

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of the Risk Level
Determination of Oscar Adams

**ORDER DISMISSING RISK
LEVEL APPEAL AS MOOT**

On March 23, 2011, the undersigned Chief Administrative Law Judge (ALJ) received a Notice of Motion and Motion to Dismiss Risk Level Appeal as Moot. In the matter of Oscar Adams (Petitioner), a sex offender currently committed to the Minnesota Sex Offender Program (MSOP) as a Sexually Dangerous Person (SDP) or a Sexual Psychopathic Personality (SPP). Counsel for the Petitioner responded on April 1, 2011. The ALJ did not hold a hearing on the motion.

Angela Helseth Kiese, Assistant Attorney General, appeared on behalf of the Department of Corrections (DOC). F. Richard Gallo, Jr., Assistant State Public Defender, appeared on behalf of Petitioner. Counsel for Petitioner did not file any opposition to the Motion to Dismiss.

For the reasons set forth in the Memorandum that follows, the Chief Administrative Law Judge GRANTS the Motion to Dismiss the Appeal.

Dated: April 5, 2011

s/Raymond R. Krause
RAYMOND R. KRAUSE
Chief Administrative Law Judge

MEMORANDUM

Petitioner is a member of a group of Petitioners who have appealed their Risk Level Determinations as set by their respective end-of-confinement review committees (ECRC's) pursuant to Minn. Stat. § 244.052. Petitioner, and the other group members, each received a risk level assessment and determination prior to being released from confinement from a Minnesota Correctional Facility (MCF). Upon release from the correctional facility, the Petitioner and other group members were civilly committed to the MSOP.

The Minnesota Court of Appeals has determined that prior to the release of a sex offender from civil commitment to MSOP, a second ECRC must be convened and a *de novo* assessment and determination made. The Court also ruled that an appeal from the initial risk level determination done prior to release from an MCF is, therefore, moot.¹

At the time Petitioner is to be released from civil commitment, he will have an opportunity to renew any arguments and present any evidence relating to his assessment and risk level determination. The appeal by Petitioner of his risk level assessment determination is, therefore, dismissed as moot.

R. R. K.

¹ *In re the Risk Level Determination of J.V.*, 741 N.W. 2d 612 (Minn. Ct. App. 2007) and *In re the Risk Level Determination of P.L.*, No. A10-887, (Minn. Ct. App., Jan. 11, 2011) 2011 WL 69145 (unpublished).