NOTICE
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2026 IL App (5th) 260631-U

NO. 5-26-0631

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, Plaintiff-Appellee, v. DONTAVIUS M. HALLIDAY, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Macon County. No. 26-CF-631 Honorable Lindsey A. Shelton, Judge, presiding.

JUSTICE CLARKE delivered the judgment of the court.
Justices Vaughan 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 are affirmed.

¶ 2 The defendant, Dontavius M. Halliday, appeals the May 8, 2026, order from the Macon County circuit court that granted the State's petition to deny pretrial release and the July 16, 2026, denial of his motion for relief and immediate release. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 8, 2026, the defendant was charged with armed violence, aggravated unlawful possession of a weapon, and unlawful possession of weapons by a felon. 720 ILCS 5/33A-2(a); 24-1.6(a)(1), (3); 24-1.1(a) (West 2024). The State filed a verified petition to deny the defendant pretrial release, alleging that the defendant was charged with a detainable offense, that his release

posed a real and present threat to the safety of any person or persons or the community, and that he had a high likelihood of willful flight. 725 ILCS 5/110-6.1(a)(1), (6), (8) (West 2024).

¶ 5 The matter proceeded to a hearing on the petition the same day. The State proceeded by proffer and first asked the court to take judicial notice of the sworn statement of the Decatur Police Department officer filed in the case. The circuit court did so without objection. The report stated that the officer conducted a traffic stop of the defendant for no visible front license plate and dark tinted windows. After running the defendant's information, the officer received information that the defendant was on parole. The defendant denied being on parole. The State then provided that within the report, the "defendant was being detained by officers when he rolled up the window on an officer's arm and then fled the scene at a high rate of speed." The report included that the officer pulled the window down to remove his arm from the vehicle window as the defendant "accelerated at a high rate of speed." After the defendant stopped the vehicle, he exited and fled on foot. While searching the vehicle, officers discovered two fully loaded handguns, 237.5 grams of cannabis, two packages of pills, 13.9 grams of a controlled substance, two cell phones, and $1,000 in cash, all of which were "consistent with drug dealing and trafficking."

¶ 6 The State proffered that the defendant's criminal history included manufacture and delivery of drugs and domestic battery. The defendant had eight felony convictions, and he was on parole at the time of his arrest. The State asserted that there was no set of conditions that would mitigate the defendant's risk to the public or that could "verify or ensure" the defendant's presence in court due to his flight risk. The State said that the defendant was "perfectly willing to flee the police in any capacity that he is able." The State asked that the defendant be denied pretrial release.

¶ 7 Defense counsel proffered that the defendant was attending barber school and had three children. Further, according to his records, the defendant successfully completed his probation. The defendant would agree to any conditions of pretrial release.

¶ 8 The circuit court stated that the defendant was charged with a detainable offense, and that he posed a real and present threat to the community. The defendant had eight felony convictions, and the police statement indicated that the defendant did not cooperate with Illinois State Police, as he "fled the scene at a high rate with the trooper's arm still in the vehicle after the defendant rolled the window up with the trooper's arm in the vehicle." The defendant was later located a mile away after fleeing on foot. The defendant had two loaded guns in the vehicle, and scored an eight on the Virginia Pretrial Risk Assessment Instrument (VPRAI).[1]

¶ 9 The circuit court found that the State proved that no condition or combination of conditions could mitigate the defendant's real and present threat, as the "situation" in this case involved the defendant "attempting to flee with the officer's arm still in the vehicle, which obviously poses a very dangerous situation for that particular trooper." Further, the State proved that the defendant posed a willful flight risk, and no conditions could mitigate that risk. The circuit court noted that the defendant was not on parole at the time of the offense. The court denied pretrial release and entered a written order the same day, summarizing the findings stated on the record.

¶ 10 On July 1, 2026, the defendant filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h) (eff. Apr. 15, 2024). The motion alleged that the State failed to prove that the defendant posed a real and present threat to the safety of the community and did not address possible conditions, either in its verified petition or during the initial detention hearing. The State

[1]A score of 8 on the VPRAI indicates a 21.4% risk of failure rate of violations of pretrial release conditions.

did not prove why conditions such as "GPS-monitored home confinement, and curfew restrictions" would not mitigate any risk. The motion asserted that the circuit court erred in finding that the State proved that no condition or combination of conditions could mitigate the defendant's risk to the safety of any person or persons or the community. The defendant asked to be released with conditions.

¶ 11 The matter proceeded to a hearing on July 16, 2026. Defense counsel proceeded, arguing that the State did not articulate any reasons "why conditions or combination of conditions could not be sufficient to protect the community" from the defendant. Defense counsel stated that the defendant left the traffic stop because he knew he was not on parole, informed the officer, but felt like "something was not right" with the stop. The defendant was "taking care of his children" at the time, and he was also "just months away from finishing his certificate for barber school." Defense counsel stated that the defendant "was not out causing problems" and this was a "miscommunication between the driver and the officer." Further, the defendant was "afraid" during the traffic stop because the officer was not listening to what he was saying, and that was why he left the traffic stop. Defense counsel asked for the defendant's release with conditions, including electronic monitoring that would allow him to work, go to school, and help his children.

¶ 12 The State said that the defendant had a long criminal history. He probably was afraid during the traffic stop because the officer was "going to find a gun and cannabis in his car." The State asserted that even if the defendant was afraid, he was not permitted to flee with the officer's arm in his window and drive away. Defense counsel objected to this statement, asserting that she did not "recall seeing that in the video," but then said, "I could be wrong. It's been a minute since I've seen the video." The State asserted that this fact was included in the sworn statement, and the circuit court instructed the State to continue. The State said that if the defendant wished to be

released to help his kids, it was "up to the defendant not to get in trouble and not to have a gun and cannabis in his car so he can take care of his kids." The State asked that the defendant remain detained pending trial.

