

**THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED
DISPOSITION UNDER RULE 604(h)**

No. 131279

01

E-FILED
12/6/2024 4:02 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, No. 4-24-1100.
Plaintiff-Appellant,	)	There on appeal from the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois, No. 24 CF 909.
-vs-	)	Honorable Ryan Cadagin, Judge Presiding.
SEAN GRAYSON,)	
Defendant-Appellee.)	

**RESPONSE TO STATE’S MOTION TO STAY THE ISSUANCE OF MANDATE
THROUGH DISPOSITION OF RULE 604(h) APPEAL**

Defendant-Appellee, Sean Grayson, by Carolyn R. Klarquist, Director of Pretrial Fairness Unit, and Deborah K. Pugh, Assistant Appellate Defender, Office of the State Appellate Defender, respectfully requests that, regardless of whether this Court orders the mandate to be issued, it order Grayson’s release on conditions during the pendency of the State’s appeal, pursuant to Illinois Supreme Court Rule 604(a)(3).

In support of this motion counsel states:

1. On July 18, 2024, the circuit court ordered Sean Grayson detained pending disposition of his criminal case, pursuant to the Pretrial Fairness Act. (C. 25) *See* Pub. Act 101-652, § 10-255, 102-1104, § 70. On August 19, 2024, the circuit court denied Grayson’s motion for relief. (C. 123) Grayson filed a timely appeal.

2. On November 27, 2024, the appellate court ruled that the State had failed to meet its burden regarding conditions and remanded the case for a hearing on conditions

of release. *People v. Grayson*, 2024 IL App (4th) 241100-U, ¶¶ 59, 62.

3. On December 2, 2024, the State filed a motion to stay the mandate, arguing that because this is a “high-profile case,” Grayson’s release from pretrial detention, as ordered by the appellate court, could lead to “a high likelihood of societal upheaval” and “leave the citizens of Illinois with diminished confidence in the criminal justice system.” Also on December 2, 2024, Grayson filed an objection to the State’s motion to stay the mandate, arguing that the State had not provided a compelling reason to stay the mandate.

4. On December 3, 2024, the appellate court entered an order finding that “the State has failed to show compelling reasons for defendant’s continued detention during the pendency of the petition,” yet, it stayed the issuance of the mandate for 35 days in order to allow the State to pursue a further stay of the mandate directly from this Court.

5. On December 4, 2024, the State filed a petition for leave to appeal in this Court.

6. On December 5, 2024, Grayson filed an emergency motion for supervisory order asking this Court to grant his release from pretrial detention pending the disposition of this appeal. On December 6, 2024, the State filed a motion objecting to Grayson’s motion for a supervisory order.

7. Also on December 6, 2024, the State filed a motion to continue the stay of the mandate through the disposition of the appeal; the present motion is filed in response to that motion.

8. Significantly, the State’s motion does not provide a compelling reason to detain Grayson during the pendency of its appeal to this Court. Under Supreme Court Rule 604(a)(3), “[a] defendant shall not be held in jail . . . during the pendency of an appeal by the State, or of a petition or appeal by the State under Rule 315(a) [which governs PLAs],

unless there are compelling reasons for his or her continued detention.” Ill. Sup. Ct. R. 604(a)(3) (eff. Apr. 16, 2024). “Compelling reasons are forceful and impelling reasons irresistible in sense and purpose” over which “reasonable minds would not diverge.” *People v. Wells*, 279 Ill. App. 3d 564, 569 (5th Dist. 1996). Under this rule, continued detention should be “rare.” *Id.* “The rule favors release.” *People v. Baltimore*, 381 Ill. App. 3d 115, 125 (2d Dist. 2008). As the appellate court found, “the State has failed to show compelling reasons for defendant’s continued detention during the pendency of the petition.”

9. Rule 604(a)(3) mandates that a defendant not be held in jail pending a State’s petition for leave to appeal without a compelling reason, yet the State explicitly argues that the PLA itself creates a compelling reason: “By its terms, [Rule 604(a)(3)] applies, because the People’s PLA is pending.” But that is blatantly untrue: a “defendant shall not be held in jail” during the pendency of a Rule 315(a) PLA “unless there are compelling reasons” for the detention. The PLA is not itself a compelling reason.

10. Although the State cites Rule 604(a)(3), it relies on Rule 368(b); however, its argument implies a contradiction between those two rules that does not exist and thereby creates a false dilemma. Rule 368(b) states that a mandate is “stayed automatically . . . [when] a party who is entitled to seek review by the Supreme Court files” a PLA. However, Rule 604(a)(3) requires the defendant’s release during the pendency of a PLA—and therefore also during any automatic stay—absent compelling reasons. Whether the State has presented sufficiently compelling reasons for Grayson’s continued detention is a separate question than whether this Court should extend the appellate court’s stay of its mandate beyond January 2, 2025. Regardless of whether this Court extends the stay, it should order Grayson released on conditions during the pendency of the State’s appeal to

this Court, as required by Rule 604(a)(3). Both the pretrial release statute and Rule 604(a)(3) are predicated upon the presumption of release; such a presumption is meaningless if the State can prevent release simply by filing a PLA. While Grayson seeks the end of the stay, he more urgently seeks his release pursuant to Rule 604(a)(3). The automatic stay of the mandate in no way prevents his release pending the State's appeal.

