

NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2024 IL App (4th) 240086-U
NO. 4-24-0086
IN THE APPELLATE COURT
OF ILLINOIS

FILED
March 25, 2024
Carla Bender
4th District Appellate
Court, IL

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	McLean County
CARLOS GABRIEL GUZMAN-TOLEDO,)	No. 23CF988
Defendant-Appellant.)	
)	Honorable
)	Scott Kording,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Lannerd and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding the circuit court did not abuse its discretion in denying defendant pretrial release.

¶ 2 Defendant, Carlos Gabriel Guzman-Toledo, appeals the circuit court’s order denying him pretrial release under section 110-6.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1 (West 2022)), hereinafter as amended by Public Acts 101-652, § 10-255 and 102-1104, § 70 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act.

We affirm.

¶ 3 I. BACKGROUND

¶ 4 On September 25, 2023, the State charged defendant with seven counts of possession of a stolen motor vehicle (625 ILCS 5/4-103.2(a)(3) (West 2022)). That same day, the

State filed a verified petition to deny defendant pretrial release, alleging defendant was charged with qualifying offenses and had a high likelihood of willful flight to avoid prosecution (725 ILCS 5/110-6.1(a)(8)(B) (West 2022)).

¶ 5 The matter then proceeded to a detention hearing, at which defendant appeared with the aid of a Spanish-speaking interpreter. At the outset of the proceeding, the parties agreed defendant was charged with detention-eligible offenses, and the State, relying on a verified statement of arrest, provided the following factual basis in support of its petition.

¶ 6 The statement showed that on September 21, 2023, Bloomington police received information from the West Allis Police Department in Wisconsin about a group of individuals selling high-end luxury GMC and Chevrolet pickup trucks that were suspected to be stolen. Bloomington police officers then located five luxury trucks posted for sale at a warehouse located at “917/921 West Front Street” in Bloomington, Illinois. The trucks were posted under four separate Facebook accounts suspected of being fake, which contained limited information.

¶ 7 Bloomington officers set up surveillance at the warehouse and observed what appeared to be one of the trucks posted on Facebook. They also observed five men coming and going from that location. Later, officers saw the same five men pull six luxury trucks out of the warehouse and park the vehicles in a line in the parking lot east of the warehouse. The six vehicles were put back inside sometime later. Shortly after securing the vehicles inside the warehouse, the five men departed in a white Toyota Sequoia and red Ford Focus. The officers “learned with the assistance of [license plate recognition] and public safety cameras the vehicles went [*sic*] directly to Hawthorne [*sic*] Suites, located at 1 Lyon Court, Bloomington.”

¶ 8 Later, police executed a search warrant at the warehouse and located eight luxury Chevrolet and GMC pickup trucks, seven of which were confirmed stolen from Texas. Officers

also detained the five men, defendant and four codefendants, at the hotel. One codefendant, Geovany M. Alvarez, told officers he had booked two rooms, and a search warrant was issued authorizing officers to search “those rooms as well as the vehicles used to transport the 5 individuals *** to the hotel. Officers located numerous key fobs in one of the vehicles as well as a loaded Ruger handgun in one of the hotel rooms.” Alvarez told the officers he primarily posted pictures of the vehicles on Facebook and set a price low enough to generate interest. He also admitted the entire group knew the trucks were stolen, and they were working for an unidentified individual who organized the theft ring and shipped stolen cars across the United States. Whenever a vehicle was sold, the cash went to the organizer first, and whoever sold the vehicle would be “paid their cut *** for the sale.” Alvarez estimated he had sold around 15 trucks for the group and had operated with several different individuals in multiple cities, including Milwaukee, Wisconsin.

¶ 9 The State also proffered defendant told officers he was from Guatemala and had been in the United States for approximately one year, providing officers with an address located in Houston, Texas. According to the State, all five codefendants were “residents of different states and have no local ties other than *** the brief stopover in this community to sell the stolen vehicles.” The group was “known to move from town to town.” Defendant also possessed a fraudulent Mexican passport and a fraudulent Mexican identification card. Police found “other fraudulent identifications for other codefendants” in the two hotel rooms, as well as a “business card type document that appeared to have a Washington address.”

