford first challenges the DOC's general use of review hearings to continue confinement for offenders who cannot establish an approved residence. He then turns to the Mankato ordinance that prohibits sex-offenders from living in the Mankato ISR house. And finally, he raises the CCA counties' ability to refuse to supervise offenders, and the DOC subsequent refusal to supervise, causing continued incarceration. He contends that each issue is likely to reoccur and poses a question of statewide significance. We address each argument in turn.

***5** First, Ford challenges the DOC's use of review hearings, which are used to extend confinement of offenders on supervised and conditional release who are unable to secure approved housing. He asserts that these hearings violate offenders' due-process rights. We discern no need to apply exceptions to the mootness doctrine to the review hearings because we very recently addressed this issue. In *Leino*, 910 N.W.2d at 483-84, we determined the use of review hearings is lawful because the hearings are consistent with Minnesota Statutes section 244.05, subdivision 2 (2016), which requires the commissioner to "specify the period of revocation for each violation of release" and establish procedures for the revocation of release that "provide due process of law for the inmate." As a result, the hearings provide for an offender's due process. *Id.* The *Leino* analysis applies here. The question Ford raises regarding review hearings is answered.

Second, Ford challenges the Mankato city ordinance that prevents him from living in the ISR house in Mankato, arguing that this ordinance also violates his due-process rights. But there is no need to address the exceptions to mootness here because Ford's habeas petition is not the appropriate vehicle for this challenge. The city of Mankato is not a party to this action and cannot act on its own behalf. Nor does the Commissioner of Corrections have power over the city to modify an ordinance or declare it unconstitutional. As the Minnesota Supreme Court noted in *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 337 (Minn. 2011), a declaratory judgment action "is proper to test the validity of a municipal ordinance, regardless of whether another remedy exists." And this court has established there is no "authority that permits a district court to grant general declaratory or injunctive relief in a habeas proceeding." *Rud v. Fabian*, 743 N.W.2d 295, 304 (Minn. App. 2007), *review denied* (Minn. Mar. 26, 2008). Because Ford cannot challenge the Mankato city ordinance through his habeas petition, there is no reason to consider whether the issue survives mootness.

Finally, Ford challenges the complex relationship between the CAA counties and the DOC. Specifically, he takes issue with a CCA county's ability to refuse to supervise an offender and the DOC's general practice to subsequently refuse to supervise that offender in that CCA county, leading to continued incarceration. Using Ford's case as an example, he takes issue with the possible scenario that he could find housing in Hennepin County—such as the Portland House—that Hennepin County could refused to supervise him there, and if the county refused, it is DOC practice to then also refuse to supervise him. And this could lead to Ford returning to prison because he lacks an approved residence. This argument provides a sufficient basis to analyze whether any exceptions to the mootness doctrine might allow its consideration. We address those exceptions, as

applied to the CCA county issue, below.

First, we address whether the CCA county issue is likely to reoccur but would continue to evade judicial review. Such circumstances exist "when there is a reasonable expectation that a complaining party would be subjected to the same action again and the duration of the challenged action is too short to be fully litigated before it ceases or expires." *Dean*, 868 N.W.2d at 5 (emphasis omitted). This is a flexible exception to the mootness doctrine. *See Leino*, 910 N.W.2d at 481 (quoting *Brooks*, 604 N.W.2d at 347). Because this issue has been raised multiple times in cases within this past year, we determine this is an issue that is likely to reoccur. *See Leino*, 910 N.W.2d at 480 (appellant argument in his habeas petition that the DOC "impermissibly deferred to counties in determining whether he could release predatory offenders into those counties").[5]

***6** But a more complex question is whether the issue is also likely to evade judicial review. And to make this determination, we look first at the duration of the action, as traditionally cases of inherently limited duration are those likely to be found to evade review. *Dean*, 868 N.W.2d at 5. In doing so, the cases of *Brooks*, *Blilie*, and *Dean* are instructive. *Brooks*, 604 N.W.2d 345; *Matter of Blilie*, 494 N.W.2d 877 (Minn. 1993); *see also Dean*, 868 N.W.2d 1. In *Brooks*, the supreme court considered the constitutionality of cash-only bail and determined pre-trial bail issues by definition are "short-lived" and thus likely to evade judicial review. 604 N.W.2d at 348. The court came to a similar conclusion in *Blilie*, where it determined that because a guardian could admit a state ward to a treatment center where neuroleptic medication could be administered immediately upon admittance, the issue of administering neuroleptic drugs was likely to evade judicial review.[6] 494 N.W.2d at 880-81, *see also State ex rel. Doe v. Madonna*, 295 N.W.2d 356, 361, 365 (Minn. 1980) (determining that the use of 72-hour mental-health emergency hospitalizations orders is likely to evade review). But in *Dean*, by contrast, the Minnesota Supreme Court determined that because the enforcement of a city ordinance was ongoing, and because the appellants' case spanned three years, "a duration that typically would provide ample time for judicial review[,]" it was not likely to evade review. 868 N.W. 2d at 5-6.

