

NOTICE

Decision filed 05/16/25. 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.

2025 IL App (5th) 250079-U

NO. 5-25-0079

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,)	Jefferson County.
)	
v.)	No. 25-CF-18
)	
GREGORY MOORE,)	Honorable
)	Jerry E. Crisel,
Defendant-Appellant.)	Judge, presiding.

JUSTICE CATES delivered the judgment of the court.
Justices Welch and Sholar concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in determining that the defendant posed a high likelihood of willful flight. The judgment of the circuit court granting the State's petition to deny pretrial release and subsequently denying defendant's motion for relief is affirmed.

¶ 2 The defendant, Gregory Moore, appeals the order of February 5, 2025, denying his motion for relief and immediate release and the order of January 28, 2025, granting the State's petition to deny him pretrial release. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 27, 2025, the defendant was charged by information with unlawful possession of stolen vehicle, a Class 2 felony (count I), and two counts of aggravated fleeing or attempting to elude a peace officer, Class 4 felonies (counts II-III). The same day, the State filed a verified

petition to deny pretrial release, alleging that the defendant met the willful flight standard under section 110-6.1(a)(8) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1(a)(8) (West 2022)). In the petition, the State alleged that the defendant had a high likelihood of willful flight to avoid prosecution and that he was charged with a felony offense other than a Class 4 offense.

¶ 5 On January 28, 2025, the circuit court held a hearing on the State’s petition to deny pretrial release. During the hearing, the State proffered the following factual basis in support of its petition. On January 25, 2025, at approximately 6:26 a.m., Jefferson County Sheriff’s Office deputies Adam Smith and Casey Mellott received an emergency notification from the Illinois State Police of an active pursuit of a vehicle on Illinois Highway 148. The vehicle involved was described as a silver Hyundai with the partial Illinois registration containing the letters “ES.” The deputies identified the suspect vehicle and attempted to conduct a lawful traffic stop. However, the vehicle sped up and attempted to pass multiple cars using the left lane against oncoming traffic. During the pursuit, the subject vehicle exceeded 117 miles per hour, disregarding a red light and a stop sign at roadway intersections. Eventually, the vehicle began to slow down and ran off the roadway into a ditch. It had run out of gas. When the vehicle stopped moving, the driver and two passengers exited the vehicle. Deputy Smith, with his gun drawn, intercepted them and ordered them to get on the ground. All complied with Deputy Smith’s instructions. The driver of the vehicle was taken into custody and identified as the defendant. While in custody, the defendant was given his *Miranda* warnings and subsequently interviewed.

¶ 6 During the interview, the defendant admitted that he took the silver Hyundai without permission and that he used a phone charger to start the vehicle. The defendant also admitted that he was driving the vehicle as he fled from the deputies. Deputies conducted an inventory of the

vehicle and observed a charging cord inserted into the vehicle's steering column. Deputies also discovered a set of keys that did not belong to the vehicle and a wallet that contained a driver's license of an individual residing in Johnston City, Illinois. The defendant indicated that the keys belonged to the deceased owner of a different vehicle and that he did not know anything about the wallet. The defendant was not charged with any offenses regarding the wallet.

¶ 7 The State argued that the proffered facts established that the defendant met the flight risk standard and that there was a need for pretrial detention. The State asserted that the defendant had a significant criminal history, and that he was charged in St. Clair County, Illinois, with unlawful possession of a stolen vehicle, a Class 2 felony.¹ At the time of the hearing, the State did not have information on the disposition of the charge in St. Clair County. The State noted that the St. Clair County charge was listed in the pretrial investigation report. The report identified a disposition date of March 19, 2024, but provided no information as to the type of disposition. The State also argued that the defendant posed a high likelihood of flight, noting that he was involved in a high-speed pursuit through Jefferson County, Illinois, and that he was not apprehended until he crossed into Hamilton County, Illinois. In addition, the State argued that the defendant did not have any ties to the community in Jefferson County. The State noted that the charges brought against the defendant were serious felonies and that the State's case was strong. The State concluded that pretrial detention was necessary to protect the victims, including the owner of the silver Hyundai and the owner of the wallet found in that vehicle. Detention was also necessary to protect the public from the defendant's erratic driving, to protect the public's property from theft, and to ensure the defendant appeared for all court dates.

¹The pretrial investigation report indicated that the defendant was charged with receiving, possessing, or selling a stolen vehicle, a Class 2 felony. 625 ILCS 5/4-103(a)(1) (West 2024).

¶ 8 In response, the defendant's attorney argued that the defendant was 19 years old, that he resided with his mother and sister in St. Clair County, Illinois, and that he was employed in the last year. Counsel also argued that the defendant lacked a criminal history. The defendant was not on probation, parole, or work release at the time of his arrest. Further, the defendant had never been sentenced to the Department of Corrections. Counsel asked the trial court to place the defendant on electronic monitoring and home confinement.

