

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1153**

State of Minnesota,
Respondent,

vs.

Elisha Pulphus,
Appellant.

**Filed June 29, 2026
Appeal dismissed
Bond, Judge**

Hennepin County District Court
File No. 27-CR-23-23303

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Bond, Judge; and Rasmusson,
Judge.

NONPRECEDENTIAL OPINION

BOND, Judge

Appellant challenges the district court's June 2025 order finding him incompetent
to proceed under Minn. R. Crim. P. 20.01. Because the district court issued a subsequent

order in January 2026 finding appellant incompetent to proceed, appellant’s challenge to the June 2025 order does not present a justiciable controversy and is moot. We therefore dismiss this appeal.

FACTS

In November 2023, respondent State of Minnesota charged appellant Elisha Pulphus with misdemeanor domestic assault in violation of Minn. Stat. § 609.2242, subd. 1(1) (2022), and felony fourth-degree assault of a peace officer in violation of Minn. Stat. § 609.2231, subd. 1(c)(1) (2022). The charges alleged that Pulphus threatened to kill his ex-partner and then bit two police officers while resisting arrest.

At an omnibus hearing in January 2024, defense counsel moved for a competency evaluation under Minn. R. Crim. P. 20.01, which the district court granted. In March 2024, the competency examiner, Dr. Korevec, filed a report opining that Pulphus was incompetent to proceed to trial. Dr. Korevec diagnosed Pulphus with unspecified schizophrenia spectrum and other psychotic disorder with a rule-out consideration for delusional disorder.¹ Dr. Korevec concluded that, while Pulphus “exhibited a good factual understanding of the proceedings,” he was unable to rationally consult with his attorney or participate in his defense due to his “delusional beliefs about the evidence in his case, members of the court, and conspiratorial beliefs about his attorney and the individuals his attorney interacted with.” Based on Dr. Korevec’s report, and without objection from

¹ As described by Dr. Korevec, “[a] rule-out consideration is provided when there is insufficient information to diagnose a particular disorder, but additional attention should be given to a diagnosis when assessing an individual in the future.”

either party, the district court found Pulphus incompetent to proceed under Minn. R. Crim. P. 20.01. The district court dismissed the misdemeanor domestic-assault charge, suspended criminal proceedings on the felony assault charge, and scheduled a six-month review.

In August 2024, a second competency examiner, Dr. Otte, filed an abbreviated report opining that Pulphus remained incompetent to proceed. Dr. Otte agreed with Dr. Korevec's diagnosis of unspecified schizophrenia spectrum and other psychotic disorder. Dr. Otte concluded that Pulphus's ongoing mental-health symptoms interfered with his "ability to meaningfully understand or participate in the legal process, appraise case-related information, testify relevantly, or engage in meaningful or well-reasoned discussion with counsel." After a hearing, the district court found Pulphus incompetent to proceed and scheduled another six-month review. Once again, neither party contested the incompetency determination.

In March 2025, Dr. Korevec filed an "abbreviated forensic evaluation report," opining that Pulphus was still incompetent to proceed. Dr. Korevec noted that Pulphus's presentation remained consistent with his presentation during the two prior competency evaluations. Dr. Korevec concluded that Pulphus's delusional beliefs, which related directly to "the evidence in his case, his attorney, and the alleged victims," impaired his ability to understand the proceedings, engage in rational conversation with his attorney, or participate in his defense.

In May, the district court held a competency hearing, at which defense counsel objected to Dr. Korevec's March report and argued that Pulphus was competent to proceed

to trial. The state called Dr. Korevec, who reaffirmed his previous diagnoses and testified that, while Pulphus had a good factual understanding of the legal proceedings, he remained incompetent because he was unable to “rationally understand the proceedings or to engage in rational conversation with his attorney.” Defense counsel did not offer any evidence showing Pulphus’s competence. Relying on the three competency reports and Dr. Korevec’s testimony, the district court issued an order in June 2025 finding Pulphus incompetent to proceed to trial (the June 2025 order).