¶ 10 Regarding defendant’s likelihood of willful flight, the State emphasized defendant was “involved in what can only be described as a truck theft ring where they steal cars, go to a town for a few weeks, sell the cars, and then move on to another town.” The State also pointed

out the criminal enterprise defendant worked for “clearly possess[ed] a substantial amount of resources.” Based on all the circumstances, the number of stolen vehicles, “the fact that they’ve admitted that *** they go from town to town,” and defendant’s open possession of fraudulent identification, the State argued defendant likely anticipated fleeing prosecution. The State further asserted no less-restrictive conditions could mitigate defendant’s likelihood of flight because he lacked ties to the community and worked for a larger criminal enterprise that clearly possessed the resources and capability to provide him with stolen vehicles and move him from place to place. The State also added defendant had “no residence in this state, which means that there’s no option for home detention.”

¶ 11 Relying on defendant’s criminal history, which indicated defendant had one Texas conviction for failing to stop and give information in 2016, defense counsel disputed that defendant had been in the United States for only one year. Counsel also highlighted defendant’s score of 2 out of 6 possible points on the “Failure to Appear Scale” and the McLean County court services recommendation that defendant be released with no pretrial supervision. Counsel argued defendant was employed prior to his detention and, if released, defendant claimed he would raise money to hire private counsel. Counsel also pointed out defendant was compliant when police apprehended him. According to counsel, defendant claimed he would abide by any conditions of release the circuit court deemed appropriate and would appear in court at any time required.

¶ 12 In determining whether defendant should be released from pretrial detention, the circuit court stated it considered the State’s charges, their nature, the evidentiary proffers, the recommendations of the parties, the public safety assessment, and the applicable statutory provisions. The court also noted the parties were not disputing whether defendant committed

detention-eligible offenses and recognized the State's burden to show, by clear and convincing evidence, there was a high likelihood of defendant's willful flight, and no less-restrictive conditions would adequately mitigate that likelihood. The court noted the Code's definition of willful flight and examined "whether the evidence clearly and convincingly establishes that there is a high likelihood that this defendant will engage in intentional conduct with the purpose to thwart prosecution." In doing so, the court observed defendant "was involved in *** a coordinated, organized, automobile-theft ring involving high value vehicles" with "access to significant financial resources." The court also pointed out the reach of the criminal enterprise with which defendant was involved, noting it operated in multiple cities "in at least three states, Texas and Wisconsin and Illinois." And while the court noted defendant's lack of local ties was not, by itself, evidence of a high likelihood of willful flight, it noted the "brief stopover in this community" to commit the underlying offenses and open possession of several types of fraudulent identification were evidence of intentional conduct to avoid prosecution.

¶ 13 Ultimately, the circuit court granted the State's petition and found the State had established, by clear and convincing evidence, "that there [was] a high likelihood of willful flight by this defendant to avoid prosecution." Further, the court found the State had shown there were no less restrictive conditions or combination of conditions that could mitigate the risk of defendant's flight. After considering defendant's situation "individually" and the available conditions, the court found:

"the sophistication of this ring, the resources available to it, the scope of it, and the evidence that seems to fairly closely tie the defendant to the central activity of this multi-state theft ring shows me that there are not conditions that are less restrictive that would work in this case."

¶ 14 Following the detention hearing, the circuit court entered its written order indicating it found detention appropriate based on willful flight grounds. In summarizing its reasons for denying defendant pretrial release, the court noted defendant was unlikely to appear voluntarily and comply with release conditions given defendant’s lack of ties to the community, possession of fraudulent identification, transportation of stolen vehicles across multiple states, and participation in a coordinated, multi-state criminal enterprise.

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On September 26, 2023, defendant filed a notice of appeal challenging the circuit court’s order denying him pretrial release under Illinois Supreme Court Rule 604(h)(1)(iii) (eff. Sept. 18, 2023). The Office of the State Appellate Defender, defendant’s appointed counsel on appeal, also filed an accompanying memorandum. On appeal, defendant first argues the State “failed to clearly and convincingly prove that [he] posed a willful flight risk to avoid prosecution and no condition of release could mitigate that risk.”

¶ 18 All criminal defendants are presumed eligible for pretrial release. 725 ILCS 5/110-6.1(e) (West 2022). As relevant here, before denying pretrial release, the State must prove, by clear and convincing evidence, the defendant has a high likelihood of willful flight, and “no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article can mitigate *** the defendant’s willful flight.” 725 ILCS 5/110-6.1(e)(1), (3)(ii) (West 2022). The Code defines willful flight as “intentional conduct with a purpose to thwart the judicial process to avoid prosecution.” 725 ILCS 5/110-1(f) (West 2022). “Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight,” but “[r]eoccurrence and patterns of intentional conduct to evade prosecution, along with any affirmative steps to

communicate or remedy any such missed court date, may be considered as factors in assessing future intent to evade prosecution.” 725 ILCS 5/110-1(f) (West 2022).