¶ 9 After considering the evidence presented, the pretrial investigation report, the arguments of counsel, and the statutory factors, the circuit court granted the State's petition to deny pretrial release. Initially, the court found that the defendant had a "pretty light criminal history," and that the defendant was only 19 years of age. The court stated that those facts favored the defendant. Next, the court considered factors that favored the State's position. The court found that the State seemed to have "a pretty strong case" based upon the proffer; that the defendant had no ties to the community; and that defendant's residence in St. Clair County was not "close by." The court also considered that the offense involved the theft of a motor vehicle and that the defendant "ran from the police and ran into another county." The court found that this fact suggested a tendency to flee lawful arrest. In addition, the nature of the flight "was at exceedingly high speed through a relatively small town." Thus, the court also determined that the defendant's conduct placed "a lot of people in danger and [was] very irresponsible." That same day, January 28, 2025, the circuit court entered a written order to detain the defendant. Therein, the court found pursuant to section 110-6.1(a)(8) of the Code (725 ILCS 5/110-6.1(a)(8) (West 2022)) that the proof was evident or the presumption great that the defendant committed a qualifying offense, that the defendant posed a real and present threat of willful flight, and that no condition or combination of conditions could mitigate the real and present threat of the defendant's willful flight. On February 3, 2025, the

defendant filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024).

¶ 10 On February 5, 2025, the circuit court held a hearing on the defendant's motion for relief. Defense counsel argued that the defendant should be granted pretrial release. Counsel stated that the defendant was not on probation, parole, or work release at the time of his arrest, and further that the defendant had never been sentenced to the Department of Corrections. Counsel also noted that the defendant reported that he had only one failure to appear for any court proceeding, and that the defendant would submit to any conditions of pretrial release. Counsel advised the circuit court that the defendant had a warrant in St. Clair County, and that if released, the defendant would return to St. Clair County to address that problem before he would come back to take care of his charges in Jefferson County. In response to questioning by the court, defense counsel indicated that the defendant was facing a Class 2 felony of receiving, possessing, or selling a stolen vehicle in St. Clair County. In a follow-up question, the court asked whether the defendant was on pretrial release in St. Clair County. Counsel replied, "I believe he was, your Honor. He doesn't know." Counsel also stated that apparently the defendant did not know about the charge in St. Clair County until he got here.

¶ 11 In response, the State described the circumstances that led to the defendant's arrest and reiterated its previous arguments from the detention hearing. The State asked the circuit court to uphold its previous findings and deny the defendant's motion for relief.

¶ 12 After considering the proffers offered during the detention hearing and the arguments of counsel, the circuit court denied the defendant's motion for relief. The court found that the defendant was facing serious felony charges in the present case; that the defendant was charged with a charge of a similar nature in St. Clair County; and that the defendant had an active warrant

in the St. Clair County case. The court also noted that the defendant admittedly had a prior failure to appear, that the defendant had no ties to the local community, and that the defendant’s conduct fleeing from police in a very busy area at high rates of speed placed the defendant’s passengers and the public in danger. Based on these facts and circumstances, the court found that the defendant posed a “considerable risk of flight if released.” Further, based upon the record, the circuit court found that no condition or combination of conditions would mitigate the risk of willful flight.

¶ 13

II. ANALYSIS

¶ 14 On appeal, the Office of the State Appellate Defender (OSAD) was appointed to represent the defendant. OSAD filed a memorandum in support of the defendant’s appeal. In the memorandum, OSAD argued that the State failed to prove that the defendant posed a real and present threat of willful flight and failed to prove that no conditions or combination of conditions could mitigate the real and present threat of the defendant’s willful flight.

¶ 15 Pretrial release—including the conditions related thereto—is governed by article 110 of the Code (725 ILCS 5/art. 110 (West 2022)).² Section 110-6.1(e) of the Code presumes that all defendants are eligible for pretrial release. 725 ILCS 5/110-6.1(e) (West 2022). A defendant’s pretrial release may be denied only in certain statutorily limited situations. 725 ILCS 5/110-6.1 (West 2022). When the State seeks to deny pretrial release on the basis that a defendant poses a risk of willful flight from prosecution, the State must establish by clear and convincing evidence (a) that the proof is evident or the presumption great that the defendant committed a detainable offense; (b) that defendant “has a high likelihood of willful flight to avoid prosecution,” if released;

²See Pub. Act 101-652, § 10-255 (eff. Jan. 1, 2023); 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 as September 18, 2023).

and (c) and that no condition or combination of conditions case mitigate the defendant's risk of willful flight. 725 ILCS 5/110-6.1(a)(8), (e)(1)-(3) (West 2022).

¶ 16 To set appropriate conditions of pretrial release where the State has filed a petition to detain, the circuit court must determine, whether the State has met its burden by clear and convincing evidence, what 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 circuit court must consider (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the person;³ (4) the nature and seriousness of the specific, real, and present threat to any person that would be posed by the person's release; and (5) the nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process. 725 ILCS 5/110-5(a) (West 2022). The statute lists no singular factor as dispositive. See 725 ILCS 5/110-5(a) (West 2022).

