NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

JORDAN TROWELL, Appellant, v. GREG CRAWFORD, Appellee.	)	Case No. 2D16-4880

Opinion filed December 29, 2017.

Appeal pursuant to Fla. R. App. P. 9.130
from the Circuit Court for Pasco County;
Lynn Tepper, Judge.

Jeremiah Hawkes, Counsel to Sheriff
Chris Nocco, New Port Richey, for
Appellant.

Greg Crawford, pro se.

PER CURIAM.

We dismiss as moot this appeal from an order granting a temporary injunction against repeat violence. It is apparent that the trial court erred in entering the temporary injunction where the petition failed to allege two incidents of violence, with

one occurring within six months of the filing of the petition. See § 784.046(1)(b), Fla. Stat. (2016); Titsch v. Buzin, 59 So. 3d 265, 266 (Fla. 2d DCA 2011). However, the court's ultimate dismissal of the petition renders further discussion of the applicable law with regard to injunctions against repeat violence moot. We are unconvinced that the issues raised by the appellant are capable of repetition but evade review such that we must address them in this instance. Cf. Kopelovich v. Kopelovich, 793 So. 2d 31, 32 (Fla. 2d DCA 2001). Had the court entered a final judgment on injunction for protection against repeat violence or had the temporary injunction been lawfully entered, we would have likely concluded it necessary to reach the merits of appellant's claims. See id.; Jacquot v. Jacquot, 183 So. 3d 1158, 1159 (Fla. 5th DCA 2015).

Dismissed.

BLACK and SALARIO, JJ., Concur.
VILLANTI, J., Dissents with opinion.

VILLANTI, Judge, Dissenting.

I fully concur with the majority's statement that the trial court erred in entering the temporary injunction against Deputy Jordan Trowell because inmate Greg Crawford's petition failed to allege two incidents of violence, with one occurring within six months of the filing of the petition. See § 784.046(1)(b), Fla. Stat. (2016); see also Jones v. Jackson, 67 So. 3d 1203, 1205 (Fla. 2d DCA 2011) (Altenbernd, J., concurring) (noting that an injunction against repeat violence "cannot be used simply to compel civility and common decency"). However, because I disagree that the issue is

moot, I would not dismiss this appeal but instead would reverse the entry of the temporary injunction on the merits.

Crawford is an eight-time convicted felon and was an inmate in the Pasco County jail. He filed a petition for injunction against repeat violence naming Trowell, a detention deputy, as the respondent and contending that a certain pat-down search of Crawford undertaken by Deputy Trowell in the course of his job was excessively rough. Crawford also alleged that Deputy Trowell had taunted Crawford on several occasions and had threatened to tell other inmates the nature of his charges. By granting the temporary injunction, the trial court prevented further interaction between Crawford and Deputy Trowell, but it did so at the expense of telling the sheriff how to run his jail and deploy his resources.

At this point, everyone—including the trial court and the majority—agree that the allegations in Crawford's petition were legally insufficient, and the temporary injunction has now been dismissed. However, in my view, the improper granting of this temporary injunction, even if only for a short time, will embolden other jail inmates to file such pleadings—meritorious or not—in an effort to control the terms of their confinement. Hence, I believe this tail-wagging-the-dog potential renders the issue not moot because it is capable of repetition and yet will likely evade review each time the temporary injunctions are dissolved. Therefore, I would not dismiss this appeal as moot but instead would address it on the merits.

Moreover, I have grave concerns that the use of temporary injunctions in this manner violates the separation of powers doctrine by permitting the trial court to dictate how the sheriff may operate the jail vis-à-vis personnel assignments. Further, I

note that Crawford had other available remedies that do not implicate this separation of powers issue. The record shows that Crawford utilized available administrative remedies by filing two internal grievances with jail administration. He could also potentially have filed a civil rights action under 42 U.S.C. § 1983. In my view, these available remedies should have been adequate to address his allegations, and his decision to resort to the use of the civil injunction resulted in him misusing this statutory provision and wasting judicial resources.