

NOTICE
Decision filed 10/01/26. 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.

2026 IL App (5th) 260602-U
NO. 5-26-0602
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Clinton County.
	)	
v.	)	No. 26-CF-23
	)	
MARK A. MORRIS,	)	Honorable
	)	Douglas C. Gruenke,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE CLARKE delivered the judgment of the court.
Justices Sholar and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court’s orders granting the State’s verified petition to deny pretrial release and denying the defendant’s motion for relief due to a real and present threat are affirmed.

¶ 2 The defendant, Mark A. Morris, appeals the January 22, 2026, order from the Clinton County circuit court that granted the State’s petition to deny pretrial release and the July 17, 2026, denial of his motion for relief and immediate release. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 22, 2026, the defendant was charged with methamphetamine trafficking, unlawful possession of methamphetamine with intent to deliver, and unlawful possession of methamphetamine. 720 ILCS 646/56(a), 55(a)(1), 60(a) (West 2024). The State filed a verified petition to deny the defendant pretrial release the same day. The State alleged that the defendant

was charged with a nonprobationable felony offense and posed a real and present threat to the safety of any person or persons or the community.

¶ 5 The hearing on the petition was conducted the same day. The State proceeded by proffer and offered the following information from the New Baden police report. Around midnight on January 22, 2026, a New Baden police officer conducted a traffic stop on a black Kia for driving too closely. The defendant was identified as the driver, with David Thorpe in the front seat and Greg Shoreck in the back seat. The officer noted that the vehicle was previously identified as traveling into Missouri by a license plate reader. A K9 officer arrived, conducted a free-air sniff, and positively alerted to the vehicle. While conducting a search of the vehicle, officers located a black case on the front passenger floorboard that contained a bag with a large amount of a white substance they believed to be methamphetamine.

¶ 6 Officers later spoke with the defendant, who stated that Thorpe called the defendant about taking a trip to St. Louis to go to the casino. The defendant initially lied about going across the river into Missouri, but stated he lied because Thorpe told him not to say they went out of the state. The defendant stated that he drove them to an apartment complex before driving to a second location to meet another man. The man pulled up next to the defendant's car and handed Thorpe an item. The defendant said he did not know what Thorpe received, but thought "something was going on." The substance discovered in the vehicle weighed 215 grams and field tested positive for methamphetamine. Officers also reviewed video footage from inside the squad car with the defendant and Thorpe, during which the two men discussed "whether or not the officers were going to find," implying illegal items were inside the vehicle.

¶ 7 The State proffered that the defendant scored a level 5 out of 6 on the Virginia Pretrial Risk Assessment Instrument (VPRAI).¹ The defendant had numerous convictions listed in the pretrial report, including battery, aggravated battery, cause or permit child abuse, possession of drugs and controlled substances, and driving under the influence. The defendant posed a real and present threat to the community in that he knowingly crossed state lines to be involved in a methamphetamine transaction. Further, no condition would mitigate this risk, such as GPS monitoring, because it would only show the defendant's location, not whether he was in possession of methamphetamine or going to buy it or commit other crimes. The State asked for the defendant's detention.

¶ 8 Defense counsel proceeded by proffer, stating that the defendant was disabled and lived in Franklin County. The defendant would abide by any terms of pretrial release. Defense counsel argued that the defendant was not the "main character" in this case, but Thorpe was.

¶ 9 The circuit court found that the presumption was great that the defendant committed a detainable offense and that he posed a real and present threat to the community "based on the amount of methamphetamine that he brought into the state from Missouri." Further, no conditions would mitigate that threat. The court also considered his VPRAI score and lengthy criminal history in support of its finding. The court granted the State's petition to detain.

¶ 10 On June 12, 2026, the defendant filed a motion to reconsider detention due to discovery issues relevant to a motion to suppress. The court delayed ruling on the motion, and defense counsel filed a second motion to reconsider detention, again addressing discovery issues. The circuit court denied the motion, finding no change in circumstances.

¹A level 5 on the VPRAI indicates a 29.3% risk of failure rate of violations of pretrial release conditions.

¶ 11 On July 14, 2026, the defendant filed a third motion to reconsider. The motion argued that he should be released because the circuit court improperly relied solely upon the amount of methamphetamine to determine the defendant's real and present threat. The defendant relied on *People v. Cockerell*, 2026 IL App (5th) 260317-U, to support his request for release.