¶ 17 Upon the filing of a motion for relief pursuant to Illinois Supreme Court Rule 604(h)(2), the burden is on the defendant to file a written motion requesting relief from pretrial detention and must allege the grounds for such relief as will be sought on appeal. The circuit court must “promptly hear and decide the motion for relief.” Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024).

³The defendant's history and characteristics include: “the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past relating to drug or alcohol abuse, conduct, *** criminal history, and record concerning appearance at court proceedings,” as well as “whether, at the time of the current offense or arrest, the defendant was on probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal law, or the law of this or any other state.” 725 ILCS 5/110-5(a)(3)(A), (B) (West 2022).

¶ 18 Our standard of review of a pretrial release determination is twofold. When the circuit court is asked to consider the testimony of live witnesses, and make factual findings 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, our standard of review is the manifest weight of the evidence. *Best v. Best*, 223 Ill. 2d 342, 348-49 (2006). “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). Alternatively, when 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 our review is *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54; *Addison Insurance Co. v. Fay*, 232 Ill. 2d 446, 453 (2009).

¶ 19 In this case, the State filed a petition to detain the defendant based upon the willful flight standard. 725 ILCS 5/110-6.1(a)(8) (West 2022). As noted above, the circuit court may deny pretrial release based upon willful flight if the court finds by clear and convincing evidence that a defendant has a high likelihood of willful flight to avoid prosecution and is charged with a qualifying felony. 725 ILCS 5/110-6.1(a)(8) (West 2022). The Code defines “willful flight” as:

“intentional conduct with purpose to thwart the judicial process to avoid prosecution. Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight. Reoccurrence 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 110-1(f) (West 2022).

¶ 20 When determining whether a defendant may be detained based on a “high likelihood of willful flight to avoid prosecution,” the circuit court is to consider only “intentional conduct with a purpose to thwart the judicial process to avoid prosecution,” as provided in the Code’s definition of “willful flight.” 725 ILCS 5/110-1(f) (West 2022). While an act of evading arrest may be viewed as generally obstructing the criminal justice system, it does not reflect a thwarting of the judicial process, which refers to “a defendant’s willful avoidance of prosecution in court by failing to appear at court hearings and similar behaviors.” *People v. Quintero*, 2024 IL App (1st) 232129-U, ¶ 22; *People v. Sims*, 2024 IL App (4th) 231335-U, ¶¶ 28-30. Thus, evading arrest, by itself, would not trigger willful flight from prosecution under section 110-6.1(a)(8) because the act of attempting to evade arrest is not the same as intentional conduct for purposes of thwarting the judicial process to evading prosecution. See *Quintero*, 2024 IL App (1st) 232129-U, ¶¶ 21-22. That said, the circuit court may consider recurring, uncured failures to appear as evidence of a high likelihood of willful flight. Here, the circuit court’s finding that the defendant posed a risk of willful flight from prosecution was not based solely on the defendant’s attempt to evade the police. Rather, the circuit court found, by clear and convincing evidence, that the defendant faced serious felony charges involving unlawful possession of a stolen motor vehicle in the case before it; that the defendant had been charged with a similar felony offense involving possession of a stolen vehicle in St. Clair County; that the defendant had an active warrant in the St. Clair County case at the time of his arrest in the present case; that the defendant had admitted to a prior instance of failure to appear; and that the defendant had no ties to Jefferson County. For purposes of section 110-6.1(a)(8), there was evidence of defendant’s recurrent failure to appear and no evidence that such had been cured.

The evidence of an active warrant and defendant's failure to appear in court to answer serious charges reflects a willful avoidance of the judicial process to avoid prosecution. See generally *People v. Bailey*, 2025 IL App (1st) 242563-U, ¶ 30; *People v. Bloemer*, 2025 IL App (5th) 241240-U, ¶ 23. Based upon the specific facts and the totality of the circumstances presented, the circuit court could reasonably find that the defendant posed a high risk of willful flight to avoid prosecution.

¶ 21 The defendant also contends that there are conditions that could mitigate the risk of willful flight. We disagree. The record shows that the circuit court considered the nature and circumstances of the offense, including failure to pull over when signaled by the police, the defendant's lack of ties to the community, and the defendant's failure to appear, as well as the pretrial investigative report and other relevant evidence, and determined that no condition or combination of conditions would assure that the defendant would appear in court or that he would not reoffend. The circuit court did not err in finding that no conditions could mitigate the risk of willful flight.

¶ 22 III. CONCLUSION

¶ 23 Based upon this record, the circuit court did not err in granting the State's petition to deny pretrial release and in subsequently denying the defendant's motion for relief. Accordingly, the judgment is affirmed.

¶ 24 Affirmed.