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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 241104655
)	
DEONTE DANIEL)	The Honorable
)	Maryam Ahmad,
Defendant-Appellant.)	Judge, presiding.

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Oden Johnson and Justice C.A. Walker concurred in the judgment.

ORDER

¶ 1 *Held:* Affirmed. The circuit court did not err by denying defendant pretrial release.

¶ 2 Nonviolent acts may threaten the safety of others. Tossing a loaded firearm into someone's backyard is nonviolent yet creates a real and present threat to others. Here, the State carried its burden when seeking to deny Deonte Daniel's pretrial release under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2022)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act. We affirm.

¶ 3 Background

¶ 4 The State petitioned to deny Daniel’s pretrial release, alleging he presented a real and present threat to the safety of the community and had high likelihood of willful flight to avoid prosecution for unlawful possession of a firearm (720 ILCS 5/24-1.1(a) (West 2024)). Daniel was on mandatory supervised release when he allegedly discarded a loaded firearm in a backyard while running from officers. The circuit court denied him pretrial release.

¶ 5 The State proffered how officers received notice that Daniel had “an L-shaped bulge in his jacket pocket,” so drove toward him and approached as he walked on the sidewalk of a residential street. Seeing the officers, Daniel fled through a gangway. He appeared to clutch his jacket pocket, “the same area where the L-shaped object was observed.” Officers gave chase but lost sight after he entered an alley. Moments later, they saw him again, running with both arms swinging freely. They soon detained him. Retracing his path, they recovered a loaded firearm in the backyard of a home. They learned he had a felony conviction and no permit or license to carry.

¶ 6 The State detailed Daniel’s history of convictions. At the time of his arrest, Daniel was on mandatory supervised release, having served a term of imprisonment for possessing a stolen motor vehicle. He had three other felony convictions, including unlawful use of a weapon by a felon, possession of a stolen motor vehicle, and aggravating fleeing.

¶ 7 Daniel proffered that he is a lifelong resident of Cook County and living with his girlfriend and one of his two children. He works at a meat-freezing company and volunteers with the “Flip Program.”

¶ 8 Pretrial Services noted Daniel scored three (out of six) on the scale for new criminal activity. He scored two (out of six) for failing to appear. Pretrial Services did not flag Daniel for “New Violent Criminal Activity” and recommended release with pretrial monitoring.

¶ 9 The circuit court found the State carried its burden to prove three elements requiring Daniel’s pretrial detention as a real and present threat to the community.

¶ 10 First, clear and convincing evidence showed proof was evident or the presumption great that Daniel possessed a firearm despite his felony conviction. The circuit court noted, “[c]ircumstantial evidence [of possession] is evidence nonetheless.” Of that, officers observed an “L-shaped bulge” in his pocket. He had initially clutched his bulging pocket but, having briefly escaped from sight, soon ran with his arms swinging freely. And after detaining him, officers found a loaded firearm along his flight path.

¶ 11 Second, clear and convincing evidence proved Daniel to be a real and present threat to the community. Daniel had “discarded a loaded firearm” in a “densely populated” residential area, which the circuit court deemed “outright dangerous.”

¶ 12 Third, clear and convincing evidence proved that no condition or combination of conditions could mitigate Daniel’s threat to the community. Daniel was on mandatory supervised release and was aware that violation of the law may result in his returning to prison. Nevertheless, he allegedly had in his pocket a loaded firearm that he tossed aside to evade imminent arrest. Moreover, he had a prior weapons conviction, “a continued violation” of firearms laws.

¶ 13 Analysis

¶ 14 Daniel attacks the sufficiency of the State’s proof, contending the State failed to prove any of the three elements to deny him pretrial release. We disagree.

¶ 15 The State may detain an accused by charging an offense eligible for detention and showing: (i) the proof evident or the presumption great that the defendant committed the detention-eligible offense, (ii) the defendant poses a real and present threat to the safety of persons or the community

based on the specific articulable facts of the case, and (iii) no condition or combination of conditions can mitigate that real and present threat. 725 ILCS 5/110-6.1(e) (West 2022). The State must present clear and convincing evidence: a “quantum of proof that leaves no reasonable doubt in the mind of the fact finder about the truth of the proposition in question.” (Internal quotation marks omitted.) *In re Tiffany W.*, 2012 IL App (1st) 102492-B, ¶ 12.

¶ 16 Daniel’s contentions require a review of the circuit court’s finding on each element for which the standard of review remains an unsettled question. *People v. White*, 2024 IL App (1st) 232245, ¶ 22 (describing split within appellate court about standard of review). Our decision would be the same under any standard.

¶ 17 Proof Evident and Presumption Great

¶ 18 Daniel contends the State proffered “no evidence” that he “possessed the firearm.” Specifically, “no one observed him holding, pointing, brandishing or tossing a firearm.” And officers recovered no firearm from, say, his pocket.

¶ 19 Daniel’s contention rests on circumstantial evidence being “no evidence.” But, in Illinois, proof can be circumstantial, that is, “proof of facts or circumstances which give rise to a reasonable inference of other facts which tend to show the guilt or innocence[.]” Illinois Pattern Jury Instructions, Criminal, No. 3.02 (approved Oct. 17, 2014).

¶ 20 Here, the proffer clearly and convincingly showed that Daniel unlawfully possessed the loaded firearm officers suspected to be bulging from his pocket and soon found along his flight path. While we have held that flight alone is not enough to support detention (*People v. McClendon*, 2022 IL App (1st) 163406, ¶ 20), the circuit court considered the totality of the circumstantial evidence in making its ruling.

¶ 21 Real and Present Threat

¶ 22 Daniel contends he presents no real and present threat to the safety of the community because the State failed to show he has ever committed, or even allegedly committed, a violent offense.

¶ 23 Daniel’s focus on violent offenses finds no support in the Code. The State needed to prove Daniel “pose[d] a real and present threat to the safety of persons or the community based on the specific articulable facts of the case[.]” 725 ILCS 5/110-6.1(e) (West 2022). Firearms are dangerous weapons, and the legislature tightly controls both their possession and storage. See, *e.g.*, *People v. Brooks*, 2022 IL App (3d) 190761, ¶ 16 (observing, “no question that the AUUW and UUW statutes were enacted for the same purpose, *i.e.*, protecting the police and the public from dangerous weapons”). Contrary to Daniel’s contention, tossing a loaded firearm into a backyard threatens others’ safety.

¶ 24 No Condition or Combination of Conditions

¶ 25 Daniel contends any condition short of pretrial detention would be proper because “nothing” about his “history” or alleged acts that day prove him to be a real and present threat to the community. His history (leading to mandatory supervised release) and his alleged acts (possessing then tossing a loaded firearm) indicate otherwise—he had failed to comply with conditions short of detention. The circuit court properly viewed this as “a big caution” and concluded pretrial detention was necessary.

¶ 26 Conclusion

¶ 27 The State carried its burden when seeking to deny Deonte Daniel pretrial release.

¶ 28 Affirmed.