

NOTICE
Decision filed 02/22/24. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2024 IL App (5th) 231306-U
NOS. 5-23-1306, 5-23-1307, 5-23-1308 cons.

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).

IN THE
APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

| | | |
|--------------------------------------|---|------------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the |
| |) | Circuit Court of |
| Plaintiff-Appellee, |) | St. Clair County. |
| |) | |
| v. |) | Nos. 23-CF-1999, 23-CF-1802, |
| |) | 23-CF-767 |
| |) | |
| PHYLLIS A. JONES, |) | Honorable |
| |) | Jeffrey K. Watson, |
| Defendant-Appellant. |) | Judge, presiding. |

JUSTICE MOORE delivered the judgment of the court.
Justices Cates and Barberis concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in detaining the defendant and revoking previous pretrial release where the defendant had previously been granted pretrial release with conditions to prevent further attacks upon the victim and the defendant violated said conditions and reoffended.

¶ 2 The defendant, Phyllis A. Jones, appeals the December 6, 2023, orders of the trial court of St. Clair County, denying and revoking her pretrial release pursuant to Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act (Act).¹ See Pub. Act 101-652, § 10-255 (eff. Jan. 1, 2023); see also Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of the Act); *Rowe v. Raoul*, 2023 IL 129248,

¹The Act has been referred to as the “SAFE-T Act” and the “Pretrial Fairness Act.” Neither name is official, as neither appears in the Illinois Compiled Statutes or public act. See *Rowe v. Raoul*, 2023 IL 129248, ¶ 4 n.1.

¶ 52 (lifting stay and setting effective date as September 18, 2023). For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On May 2, 2023, in St. Clair County case No. 23-CF-767, the defendant was charged with one count of aggravated battery/victim 60+, a Class 2 felony, and one count of domestic battery/physical contact, a Class A misdemeanor, for an incident where the defendant struck Bob Bell, 67 years old, about the face.

¶ 5 On October 26, 2023, in St. Clair County case No. 23-CF-1802, the defendant was charged with one count of aggravated battery/great bodily harm/60+, a Class 3 felony, and one count of domestic battery/physical contact, a Class A misdemeanor, for an incident where the defendant struck Bob Bell with an electric cord and pushed him about the body. On October 27, 2023, the State filed a petition to revoke pretrial release. On October 30, 2023, a detention hearing was held regarding case No. 23-CF-767 and case No. 23-CF-1802 pursuant to section 110-6.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1 (West 2022)). The defendant was granted pretrial release with the following conditions: surrender all firearms, refrain from contact or communication with Bob Bell, refrain from going to Bob Bell's home address, refrain from indulging in intoxicating liquors or illicit drugs, be subject to drug testing, and take her psychotropic medications as prescribed. This order was not appealed.

¶ 6 On December 3, 2023, in St. Clair County case No. 23-CF-1999, the defendant was charged with one count of aggravated battery/great bodily harm/60+, a Class 3 felony, one count of aggravated domestic battery, a Class 2 felony, two counts of aggravated battery/victim 60+, Class 2 felonies, for an incident where the defendant struck Bob Bell about the head and body with an

iron skillet at his home following a day of drinking alcohol. That same day, the State filed a verified petition for pretrial detention.

¶ 7 On December 5, 2023, the State filed a motion to revoke pretrial release in case Nos. 23-CF-767 and 23-CF-1802 pursuant to section 110-6 of the Code (*id.* § 110-6) as a result of the defendant's new felony charges. On December 6, 2023, a hearing was held on the State's motion. The State gave its proffer and requested that pretrial release be revoked and the defendant be detained. The defendant took the position that she was acting in self-defense when she struck Mr. Bell with the skillet and thus attempted to refute that the State proved by clear and convincing evidence that she committed the charged crimes with a self-defense argument. The defense submitted certain photographs and a police report which it claimed demonstrated that the injuries sustained by the defendant were indicative of self-defense. The circuit court indicated it would "take these into consideration."

¶ 8 The circuit court then indicated that based upon all the information put forward, it found that the State proved by clear and convincing evidence that the proof is evident or the presumption great that the defendant committed the qualified offense. The circuit court specifically noted the evidence submitted by the defense and the other evidence and photographs put forward in the matter. The court noted that the defendant violated her conditions of pretrial release in that she was to refrain from having contact with Mr. Bell, from going to his address, and refrain from taking intoxicating substances. The court acknowledged the defendant's claim of self-defense but indicated that "[t]he nature and circumstances of the fact that this gentleman has been victimized multiple times in multiple felonies by [the defendant] lends this Court to tip the scale in his favor at this point." Finally, he found that she "pose[d] a real and present danger to the safety of the victim in this case and there are no conditions or combination of conditions" because those

conditions were previously put in place, and she still violated them and committed a felony attack against the victim. Thus, the circuit court found detention of the defendant and revocation of the previously granted pretrial release was warranted.