¶ 12 On July 15, 2026, the matter proceeded to a hearing. Defense counsel argued that the defendant should be released because the State did not prove the real and present threat. In *Cockerell*, the defendant was released because the circuit court failed to find a real and present threat outside the offense itself. Similarly, in the present case, the circuit court found that the defendant was to be detained due to the "amount of methamphetamine trafficked into the state," which was the same rationale used by the circuit court in *Cockerell*. Defense counsel asked for the defendant's release for the same reasoning. The State responded, asserting that there was "independent evidence" of the defendant's real and present threat outside of the recitation of the charges. The defendant's detention in this case was also based on his VPRAI score and his criminal history, which included violent offenses such as "cause/procure/permit injury or sex abuse to a child" in Oklahoma.² The defendant received a 10-year sentence for the Oklahoma case, but instead of the full sentence, he served one year in a "work camp" for life skills; then he received one year of supervised release.

¶ 13 Defense counsel argued that the docket entry and written order only contained information about the amount of methamphetamine trafficked into the state. The defendant did have a criminal history that included violence, unlike the *Cockerell* case, but the battery offenses dated back to 2001. Because the offenses occurred over 20 years ago, the "seriousness" of the offenses had

²Defense counsel later clarified that this case involved two counts. Count 1 was "injury to a minor child" and count 2 was "failure to report child abuse."

dissipated as to the defendant's dangerousness. The battery offenses also were misdemeanors, not felonies. Defense counsel argued that the differences between the defendant's case and *Cockerell* were "so insignificant" that the defendant should not be denied release based on his criminal history. Defense counsel asked for the defendant's release.

¶ 14 The State argued that the defendant's criminal history, in addition to the Oklahoma case, involved multiple batteries, several DUIs, and drug offenses dating from 1996 to 2011. The State said that the defendant was a danger and had "apparent alcohol and drug issues, *** and problems keeping his hands to himself with battery charges."

¶ 15 The circuit court reviewed the arguments presented by the parties and the findings in *Cockerell*, noting that the detention cannot be based on the amount of methamphetamine alone. The circuit court addressed the general danger posed to society from methamphetamine, but then stated that the defendant had other factors that contributed to his real and present threat. The defendant scored a level 5 out of 6 on the VPRAI and had a "history of violent offenses," namely battery and aggravated battery. The court did consider that the child abuse case was in fact a failure to report the child abuse instead of sex abuse as the pretrial report stated. Due to his history of violent offenses, the court denied the motion and stated that there were no conditions that would mitigate the real and present threat.

¶ 16 The defendant filed a motion for relief, which detailed the discovery issues present thus far in the case and issues with the Oklahoma case classification in the pretrial report. The motion also presented the same argument in the third motion for release, arguing that he should be released under the same rationale in *Cockerell*, 2026 IL App (5th) 260317-U. The motion for relief stated that the defendant's violent criminal history was over 20 years old and should not be the reason he remained detained.

¶ 17 On July 17, 2026, the matter proceeded to a hearing on the motion for relief and a pending motion to compel. The circuit court first addressed the motion to compel before turning to the motion for relief. Defense counsel and the State both said that they wished to adopt their arguments from the third motion for relief hearing, stated above. The circuit court adopted the arguments and denied the motion for relief. The defendant appealed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, the defendant argues that the State failed to prove by clear and convincing evidence that the defendant posed a threat to the community and that no conditions could mitigate that threat.

¶ 20 Pretrial release—including the conditions related thereto—is governed by article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2024)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act. A defendant’s pretrial release may be denied only in certain statutorily limited situations. 725 ILCS 5/110-6.1 (West 2024). Upon filing a timely, verified petition requesting denial of pretrial release, the State has the burden to prove by clear and convincing evidence that the proof is evident or the presumption great that the defendant has committed a qualifying offense, that the defendant’s pretrial release poses a real and present threat to the safety of any person or the community or poses a flight risk, and that less restrictive conditions would not avoid a real and present threat to the safety of any person or the community and/or prevent the defendant’s willful flight from prosecution. *Id.* § 110-6.1(e), (f). The State or the defendant may present evidence to the circuit court by way of proffer based upon reliable information. *Id.* § 110-6.1(f)(2). The circuit court may order a defendant detained pending trial if the defendant is charged with a qualifying offense and the circuit court concludes the defendant poses a real and present threat to the safety of any person

or the community (*id.* § 110-6.1(a)(1)-(7)) or there is a high likelihood of willful flight to avoid prosecution (*id.* § 110-6.1(a)(8)).