Ford's situation here is closer aligned to that of *Dean* than of *Brooks*, *Blilie* or *Madonna*. Finding housing for an offender on supervised or conditional release, and especially a level-III sex offender, is a process that is not inherently brief like the short-lived nature of bail, neuroleptic medication administration, and 72-hour mental-health holds.[7] And in Ford's case, he was incarcerated for much longer than 72 hours awaiting release to an approved residence. As the supreme court determined in *Dean*, this time provides sufficient time for judicial review. *See* 868 N.W.2d at 5-6.

This said, cases of limited duration are not the exclusive measure of when evasion of judicial review occurs. Conduct could rise to this level as well. As we stated in *Leino*, a supervised or conditional release issue *may* evade review "if the DOC continues to release offenders who have been re-incarcerated during their supervised or conditional release terms after the offenders challenge their incarceration by habeas [petition]." 910 N.W.2d at 481 (alteration in original) (quoting this court's order opinion in *State ex rel. Leino v. Roy*, No. A17-1278 (Minn. App. Sept. 13, 2017)). Our review of recent cases reveals two situations where appellants challenge continued incarceration due to a lack of approved housing, but are released before the district court makes a determination on the merits of their case. In both *Leino* and *Martinez*, cases decided by this court in the last year, the appellants' releases were revoked and incarceration was extended for a lack of approved housing; appellants filed habeas petitions; and they were released *prior* to the district court's consideration of those petitions. 910 N.W.2d at 480; *State ex rel. Martinez v. Roy*, No. A16-1604, 2017 WL 2063009, at *1-2 (Minn. App. May 15, 2017). While these cases, along with the current case, raise the question of whether this conduct will cause the CCA county issue to evade review, we are not yet willing to make that determination on this record and the limited cases to date.

Looking now at the second, separate exception to the mootness doctrine, we address whether the CCA county issue is functionally justiciable and presents a question of statewide significance that should be decided immediately. *Dean*, 868 N.W. 2d at 6 (citing *Rud*, 359 N.W.2d at 576). A case is justiciable when the record contains the raw material, including an effective presentation of the interests on both sides of an issue, associated with judicial decision-making. *Id.* The record here is well-developed. There was an evidentiary hearing that addressed the CCA county supervision issue from both the perspective of the DOC and the offender. But we apply this exception narrowly and to do so we require both a functionally justiciable record and issue of statewide significance. *Dean*, 868 N.W.2d at 6. It is the second prong that we find lacking.

***7** Previously, Minnesota appellate courts have determined that questions of cash bail; voting and redistricting; proper approval of a breath-testing device for possible impaired drivers; the calling of child witnesses and victims to testify at omnibus hearings; a court-appointed guardian's right to consent to remove a ward from life support; and the DOC's use of review hearings are all issues of statewide importance and in need of an immediate decision. *See Brooks*, 604 N.W.2d at 348; *Kahn*, 701 N.W.2d at 823; *Jasper v. Comm'r of Pub. Safety*, 642 N.W.2d 435, 439 (Minn. 2002); *Rud*, 359 N.W.2d 575-76; *In re Guardianship of Tschumy*, 853 N.W.2d 728, 731, 740 (Minn. 2014); *Leino*, 910 N.W.2d at 481. Courts made this determination for a variety of reasons including the large population that the question affects, the potential detrimental impact of failing to decide an issue on future proceedings, and the agreement of the parties that the issue is significant statewide.

In *Kahn*, for instance, the court determined that an issue of redistricting and the Minneapolis municipal election system required answering because other Minnesota cities use same election procedures, and between St. Paul and Minneapolis, the issue affected approximately 13.6% of Minnesota's population. 701 N.W.2d at 823. And this court in *Leino*, addressed the question of the DOC's use of review hearings in administering re-incarceration of offenders for violations of conditional release after it determined the DOC uses those hearings regularly "as a decision-making tool regarding re-incarceration of offenders for violating conditional release." 910 N.W.2d at 482; *see also In re Guardianship of Tschumy*, 853 N.W.2d at 740 (deciding a question of if a court-appointed guardian can consent to remove a ward from life support in part based on its impact where there were approximately 12,000 wards under state supervision in Minnesota); *Jasper*, 642 N.W.2d at 439 (deciding a question on the approval of a breath test because it was "the only breath-testing instrument currently in use in this state" for suspected impaired drivers). Similarly in *Brooks*, the court decided the case was adequately important because failure to decide the issue of cash-only bail would have a "continuing adverse impact on those defendants who are unable to post cash only bail[,]" and would even create a class of defendants with constitutional claims but no remedy. 604 N.W.2d at 348. And in *Rud*, the parties agreed that the case raised a question of statewide significance. 359 N.W.2d at 576.