¶ 19 Once the circuit court finds that a defendant poses a high likelihood of willful flight, it must determine which pretrial release conditions, “if any, will reasonably ensure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of pretrial release.” 725 ILCS 5/110-5(a) (West 2022). In reaching its determination, the court must consider the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the history and characteristics of the defendant; the nature and seriousness of the specific, real, and present threat to any person that would be posed by the defendant’s release, if applicable; and the nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process, if applicable. 725 ILCS 5/110-5(a)(1)-(5) (West 2022). The statute lists no singular factor as dispositive. See 725 ILCS 5/110-5(a) (West 2022).

¶ 20 The determination of whether pretrial release should be granted or denied is reviewed under an abuse-of-discretion standard. See *People v. Jones*, 2023 IL App (4th) 230837, ¶¶ 27, 30. “An abuse of discretion occurs when the circuit court’s decision is arbitrary, fanciful or unreasonable or where no reasonable person would agree with the position adopted by the [circuit] court.” (Internal quotation marks omitted.) *People v. Simmons*, 2019 IL App (1st) 191253, ¶ 9, 143 N.E.3d 833. Under this standard, a reviewing court will not substitute its own judgment for that of the circuit court simply because it would have analyzed the proper factors differently. *People v. Inman*, 2023 IL App (4th) 230864, ¶ 11. Likewise, “we will not substitute our own judgment for the trier of fact on issues regarding the weight of the evidence or the credibility of witnesses.” *People v. Vega*, 2018 IL App (1st) 160619, ¶ 44, 123 N.E.3d 393.

¶ 21 Here, defendant has not shown how the circuit court abused its discretion in finding the State established by clear and convincing evidence he posed a high likelihood of willful flight. In determining whether defendant should be released from pretrial detention, the court considered the State's charges, their nature, the evidentiary proffers, the recommendations of the parties, the public safety assessment, and the applicable statutory provisions. The State's proffer established defendant told officers he was from Guatemala and had been in the United States for approximately one year. He provided the officers with an address located in Houston, Texas, but had "no local ties other than *** the brief stopover in this community to sell the stolen vehicles." The criminal enterprise defendant was associated with "clearly possess[ed] a substantial amount of resources," was "known to move from town to town," and had the capability to transport stolen cars across the United States, and defendant's entire group knew the trucks they were attempting to sell were stolen.

¶ 22 Further, the record demonstrates the circuit court appropriately recognized the Code's definition of willful flight and examined "whether the evidence clearly and convincingly establishes that there is a high likelihood that this defendant will engage in intentional conduct with the purpose to thwart prosecution." In doing so, the court found defendant was "involved in *** a coordinated, organized, automobile-theft ring involving high value vehicles" with "access to significant financial resources." The court also pointed out the reach of the criminal enterprise, noting it operated in multiple cities "in at least three states." And while the court noted defendant's lack of local ties to the community was not, by itself, evidence of a high likelihood of willful flight, the court noted the "brief stopover in this community" to commit the underlying offenses and defendant's open possession of several types of fraudulent identification were evidence of intentional conduct to avoid prosecution.

¶ 23 Given the evidence showed defendant was involved in an organized criminal enterprise known to operate in multiple cities across multiple states, had the means to travel, and had no ties to the community wherein the underlying offenses occurred, we cannot say the circuit court's finding defendant posed a high likelihood of willful flight was arbitrary, fanciful, or unreasonable. Thus, there was no abuse of discretion. *Inman*, 2023 IL App (4th) 230864, ¶ 10.

¶ 24 Likewise, defendant has not shown how the circuit court abused its discretion in finding the State established by clear and convincing evidence that no condition or combination of conditions could mitigate the risk of his flight. The record demonstrates the court considered the nature and circumstances of the offenses (725 ILCS 5/110-5(a)(1) (West 2022)); the strength of the State's proffered evidence against defendant (725 ILCS 5/110-5(a)(2) (West 2022)); defendant's lack of community ties and criminal history (725 ILCS 5/110-5(a)(3) (West 2022)); the scope, organization, and financial capability of the criminal enterprise with which defendant was involved; and the "multiple false or fraudulent identifications bearing false names," as well as the statements made by a codefendant that the group was "conducting a brief stopover in this community" (725 ILCS 5/110-5(a)(5) (West 2022)).

