

Illinois Official Reports

Appellate Court

People v. Morales, 2023 IL App (2d) 230334

Appellate Court
Caption

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v.
CESAR D. MORALES, Defendant-Appellant.

District & No.

Second District
No. 2-23-0334

Filed

December 12, 2023

Decision Under
Review

Appeal from the Circuit Court of Lake County, No. 23-CF-1888; the
Hon. David C. Lombardo, Judge, presiding.

Judgment

Affirmed.

Counsel on
Appeal

James E. Chadd and James Wozniak, of State Appellate Defender's
Office, of Chicago, for appellant.

Patrick Delfino and David J. Robinson, of State's Attorneys Appellate
Prosecutor's Office, of Springfield, for the People

Panel

JUSTICE SCHOSTOK delivered the judgment of the court, with
opinion.
Justices Hutchinson and Kennedy concurred in the judgment and
opinion.

OPINION

¶ 1 The defendant, Cesar D. Morales, was charged with three counts of gunrunning (720 ILCS 5/24-3A(a) (West 2022)), one count of unlawful sale or delivery of firearms (720 ILCS 5/24-3(A)(l) (West 2022)), three counts of armed violence (720 ILCS 5/33A-2(a) (West 2022)), two counts of unlawful delivery of a controlled substance (720 ILCS 570/401(a)(2)(A) (West 2022)), and one count of aggravated possession of a stolen firearm (720 ILCS 5/24-3.9(a)(2) (West 2022)). The charges arose from the defendant selling 16 firearms and cocaine to an undercover investigator over the course of at least 11 separate meetings. On September 19, 2023, the State filed a verified petition to deny defendant’s pretrial release pursuant to section 110-6.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1 (West 2022)). On that same day, the Lake County Public Defender was appointed to represent the defendant.

¶ 2 The State indicated at the hearing on its petition that the case was being coprosecuted by the Lake County State’s Attorney and the Illinois Attorney General. Following the hearing, the trial court granted the State’s petition. The defendant appeals, arguing that the State did not comply with the statutory procedure to deny his pretrial release. Specifically, he complains that the State did not disclose to him all the relevant documents in possession of the Illinois Attorney General.

¶ 3 This appeal is brought pursuant to Public Act 101-652, § 10-255 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act (Act).¹ See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of the Act); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (lifting stay and setting effective date of Act as September 18, 2023).

¶ 4 The Act abolished traditional monetary bail in favor of pretrial release on personal recognizance or with conditions of release. 725 ILCS 5/110-1.5, 110-2(a) (West 2022). In Illinois, all persons charged with an offense are eligible for pretrial release. 725 ILCS 5/110-2(a), 110-6.1(e) (West 2022). Pretrial release is governed by article 110 of the Code as amended by the Act. 725 ILCS 5/110-1 *et seq.* (West 2022). Under the Code, as amended, a defendant’s pretrial release may be denied only in certain statutorily limited situations (qualifying offenses). 725 ILCS 5/110-2(a), 110-6.1 (West 2022). For most of the qualifying offenses, upon filing a verified petition requesting denial of pretrial release, the State has the burden to prove, by clear and convincing evidence, that (1) the proof is evident or the presumption great that the defendant has committed a qualifying offense (725 ILCS 5/110-6.1(e)(1) (West 2022)); (2) the defendant’s pretrial release poses a real and present threat to the safety of any person or persons or the community (compare 725 ILCS 5/110-6.1(a)(1), (a)(3)-(7), (e) (West 2022), with 725 ILCS 5/110-6.1(a)(2) (West 2022) (allowing detention only with a real and present threat to the safety of the victim where the qualifying offense is stalking or aggravated stalking)); and (3) no condition or combination of conditions can mitigate the real and present threat to the safety of any person or the community or prevent the defendant’s willful flight from prosecution (725 ILCS 5/110-6.1(e)(3) (West 2022)).

¶ 5 The Code provides that, prior to a hearing on the State’s petition,

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

“the State shall tender to the defendant copies of the defendant’s criminal history available, any written or recorded statements, and the substance of any oral statements made by any person, if relied upon by the State in its petition, and any police reports in the prosecutor’s possession at the time of the hearing.” 725 ILCS 5/110-6.1(f)(1) (West 2022).

¶ 6 The defendant contends that section 110-6.1(f)(1) required the State to disclose everything in the “prosecutor’s possession at the time of the hearing.” Since the case is being jointly prosecuted by the Lake County State’s Attorney and the Attorney General, the defendant argues that section 110-6.1(f)(1) means that the State also had to disclose all relevant documents in the Attorney General’s possession. Because it did not, he maintains that the State did not comply with the Act and therefore he was improperly detained.

¶ 7 The State responds that it complied with the Act because it disclosed to the defendant all the information it relied upon in filing the petition. The State indicates that it did not rely on any written or recorded statements in filing the petition. Rather, it relied on a summary of facts the police department and the Attorney General’s office provided, which it disclosed to the defendant. The defendant does not dispute this. Rather, he asserts that the Act requires the State to tender any written or recorded statements that it “will be relying on.” Since the defendant is being prosecuted by both the Lake County State’s Attorney and the Attorney General, this means that the State must disclose all the information that is in possession of both the State’s Attorney and the Attorney General.

¶ 8 The defendant is asking us to determine that the State was obligated to disclose more evidence than the Act requires. As the State correctly notes, at this stage of the proceedings, it was required to disclose only the information that it relied upon in filing the petition to deny pretrial release. 725 ILCS 5/110-6.1(f)(1) (West 2022). Further, the Code, as amended by the Act, specifically refutes the defendant’s assertion that the State has to disclose all the evidence that it will be relying on. See 725 ILCS 5/110-6.1(f)(4) (West 2022) (pretrial detention hearing is not to be used for purposes of discovery, and postarraignment rules of discovery do not apply). As it is undisputed that the State disclosed all the information it relied upon in filing its petition, it complied with the Act. The defendant’s argument to the contrary is therefore without merit.

¶ 9 For the reasons stated, the judgment of the circuit court of Lake County is affirmed.

¶ 10 Affirmed.