¶ 21 Where the parties to a pretrial detention hearing proceed solely by proffer or submission of documentary evidence, this court stands in the same position as the circuit court and may conduct its own independent review of the proffered evidence, thus reviewing the record *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54. In the present matter, the parties proceeded solely by proffer, so we will employ a *de novo* review.

¶ 22 A. Real and Present Threat

¶ 23 The circuit court is provided a nonexhaustive list of factors it should consider when determining whether a defendant poses a real and present threat to the safety of any individual(s) or the community. Those factors include (1) the nature and circumstances of the offenses charged, including whether they are crimes of violence, involve a weapon, or a sex offense; (2) whether the defendant’s prior criminal history indicates “violent, abusive, or assaultive behavior, or lack of such behavior”; (3) the identity of any individual to whose safety the defendant may pose a threat and the nature of any such threat; (4) any statements made by, or attributed to the defendant, together with the circumstances surrounding them; (5) the defendant’s age and physical condition; (6) the age and physical condition of the victim or complaining witness; (7) whether the defendant possesses or has access to any weapons; (8) whether the defendant was on probation, parole, or mandatory supervised release when arrested on the underlying charges or any other offense; and (9) any other factor that has a reasonable bearing on the defendant’s propensity for violent, abusive, or assaultive behavior. 725 ILCS 5/110-6.1(g)(1)-(9) (West 2024). No one factor is determinative, and the court must base its decision on an individualized assessment. *People v. Atterberry*, 2023 IL App (4th) 231028, ¶ 15 (citing 725 ILCS 5/110-6.1(f)(7) (West 2022)).

¶ 24 Relying upon *People v. Nicholson*, 2024 IL App (2d) 240257-U, *People v. Cockerell*, 2026 IL App (5th) 260317-U, and *People v. Pino*, 2026 IL App (5th) 260427-U, the defendant argues that he should be released pending trial because his detention was based primarily on the methamphetamine charges, as well as an over 20-year-old criminal history. The difference between the present case and those previously listed, however, is the defendant’s criminal history. The defendant acknowledges that his case is distinguishable because of his violent criminal history, but argues that this history bears “little probative value” on the defendant’s real and present threat due to the age of the offenses.

¶ 25 With these factors and arguments in mind, we now consider, as the circuit court did, the record presented. First, we do note and consider the defendant’s criminal history. 725 ILCS 5/110-6.1(g)(2) (West 2024). Although the criminal history is old, the Code does not prevent a circuit court or court of appeal from considering its weight when determining a defendant’s real and present threat. The defendant’s violent criminal history included battery, aggravated battery, and failure to report child abuse. He also had multiple convictions related to drugs and alcohol. This history also contributed to the defendant’s VPRAI score, placing him in level 5 for failure to comply with pretrial conditions. The nature and circumstances of the offense itself may be considered. *Id.* § 110-6.1(g)(1). The defendant argues that his “role in [the] crime was merely that of a driver.” Despite this claim, the defendant did pick up Thorpe, was instructed to drive to a different location than planned, witnessed Thorpe engage in an exchange, and stated he knew something “was going on” about the transaction, then drove the purchased methamphetamine into the state before lying to law enforcement about his whereabouts. The record shows that the circuit court correctly relied on the defendant’s criminal history, in addition to the nature and

circumstances of the offense, and thus did not err in finding the defendant posed a real and present threat.

¶ 26 B. Conditions

¶ 27 The defendant also argues on appeal that the State failed to prove that no condition or combination of conditions could mitigate the defendant's risk. We need not address this argument, however, because it is waived on appeal.

¶ 28 The defendant filed his motion for relief as required by Rule 604(h) (eff. Apr. 15, 2024). The motion must request "the same relief to be sought on appeal and the grounds for such relief." *Id.* Further, "any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived." *Id.* One of the purposes of the motion for relief is to give the aggrieved party an opportunity to draw the circuit court's attention to any errors it may have made in the initial release determination and give the court an opportunity to correct them. *People v. Patterson*, 2025 IL App (1st) 250510, ¶ 18.

¶ 29 The defendant's motion for relief contained information related to discovery issues and the defendant's real and present threat, as described above. The motion, however, does not argue that the State failed to prove that no condition or combination of conditions would be sufficient to mitigate the defendant's real and present threat. As this issue was not included in the motion for relief, the circuit court was not given the opportunity to correct any potential errors. Thus, this issue cannot be argued on appeal as it was not included in the motion for relief and has been waived.

¶ 30 III. CONCLUSION

¶ 31 Based on the foregoing reasons, we affirm the circuit court's orders of January 22, 2026, and July 17, 2026.

¶ 32 Affirmed.