11. Moreover, it is essential to stress that the State presents no compelling reason for Grayson's continued detention; its only reference to compelling reasons is its bald assertion that "[t]he circuit court's findings," which the appellate court rejected, "provide 'compelling reasons' for staying defendant's release until this Court has had the opportunity to review them." The State insists that its PLA "explains" why the appellate court's decision was wrong and why, therefore, the circuit court's decision is sufficient justification for Grayson's continued detention, but the State's arguments in its PLA, based largely on *People v. Mikolaitis*, 2024 IL 130693, are irrelevant and misguided.

In *Mikolaitis*, the defendant argued "that the State offered no evidence and made no argument regarding possible conditions of release that could mitigate any risk posed by his release." *Id.*, ¶ 17. This Court held that "the State's burden of proof does not require it to specifically address every conceivable condition or combination of conditions and argue why each condition does not apply." *Id.*, ¶ 20. Rather, evidence presented by the State about the defendant's failure to take antipsychotic medication supported the circuit court's conclusion that he would not comply with conditions ordered by the court. *Id.*, ¶ 24.

This Court's holding in *Mikolaitis* is not relevant to the present case, where the appellate court did not find that the State presented no evidence regarding conditions or that it failed to address every conceivable condition. Rather, the appellate court found that the evidence presented by the State did not actually support the circuit court's conclusions.

Grayson, 2024 IL App (4th) 241100, ¶ 45. The appellate court found that although a defendant's charged "conduct may be reprehensible and deserving of punishment, . . . that is an inappropriate basis for imposing pretrial detention," and did not support the conclusions drawn by the circuit court. *Id.*, ¶ 59.

The State also argues in its PLA that the appellate court violated *Mikolaitis* by showing insufficient deference to the circuit court. However, *Mikolaitis* did not specify a standard of review and, moreover, the *Grayson* court applied the most deferential standard: abuse of discretion. *Grayson*, 2024 IL App (4th) 241100, ¶ 42. The State appears to argue that this Court's language stating that "it is up to the circuit court to review the evidence presented and determine whether conditions of release would mitigate the safety threat posed by a defendant" means that *no* review of the circuit court's findings is permissible at all. *Mikolaitis*, 2024 IL 130693, ¶ 24. But this Court in no way suggested that a circuit court's decision must be upheld even when it involves, as the *Grayson* court found, an abuse of discretion.

The State simply disagrees with the appellate court, but its subjective opinion is not a compelling reason to keep Grayson imprisoned where this case is in a pretrial posture with the presumption of release and presumption of innocence.

12. Finally, the State appears to have abandoned the allegedly compelling reasons it argued to the appellate court in its December 2, 2024, motion to stay the mandate, but Grayson will address them briefly. First, the State insisted that because this case is "high-profile," Grayson is not entitled to the same rights and protections offered to other criminal defendants in the State of Illinois. But all defendants, high profile or not, are to be treated equally under the law, and the profile of this case does not invalidate the presumption of release or the presumption of innocence. Second, the State claimed, with no evidence, that

“societal upheaval” would occur if Grayson were released pending its PLA. However, even if the threatened “upheaval” were a reality, the State offered no support for its insinuation that public opinion, not statutes, rules, and judicial precedent, should govern Illinois courts’ actions. Neither the publicity surrounding a case nor the opinion of the public provide a compelling reason to detain a defendant. Therefore, for the reasons stated herein, Grayson should be released pursuant to Rule 604(a)(3).

WHEREFORE, appellee respectfully requests that this Court find that the State has presented no compelling reason for Grayson’s continued detention.

Respectfully submitted,

/s/Deborah K. Pugh
DEBORAH K. PUGH
Assistant Appellate Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
PFA.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLEE

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

Under the penalties provided in law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this motion are true and accurate.

/s/ Deborah K. Pugh
DEBORAH K. PUGH
Assistant Appellate Defender

No. 131279

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 4-24-1100.
Plaintiff-Appellant,)	
	)	There on appeal from the Circuit
-vs-	)	Court of the Seventh Judicial Circuit,
	)	Sangamon County, Illinois, No. 24 CF
	)	909.
SEAN GRAYSON,)	
	)	Honorable
Defendant-Appellee.	)	Ryan Cadagin,
	)	Judge Presiding.

Mr. Kwame Raoul, Attorney General, 115 S. LaSalle St., Chicago, IL 60603,
 eserve.criminalappeals@ilag.gov;

Mr. David J. Robinson, Chief Deputy Director - PTFA, State's Attorneys Appellate
 Prosecutor, 725 South Second Street, Springfield, IL 62704, Safe-T@ilsaap.org ;

Mr. Sean Grayson, Menard County Jail, 315 South Sixth Street, Petersburg, IL 62675

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On December 6, 2024, the Response to the State's Motion to Stay the Issuance of Mandate was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the in an envelope deposited in a U.S. mailbox in Chicago, Illinois, with proper postage prepaid.

/s/Christopher Moy-Lopez
 LEGAL SECRETARY
 Office of the State Appellate Defender
 203 N. LaSalle St., 24th Floor
 Chicago, IL 60601
 (312) 814-5472
 Service via email is accepted at
 pfa.eserve@OSAD.state.il.us