In July, Pulphus filed this appeal from the June 2025 order finding him incompetent to proceed. Pulphus argues that the June 2025 order should be reversed because he met his burden at the May 2025 hearing of showing that he did not suffer from a mental illness or cognitive impairment that rendered him incompetent and because the district court failed to find that any deficiency in his ability to participate in his defense was due to a mental illness or cognitive impairment.

The register of actions reflects that, in October 2025, the district court ordered a fourth rule 20.01 competency evaluation. A different competency evaluator, Dr. Yufik, interviewed Pulphus, reviewed his medical records and issued a report determining that Pulphus was incompetent to proceed. Neither party objected to Dr. Yufik’s incompetency determination. Relying on Dr. Yufik’s report, the district court found Pulphus incompetent to proceed in a January 2026 order (the January 2026 order).

This court questioned its jurisdiction and directed the parties to file supplemental briefing addressing whether the June 2025 order was appealable under Minn. R. Crim.

P. 28.02, subd. 2(2)(b)2, and whether Pulphus’s appeal was rendered moot by virtue of the later-issued January 2026 order. Both parties submitted supplemental briefing.

DECISION

We begin by considering the jurisdictional question. For the reasons that follow, we conclude that Pulphus’s appeal from the June 2025 order must be dismissed as moot.²

Minnesota courts “require the presence of a justiciable controversy as essential” to the exercise of appellate jurisdiction. *Schowalter v. State*, 822 N.W.2d 292, 298 (Minn. 2012). A moot case is generally nonjusticiable. *Snell v. Walz*, 985 N.W.2d 277, 283 (Minn. 2023). Thus, an appeal must be dismissed as moot “when a decision on the merits is no longer necessary or an award of effective relief is no longer possible.” *Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015). To determine whether there is a live controversy that can be resolved, courts compare “the relief demanded and the circumstances of the case at the time of decision.” *Mertins v. Comm’r of Nat. Res.*, 755 N.W.2d 329, 334 (Minn. App. 2008). Justiciability is an issue of law, which appellate courts determine de novo. *Dean*, 868 N.W.2d at 4.

Pulphus appealed the June 2025 order. While Pulphus’s appeal was pending, the district court issued the January 2026 order. The January 2026 incompetency order was based on an updated competency evaluation and report issued by Dr. Yufik. Pulphus neither objected to Dr. Yufik’s report nor appealed the January 2026 order. “[W]hen an

² Because we dismiss the appeal as moot, we do not consider whether the June 2025 incompetency order is appealable under Minn. R. Crim. P. 28.02, subd. 2(2)(b)(2), or the merits of Pulphus’s appeal.

event occurs pending appeal that makes a decision on the merits unnecessary or an award of effective relief impossible, the appeal should be dismissed as moot.” *Hous. & Redevelopment Auth. ex rel. City of Richfield v. Walser Auto Sales, Inc.*, 641 N.W.2d 885, 888 (Minn. 2002); *see also Wayzata Nissan, LLC v. Nissan N. Am., Inc.*, 875 N.W.2d 279, 283 (Minn. 2016) (stating that an appeal should be dismissed as moot “when intervening events render a decision on the merits unnecessary or an award of effective relief impossible”). Here, the district court’s June 2025 order is no longer the operative competency order; instead, Pulphus is currently deemed incompetent to proceed to trial by virtue of the January 2026 order. Because the issuance of the January 2026 order renders this court unable to grant Pulphus effectual relief from the June 2025 order, this appeal is moot. *See Dean*, 868 N.W.2d at 5.

Nonetheless, the mootness doctrine is not “a mechanical rule that is automatically invoked whenever the underlying dispute between the parties is settled or otherwise resolved. It is instead a flexible discretionary doctrine that is subject to some limited exceptions.” *Winkowski v. Winkowski*, 989 N.W.2d 302, 308 (Minn. 2023) (quotations and citation omitted). Thus, we may consider the merits of a moot issue if one of the recognized discretionary exceptions to the mootness doctrine applies. *Snell*, 985 N.W.2d at 284.