But the CCA county issue here does not possess the same qualities as these cases where courts have considered questions of voting, the general use of review hearings, breath tests and cash-only bail. Nor have the parties agreed as to the significance of the CCA county issue. The CCA county issue appears to reach far fewer people than those impacted by the broad issues deemed to have statewide significance, affecting only those who are on ISR and need an approved residence, are able to find housing in a CCA county, the CCA county refuses to supervise them, and then the DOC subsequently refuses to supervise them in that same CCA county. While the record contains no specific number of individuals that this could include,[8] it is surely considerably less than 13.6% of the population of Minnesota affected by the question in *Kahn*, and less than the number of offenders who participate in review hearing as challenged in *Leino*, since those hearings address any violation of supervised or conditional release. *See Kahn*, 701 N.W.2d at 823; *Leino*, 910 N.W.2d at 483-84.

***8** Nor is this CCA county issue as finite as those that have been deemed significant in the past. For example, in the case of cash-only bail, a person can either pay the cash bail or they cannot, and if they cannot, they remain incarcerated. *See Brooks*, 604 N.W.2d at 347-48. The CCA county issue is more attenuated, for multiple reasons. Not all individuals who request CCA supervision will be rejected. And if an offender is rejected, there are circumstances under which the DOC will provide supervision in that county, just as the DOC is providing supervision for Ford while he is at treatment at Alpha House. Even if a CCA county refuses to supervise an offender, and the DOC subsequently refuses to supervise that offender in that CCA county, the offender has the ability to look for other housing options in other counties. Continuous incarceration is not automatic. In sum, looking at this myriad of factual variations, we do not discern a single question of statewide significance in need of an immediate answer.

Ford's habeas petition sought release from incarceration. Since Ford in no longer incarcerated his case is moot. And because no issue raised is one that is evading judicial review, nor one that presents a question of statewide importance that requires an immediate decision, the exceptions to the mootness doctrine do not apply.

Reversed.

All Citations

Not Reported in N.W. Rptr., 2018 WL 3097717

Footnotes

1	Level-III sex offenders are subject to Intensive Supervised Release, and offenders on ISR are required to have a residence approved by their supervised-release agent in order to be released from custody.
2	Rebecca Holmes-Larson, the executive director of the DOC's HRU, further explained that her unit cannot modify conditions of release but can accept or reject a release plan. While her hearing officers attend review hearings, they act in a secretarial role by documenting efforts to find housing for an individual, but they do not dictate housing placements and thus cannot force counties to supervise offenders.
3	Policy 203.018 states that a prison case manager, who works with an offender to establish housing, should submit requests for agent assignment in the following order: (1) the county containing the proposed residence; (2) the county where the offender has documented history and support; and (3) the county of commitment.

4	This said, we appreciate the district court's attempt to strictly adhere to this court's instructions on remand, as well as its attempt to enforce the important obligations set forth in *Marlowe*, though it became inapplicable in this case.
5	We acknowledge that the United States Supreme Court recently released its decision in *U.S. v. Sanchez-Gomez*, which determined that, outside of a class action, the capable-of-repetition-and-evading-review exception to the federal mootness doctrine only applies to cases that are capable of repetition for the same complaining party. 138 S. Ct. 1532, 1540 (2018). And we acknowledge that past cases from Minnesota courts have cited the federal standard that capable of repetition yet evading review means "(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again." *Kahn v. Griffin*, 701 N.W.2d 815, 821 (Minn. 2005) (citing *Weinstein v. Bradford*, 423 U.S. 147, 149, 96 S. Ct. 347, 348 (1975)). But we also note that Minnesota is not bound by the federal standard for determining mootness. And the Minnesota Supreme Court, in *Brooks*, determined that because an issue had reached the court "twice in one year from two different jurisdictions," this indicated that "the issue is both significant and capable of repetition." 604 N.W.2d at 348. We applied the same analysis in *Leino*, where we stated "this court ha[s] been asked to consider challenges to the DOC's administration of supervised and conditional release and re-incarceration, as well as the DOC's use of review hearings, in other appeals, so [Leino] has raised an issue that is capable of repetition." 910 N.W.2d at 481 (internal quotation marks omitted) (alterations in original). Thus the fact that this issue has come before this court on multiple occasions is an appropriate consideration here.
6	Neuroleptic drugs, because of their potentially serious physical side effects, now require pre-treatment judicial review prior to administering them involuntarily. *Jarvis v. Levine*, 418 N.W.2d 139, 145-46, 150 (Minn. 1988).
7	And when finding housing is brief, it is likely not problematic—since the offender would be released and there would be no continued incarceration to contest.
8	The DOC's field-service director, in his testimony at the evidentiary hearing, stated that it is "a very small number of offenders that are being held past their projected release date because of lack of approved residence." And not all of those offenders' continued incarcerations necessarily have anything to do with CCA county rejection.