¶ 9 Following the hearing, the circuit court entered two orders. One in case No. 23-CF-1999 wherein the circuit court ordered the defendant detained and found the defendant posed a real and present danger or threat to persons or the community, that no conditions or combination of conditions would mitigate that threat, and that defendant's detention was necessary to avoid the danger and/or threat to the community or persons. The second order granted the State's motion to revoke pretrial release in case Nos. 23-CF-767 and 23-CF-1802.

¶ 10 Timely notices of appeal were filed in all three cases on December 14, 2023. The defendant utilized the standard 604(h) notice of appeal form and only checked the following: "The State failed to meet its burden of proving by clear and convincing evidence that the proof is evident or the presumption great that defendant committed the offense(s) charged." Then the defendant explained further with the following statement: "In 23-CF-1999, the prosecutor did not show that Ms. Jones did not act in self defense [*sic*]. Judge Watson indicated that he could not consider a self defense [*sic*] argument at this hearing." After the Office of the State Appellate Defender (OSAD) was appointed to represent defendant in this appeal, OSAD filed a notice "In Lieu of Rule 604(h) Memorandum." We now turn to the issue on appeal.

¶ 11 II. ANALYSIS

¶ 12 Our standard of review of pretrial release determinations is twofold. The circuit court's factual findings will be reviewed under the manifest weight of the evidence standard, such as the State's burden of presenting clear and convincing evidence that conditions of pretrial release would not protect any person or the community, the defendant has a high likelihood of willful flight to

avoid prosecution, or the defendant failed to comply with previously ordered conditions of pretrial release. *People v. Trottier*, 2023 IL App (2d) 230317, ¶ 13. “A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented.” *People v. Deleon*, 227 Ill. 2d 322, 332 (2008).

¶ 13 The circuit court’s ultimate determination regarding the denial of pretrial release is reviewed for an abuse of discretion. *Trottier*, 2023 IL App (2d) 230317, ¶ 13. “An abuse of discretion occurs where the circuit court’s decision is arbitrary, unreasonable, or fanciful or where no reasonable person would have taken the position adopted by the circuit court.” *People v. Heineman*, 2023 IL 127854, ¶ 59.

¶ 14 Here, the defendant’s sole contention on appeal is that the State failed to meet its burden of proving by clear and convincing evidence that the proof is evident or presumption great that the defendant committed the offense charged. Thus, we focus solely upon this issue.

¶ 15 First, we note that the defendant does not put forth an argument that she was not involved in the alleged crime but, instead, contends that she struck the victim in an act of self-defense. The State’s proffer contended that East St. Louis police officers responded to the victim’s residence for a call of ongoing domestic violence. When they arrived, they found the victim battered and lying on the ground in blood. They also found a frying pan or skillet that was bent, indicating it had been used to strike the victim. The defendant was still present at the home upon police arrival. In the defendant’s proffer, she did not contend that she did not strike the victim with the skillet but, instead, argued that it was done in self-defense. The court received as evidence images taken from the scene and of the individuals involved and reviewed those images.

¶ 16 The circuit court indicated on the record that based upon all the information put forward, it found that the State proved by clear and convincing evidence that the proof is evident or the presumption great that the defendant committed the qualified offense. The circuit court specifically noted the evidence submitted by the defense and the other evidence and photographs put forward in the matter. The court noted that the defendant violated her conditions of pretrial release in that she was to refrain from having contact with Mr. Bell, from going to his address, and refrain from taking intoxicating substances. The court acknowledged the defendant's claim of self-defense but indicated that "[t]he nature and circumstances of the fact that this gentleman has been victimized multiple times in multiple felonies by [the defendant] lends this Court to tip the scale in his favor at this point."

¶ 17 "[I]n reviewing the circuit court's ruling for abuse of discretion, we will not substitute our judgment for that of the circuit court ***." *People v. Simmons*, 2019 IL App (1st) 191253, ¶ 15. Here, the circuit court determined, after considering the totality of the evidence before it, the State met its required burden despite the defendant's self-defense claim. "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *Deleon*, 227 Ill. 2d at 332. Considering that the defendant blatantly violated her previous conditions of release which would have prevented the defendant from being in contact with the victim, and the two previous alleged attacks by the defendant upon the same victim, we cannot find that the circuit court's decision was "unreasonable" or "not based on the evidence." Additionally, the defendant's claim that the judge refused to consider her self-defense claim at the hearing is meritless where the circuit court explicitly stated on the record that it had considered the defendant's proffer and her evidence prior to making its decision.

¶ 18

III. CONCLUSION

¶ 19 Therefore, because the circuit court did not err in finding that the State met its burden, the circuit court's December 6, 2023, orders were not entered in error.

¶ 20 Affirmed.