¶ 13 The circuit court stated that it considered the written motion, the proffers, arguments, and the officer's sworn statement as part of the petition. The court found that the State proved at the initial detention hearing, by clear and convincing evidence, that the defendant posed a real and present threat to the public and that no condition or combination of conditions would mitigate that threat. The State also proved by clear and convincing evidence that the defendant posed a risk of willful flight and that no condition or combination of conditions would mitigate that risk. The court stated that this finding was based on the nature and circumstances proffered and included in the police statement, the defendant's risk assessment, and his lengthy criminal history. The court also considered that the defendant was not on parole when the traffic stop occurred, but noted that he could not flee the traffic stop in his vehicle or on foot. The court noted that conditions would not be sufficient, specifically considering electronic monitoring and home confinement. These conditions would not be sufficient because they would not inform the court if the defendant were in further possession of a firearm or controlled substances. The circuit court denied the motion for relief. The defendant appealed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, the defendant argues that the State failed to prove by clear and convincing evidence that he posed a real and present threat to the safety of any person or persons or the community that conditions cannot mitigate, or that he had a high likelihood of willful flight.

¶ 16 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)).

¶ 17 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.

¶ 18 A. Real and Present Threat

¶ 19 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)).

¶ 20 With these factors in mind, we now consider, as the circuit court did, the record presented. First, the nature and circumstances of the offenses charged against the defendant involve a crime of violence and the use of a weapon. 725 ILCS 5/110-6.1(g)(1) (West 2024). The defendant had eight prior felonies and was not permitted to possess firearms, but officers discovered two fully loaded firearms alongside the controlled substances. The defendant also rolled his window up on an officer's arm and drove away with it still in the window, then later fled from officers on foot. The defendant's criminal history does indicate "violent, abusive, or assaultive behavior, or lack of such behavior," as he had two convictions for domestic battery and one conviction for burglary, alongside multiple other offenses such as possession of controlled substances, theft, and reckless driving. *Id.* § 110-6.1(g)(2). Further, the defendant was known to possess weapons, despite not being able to do so legally. *Id.* § 110-6.1(g)(7). The defense argues that the State relied only on the

offense itself, but the record shows that all the factors surrounding the detainable offense were taken into consideration.

¶ 21 B. Conditions

¶ 22 Once a court determines that the defendant poses a threat to the safety of any individual or the community, the circuit court must determine whether the State has met its burden of proving 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 2024). 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 defendant; (3) the history and characteristics of the defendant;[2] (4) the nature and seriousness of the specific, real, and present threat to any person that would be posed by the defendant's release; and (5) the nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process. *Id.* § 110-5(a)(1)-(5). The Code lists no singular factor as dispositive. See *id.* § 110-5(a). The nature and circumstances of the underlying offense is "just one factor to consider in determining whether the threat posed can be mitigated by conditions of release." *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 19.

¶ 23 As we are employing *de novo* review, we will apply these same factors to the evidence proffered. We find the following factors support the conclusion that no condition or combination

[2]The 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 2024).

of conditions could mitigate the real and present threat posed by the defendant. First, the nature and circumstances of the offenses charged. The defendant was charged with armed violence, aggravated unlawful possession of a weapon, and unlawful possession of a weapon by a felon. All of these offenses involved the illegal possession of a weapon. 725 ILCS 5/110-5(a)(1) (West 2024). The weight of the evidence against the defendant included a sworn statement from the officer involved, including that his arm was stuck in the window when the defendant began to drive away. *Id.* § 110-5(a)(2). While the defendant argues that defense counsel's statements during the hearing "undercuts" this fact, defense counsel herself stated that she did not observe this in the video, but it had "been a minute since" she watched the video and she "could be wrong" about that fact. This statement does not take away from the weight of the evidence presented by the State, including the firearms and controlled substances officers discovered in the vehicle. The defendant's criminal history also showed multiple offenses involving controlled substances, driving violations, and domestic battery. *Id.* § 110-5(a)(3). While the defendant was not on parole as the arresting officer initially thought, he was a convicted felon who was not permitted to possess firearms, but did so anyway, which showed his history of ignoring court orders and violating the law. Accordingly, based on our independent review, we agree with the circuit court that no condition or combination of conditions would mitigate the threat posed by the defendant.

¶ 24 C. Willful Flight

¶ 25 The defendant also argues that the State failed to prove that he posed a high likelihood of willful flight. The defendant, however, correctly notes that his motion for relief did not argue willful flight. He asks this court to find that his defense counsel was ineffective for failing to include the issue in the motion for relief.

¶ 26 The defendant filed his motion for relief as required by Rule 604(h) (eff. Apr. 14, 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. 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.

¶ 27 The defendant asserts that his defense counsel was ineffective for failing to include the issue of willful flight in the motion for relief. "To prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *People v. Cathey*, 2012 IL 111746, ¶ 23. At the pretrial release stage, we found that a "defendant cannot show a reasonable probability that the result of the criminal process would have been different because ***[the] defendant's trial has not been held." *People v. Drew*, 2024 IL App (5th) 240697, ¶ 37. Thus, no prejudice can be shown at the pretrial stage of a defendant's case. Because the defendant cannot prove that his defense counsel's performance prejudiced him, his claim of ineffective assistance of counsel fails.

¶ 28 III. CONCLUSION

¶ 29 Based on the foregoing reasons, we affirm the circuit court's orders of May 8, 2026, and July 16, 2026.

¶ 30 Affirmed.