Pulphus invokes one such exception and argues that we should consider the merits of his appeal because the harm is capable of repetition yet evades review. This exception applies when two elements are met: “[1] there is a reasonable expectation that a complaining party would be subjected to the same action again *and* [2] 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. As the party asserting this mootness exception, Pulphus has the burden to prove that both elements exist. *See Snell*, 985 N.W.2d at 287. After careful consideration, we conclude that Pulphus has not met that burden.

Minnesota Statutes sections 611.40-.59 (2024) govern competency proceedings. A defendant is incompetent to proceed to trial if they lack the ability to: “(1) rationally consult with counsel; (2) understand the proceedings; or (3) participate in the defense.” Minn. Stat. § 611.42, subd. 1. The prosecutor, defense counsel, or the district court must, at any time, request a competency evaluation of a defendant if they have reason to doubt the defendant’s competency. Minn. R. Crim. P. 20.01, subd. 3(a) (“If the prosecutor, defense counsel, or the court, at any time before or after conviction, doubts the defendant’s competency to proceed, the prosecutor or defense counsel must make a competency motion under Minnesota Statutes, section 611.42[.]”).

Once a competency motion has been made, the district court will appoint a court examiner to examine the defendant and provide a written report on the defendant’s competency to proceed. Minn. Stat. §§ 611.42, subd. 3(b), .43, subds. 1(a), 2(a). The district court “must rule on the defendant’s competency to stand trial no more than 14 days after the examiner’s report is submitted,” or, “[i]f there is a contested hearing, the court must rule no more than 30 days after the date of the hearing.” Minn. Stat. § 611.45, subd. 1(a). If the district court finds the defendant incompetent to proceed, it must enter a written order, dismiss any misdemeanor charges other than targeted misdemeanors, and suspend further criminal proceedings. *Id.*, subds. 1(c), 3(a). The court examiner must then provide an updated competency report at least once every six months, unless the parties

and the district court agree to a longer period. Minn. Stat. § 611.46, subd. 6(a). And the district court must make an updated competency determination “no more than 14 days after receiving the report.” *Id.*, subd. 8(a).

We acknowledge Pulphus’s concern that the structure of incompetency proceedings, which requires a court examiner to file an updated competency report approximately every six months and the district court to make a competency determination soon thereafter, makes it likely that an incompetency order will terminate before the completion of appellate review. *See id.*, subds. 6(a), 8(a).³ But the narrow issue raised by Pulphus in this appeal—whether he met his burden at the May 2025 competency hearing to show he did not suffer from a mental illness or cognitive impairment and whether the district court made the required findings in its June 2025 order—will not arise again. *See In re McCaskill*, 603 N.W.2d 326, 328 (Minn. 1999) (holding that appellant’s challenge to the sufficiency of the evidence supporting his civil commitment did not present a broad issue capable of repetition because, even though appellant “may again face commitment,” the issue in the appeal was “unique to, and relate[d] only to, this specific commitment”). While Pulphus’s competency proceedings are ongoing, Pulphus’s claims in this appeal relate solely to the district court’s June 2025 order, which determined that Pulphus was incompetent to proceed at that time based on the first three competency reports and Dr. Korevec’s testimony at the May 2025 hearing. Because the unique issues raised in this appeal from

³ We note that a party may move to expedite an appeal based upon a showing of good cause, and this court may suspend the application of the rules governing an appeal in the interests of expediting any matter before it. Minn. App. Spec. R. Prac. 1; Minn. R. Civ. App. P. 102.

the June 2025 order are not capable of repetition yet evading review, Pulphus has not met his burden of showing that an exception to the mootness doctrine applies. *See McCaskill*, 603 N.W.2d at 328.

Appeal dismissed.