¶ 25 Accordingly, the record supports the circuit court's determination that the State showed by clear and convincing evidence that no condition or combination of conditions could mitigate the risk of defendant's flight. Thus, the decision was not arbitrary, fanciful, or unreasonable. There was no abuse of discretion. *Inman*, 2023 IL App (4th) 230864, ¶ 10.

¶ 26 Next, defendant alleges the circuit court erred in determining that no condition or combination of conditions would reasonably ensure his appearance or prevent him from being charged with a subsequent felony or Class A misdemeanor. He further claims the court "failed to

take into account the factors set forth in 725 ILCS 5/110-5(a)” in determining the conditions of pretrial release.

¶ 27 Initially, we note defendant’s argument the circuit court abused its discretion in determining that no condition or combination of conditions would reasonably ensure his appearance or prevent him from being charged with a subsequent felony or Class A misdemeanor applies to appeals from orders revoking pretrial release under section 110-6(a) of the Code (725 ILCS 5/110-6(a) (West 2022)). Here, defendant was detained under section 110-6.1 of the Code (725 ILCS 5/110-6(e)(1), (3)(ii) (West 2022)), which does not require the State prove this factor before obtaining an order denying defendant pretrial release. Regardless, for the reasons stated above, the record demonstrates the court considered the applicable factors set forth in section 110-5(a) of the Code. Accordingly, these claims are without merit.

¶ 28 We can easily dispose of the remaining claims contained in defendant’s notice. First, defendant alleges he “was denied an opportunity for a fair hearing prior to the entry of the order denying or revoking pretrial release” without providing any additional detail. An appellant may not satisfy his burden of persuasion by merely checking a box on a form notice of appeal next to boilerplate language taken directly from the Act without pointing to some specific facts or aspect of the case that supports the requested ground for relief. See *Inman*, 2023 IL App (4th) 230864, ¶ 13 (“[I]t is reasonable to conclude the Illinois Supreme Court, by approving the notice of appeal form, expects appellants to at least include some rudimentary facts, argument, or support for the conclusory claim they have identified by checking a box.”). This court is not to act as an advocate or seek error on the appellant’s behalf but is “entitled to have the issues clearly defined and supported by pertinent authority and cohesive arguments.” *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459, 920 N.E.2d 515, 535 (2009). Because defendant failed to

articulate any facts or case-specific argument in support of this requested relief, he has failed to satisfy his burden to persuade this court this ground for relief identified in his notice of appeal has merit under the specific, articulable facts of this case. See, e.g., *Insurance Benefit Group, Inc. v. Guarantee Trust Life Insurance Co.*, 2017 IL App (1st) 162808, ¶ 44, 91 N.E.3d 950 (“[D]efendant, as the appellant, bears the burden of persuasion as to [his] claims of error.”).

¶ 29 Next, defendant alleges he “was not charged with an offense qualifying for denial or revocation of pretrial release or with a violation of a protective order qualifying for revocation of pretrial release.” On the preprinted lines of the notice, defendant asserted the “State failed to meet burden of willful flight” and provided no further elaboration. However, the record clearly belies this assertion. Defense counsel acknowledged at the detention hearing defendant had been charged with detention-eligible offenses, and the circuit court noted the parties were not disputing whether defendant had been charged with detainable offenses. Thus, defendant has again failed to support this ground for relief with any specific, articulable facts of this case. See *Insurance Benefit Group*, 2017 IL App (1st) 162808, ¶ 44.

¶ 30 Finally, we note defendant’s assertion “[t]he State failed to meet its burden of proving by clear and convincing evidence he poses a real and present threat to the safety of any person or persons or the community, based on the specific, articulable facts of the case” is irrelevant. Defendant was not charged with an offense listed under section 110-6.1(a)(1)-(7) of the Code. See 725 ILCS 5/110-6.1(e)(2) (West 2022). Moreover, the State’s petition was filed pursuant to section 110-6.1(a)(8)(B) of the Code (see 725 ILCS 5/110-6.1(a)(8)(B) (West 2022)), which does not require the State to prove this factor before obtaining an order denying a defendant pretrial release. See 725 ILCS 5/110-6.1(e)(1), (3)(ii) (West 2022).

¶ 31 In short, the record supports the circuit court's determination that defendant should be denied pretrial release. Thus, the decision was not arbitrary, fanciful, or unreasonable. There was no abuse of discretion. *Inman*, 2023 IL App (4th) 230864, ¶ 10.

¶ 32 III. CONCLUSION

¶ 33 For all these reasons, we affirm the circuit court's judgment.

¶ 34 Affirmed.