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2024 IL App (3d) 230623-U

Order filed March 15, 2024

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 18th Judicial Circuit, Du Page County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-23-0623
LAWRENCE D. GRANT,)	Circuit No. 22-CF-203
Defendant-Appellant.)	Honorable Daniel P. Guerin, Judge, Presiding.

JUSTICE HETTEL delivered the judgment of the court.
Justice Peterson concurred in the judgment.
Presiding Justice McDade dissented.

ORDER

- ¶ 1 *Held:* The trial court did not err in granting the State’s pretrial detention petition.
- ¶ 2 Defendant, Lawrence D. Grant, was indicted on February 24, 2022, with two counts of attempted intentional homicide of an unborn child (720 ILCS 5/9-1.2, 8-4(a) (West 2022)), attempted first degree murder (*id.* §§ 9-1, 8-4(a), (c)(1)(D)), aggravated battery (*id.* § 12-3.05(e)(1), (h)), armed violence (*id.* §§ 33A-2(c), 33A-3(b-10)), criminal damage to property (*id.* § 21-1(a)(1),

(d)(1)(F)), two counts of aggravated discharge of a firearm (*id.* § 24-1.2(a)(2)), unlawful use or possession of a weapon by a felon (*id.* § 24-1.1(a), (e)), and being an armed habitual criminal (*id.* § 24-1.7(a)(1), (3)). His bond was set at \$2 million, but he remained in custody. On October 2, 2023, defendant filed a motion seeking pretrial release. In response the State filed a verified petition to deny pretrial release, alleging defendant was charged with a forcible felony, and his release posed a real and present threat to the safety of any person, persons, or the community under section 110-6.1(a)(1.5) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-6.1(a)(1.5) (West 2022)).

¶ 3 The factual basis provided that on January 28, 2022, defendant and the victim were working at a store. The victim was eight months pregnant at the time. Defendant was forceful in his attempts to forge a romantic relationship with the victim, who had previous issues with defendant bothering her at work. The victim rejected defendant, and defendant threatened to shoot and kill the victim and her unborn child. The victim called her boyfriend. The boyfriend arrived, and a physical altercation ensued between defendant and the boyfriend. After the altercation, all parties left the store, and each went to their respective cars. The victim's boyfriend was seen on surveillance video as the first to leave the scene. The victim then left in her car. Defendant got into his car, cut across the parking lot, and intercepted the victim's car before it could turn onto the road. The victim drove a short distance on the road with defendant following her. Defendant fired a gun into the back of the victim's car window and then pulled up next to her, rolled down his window, and took aim at her. Defendant fired his gun into the side door of her car, and the victim was hit by a bullet in her back. She crashed her car and ran to a tire shop to call 911. On the call and to responding officers, the victim identified defendant as the shooter. The victim was taken to a nearby hospital where the bullet was removed, and she was forced to give birth to her

child. Defendant fled the scene. The car driven by defendant was located, parked approximately one block away and set on fire. The victim and her child subsequently recovered. Defendant had prior felony convictions for delivery of cannabis and vehicular invasion.

¶ 4 A hearing was held on the petition on October 23, 2023. The State provided the factual basis for the offense as stated in the petition and noted that defendant posed a real and present threat to the victim in this case as well as the community as a whole. Defense counsel argued that defendant did not commit the offense and asked that he be placed on electronic monitoring. The court granted the State’s petition, finding that it met its burden by clear and convincing evidence. In doing so the court stated that it did not believe that any conditions would mitigate the threat defendant posed to the named victim.

¶ 5 On appeal, defendant contends that the court abused its discretion in granting the petition to detain. Initially, we dismissed the appeal for defendant’s failure to comply with Illinois Supreme Court Rule 604(h)(2) (eff. Sept. 18, 2023). However, the supreme court issued a supervisory order directing us to consider the merits of the appeal, which we will now consider.

¶ 6 We consider factual findings for the manifest weight of the evidence, but the ultimate decision to grant or deny the State’s petition to detain is considered for an abuse of discretion. *People v. Trotter*, 2023 IL App (2d) 230317, ¶ 13. Under either standard, we consider whether the court’s determination is arbitrary or unreasonable. *Id.*; see also *People v. Horne*, 2023 IL App (2d) 230382, ¶ 19.

¶ 7 Everyone charged with an offense is eligible for pretrial release, which may only be denied in certain situations. 725 ILCS 5/110-2(a), 110-6.1 (West 2022). The State must file a verified petition requesting the denial of pretrial release. *Id.* § 110-6.1. Where, as here, the State is seeking to detain a defendant under section 110-6.1(a)(1.5), it then has the burden of proving

by clear and convincing evidence that (1) the proof is evident or presumption great that the defendant committed a qualifying offense, (2) the defendant poses a real and present threat to any person, persons, or the community, and (3) no condition or combination of conditions could mitigate this threat. *Id.* § 110-6.1(e)(1)-(3). In determining a defendant’s dangerousness and the conditions of release, the trial court may consider a nonexhaustive list of factors provided in the statute. *Id.* § 110-6.1(g), 110-5.

¶ 8 We find that the court did not abuse its discretion in granting the petition to detain. First, the proof was evident that defendant committed a detainable offense where the victim identified him as the person who shot her. Second, the proffered evidence indicated that defendant posed a real and present threat to the victim, who he had previously attempted to kill, as well as the community, where he had shot at her on a roadway. Third, the State presented evidence regarding the factors set forth in section 110-5, and the court considered these factors. Moreover, defendant possessed a weapon when he was a felon, thus indicating that he may not follow court directives. Therefore, the court did not abuse its discretion in granting the petition. We further find that the written order in this case was sufficient. See *People v. Hodge*, 2024 IL App (3d) 230543, ¶ 11.

¶ 9 The judgment of the circuit court of Du Page County is affirmed. This decision is issued in accordance with Illinois Supreme Court Rule 23(c)(2) (eff. Feb. 1, 2023).

¶ 10 Affirmed.

¶ 11 PRESIDING JUSTICE McDADE, dissenting:

¶ 12 I dissent from the majority’s decision to affirm the circuit court’s order granting the State’s petition to deny pretrial release.

¶ 13 As the majority recites, section 110-6.1(e) of the Code of Criminal Procedure of 1963 states that “[a]ll defendants shall be presumed eligible for pretrial release ***.” 725 ILCS 5/110-6.1(e) (West 2022). To rebut this presumption, the State must prove the following three elements, by clear and convincing evidence: (1) that the proof is evident or the presumption great that the defendant has committed a detainable offense; (2) that the defendant poses a real and present threat to the safety of any person, persons, or the community; and (3) that no conditions can mitigate this threat. *Id.*

¶ 14 I agree with the majority’s findings that the State satisfied both the first and second of the above elements. However, related to the third element, the State never argued in its petition, or during the hearing on its petition, that there were no conditions that could mitigate defendant’s dangerousness. Indeed, the State did not present any evidence regarding conditions. Thus, I find that the State did not meet its burden of presenting clear and convincing evidence on the third element, and I would reverse the circuit court’s order for an abuse of discretion.