

2024 IL App (2d) 230499-U  
No. 2-23-0499  
Order filed February 13, 2024

**NOTICE:** This order was filed under Supreme Court Rule 23(b) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of McHenry County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 23-CF-507
	)	
CONNOR C. KIRKPATRICK,	)	Honorable
	)	Tiffany E. Davis,
Defendant-Appellant.	)	Judge, Presiding.

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PRESIDING JUSTICE McLAREN delivered the judgment of the court.  
Justices Jorgensen and Kennedy concurred in the judgment.

**ORDER**

¶ 1 *Held:* Pretrial detention order properly entered where defendant filed only notice of appeal and record showed order was not against manifest weight of evidence as to dangerousness of releasing defendant prior to trial and lack of conditions that could mitigate the threat to a person or the community, or defendant's willful flight. Affirmed.

¶ 2 Defendant, Connor C. Kirkpatrick, timely appeals the detention order entered on October 27, 2023, pursuant to Public Act 101-652, § 10-255 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). This court has jurisdiction pursuant to Illinois Supreme Court Rule 604(h) (eff. Oct. 19, 2023).

¶ 3

## I. BACKGROUND

¶ 4 On May 21, 2023, the State charged defendant with aggravated arson with knowledge of people inside the structure (720 ILCS 5/20-1.1(a)(1) (West 2022) (Class X)); residential arson (*id.* § 20-1(b) (Class 1)); and criminal damage to property using fire or explosives and causing more than \$100,000 in damage (*id.* § 21-1(a)(2) (Class 1)). On June 1, 2023, the trial court set bail at \$500,000. Thereafter, the State filed a petition to deny bail. The court eventually revoked defendant's bond in both this case (No. 23-CF-507), and in case No. 22-CF-639, in which defendant was out on bond during the commission of case No. 23-CF-507. Defendant remained in jail after this time.

¶ 5 On October 25, 2023, defense counsel filed a motion for a hearing as to pretrial release. The following day, the State filed a motion to deny pretrial release, and on October 27, 2023, the trial court held a hearing on the State's motion. On November 6, 2023, defendant filed a timely notice of appeal of the trial court's order denying him pretrial release. Defendant filed a notice in lieu of Rule 604(h) memorandum on January 4, 2024. Ergo, any claims and arguments of error are solely contained in the notice of appeal.

¶ 6

## II. ANALYSIS

¶ 7 Defendant raises two issues of error. The first issue claimed (with elaboration) he is not a real and present threat to any person or the community. The second issue claimed (without elaboration) that the State failed to prove there is no condition or combination of conditions that can mitigate the threat to a person or the community, or defendant's willful flight.

¶ 8 We review the trial court's order under a bifurcated standard of review. *People v. Trotter*, 2023 IL App (2d) 230317, ¶ 13. We review the trial court's factual findings to determine whether they are against the manifest weight of the evidence. *Id.* A finding is against the manifest weight

of the evidence if the opposite conclusion is clearly apparent or if the finding is unreasonable, arbitrary, or not based on the evidence presented. *Id.* We review the court’s ultimate determination regarding pretrial release for an abuse of discretion. *Id.* An abuse of discretion occurs when the court’s decision is arbitrary, fanciful, or unreasonable, or where no reasonable person would take the view adopted by the trial court. *Id.*

¶ 9 We address the merits, including any elaboration contained in the notice of appeal, mindful of the following established law:

“A reviewing court is entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented (134 Ill.2d R. 341(e)(7)), and it is not a repository into which an appellant may foist the burden of argument and research [citation]; it is neither the function nor the obligation of this court to act as an advocate or search the record for error [citation]. Accordingly, these contentions are waived.” *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993).

¶ 10 Regarding the first claimed issue of error, that defendant is not a real and present threat to any person or the community, defendant elaborated: “Defendant has been receiving the proper psychotropic drugs for several months now and is no longer a threat to the community. The [d]efendant no longer poses a real and present threat to the safety of the community, and the [d]efendant will benefit from non-custodial psychological therapy.” This is procedurally insufficient to meet the requirements of Rule 604(h). Instead, we agree with the following quote:

“Rule 604(h) requires the notice of appeal to include a description of the relief to be requested “*and the grounds for the relief requested.*” (Emphasis in original.) [*People v. Inman*, 2023 IL App (4th) 230864, ¶ 12 (quoting Ill. S. Ct. R. 604(h)(2) (eff. Sept. 18, 2023))]. Accordingly, ‘some form of argument is required, along with justification for

claiming entitlement to relief—like references to the record, the evidence presented, or, if possible, legal authority.’ *Id.* A reviewing court ‘cannot be expected to formulate an argument for defendant out of whole cloth.’ *Id.* ¶ 13. ‘The appellate court is not a depository in which the appellant may dump the burden of argument and research.’ *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). As a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5.” *People v. Forthenberry*, 2024 IL App (5th) 231002, ¶ 43.

¶ 11 Where no memorandum is filed, the checked boxes in the notice of appeal are the equivalent of raising issues in an appellate brief. Ill. S. Ct. R. 341(h)(3) (eff. Oct. 1, 2020). As such, the issues are claims of error. Any additional elaboration becomes the argument or authority. We have the authority to view the record to see if there is an insufficiency or related error. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976) (“We do not feel that a court of review should be compelled to serve as an advocate for the appellee or that it should be required to search the record for the purpose of sustaining the judgment of the trial court. *It may, however, if justice requires, do so.*” (Emphasis added.)).

¶ 12 If a review of the record shows any evidence to support the judgment, vis-à-vis no evidence to support the judgment, then, if there is a failure to cite to the record or authority, or to make cohesive argument, forfeiture should be declared. Also, as stated twice above, this court is not to advocate for any party.

¶ 13 The elaboration in the notice of appeal regarding dangerousness—“[d]efendant has been receiving the proper psychotropic drugs for several months now and is no longer a threat to the community. The [d]efendant no longer poses a real and present threat to the safety of the

community, and the [d]efendant will benefit from non-custodial psychological therapy”—is informative as to defendant’s medical history but insufficient to refute the court’s findings of dangerousness. The court’s written order reflects that it relied on defendant’s status on bond at the time of the commission of this case in making its determination. The court also relied on the risk defendant posed to his father, as the arson victim, and to a victim who was made a paraplegic as a result of the events in defendant’s previous criminal case. Finally, the written order reflects that the court considered defendant’s criminal history. Because defendant’s claim, including his elaboration, does not come close to making a cohesive argument with citations to the record or to authority, we conclude that the court’s findings are not against the manifest weight of the evidence, nor is the judgment an abuse of discretion.

¶ 14 Regarding the second claimed issue of error, defendant asserts that the State failed to prove that no condition or combination of conditions could mitigate the threat to a person or the community, or defendant’s willful flight. Defendant did not provide any elaboration, citation to the record or authority, nor a cohesive argument to support his claim. Instead, he depends upon this court to search out and find error. We will not concoct arguments for defendant, thus, this issue is forfeited. Forfeiture aside, the facts cited above support pretrial detention. Accordingly, the trial court’s findings were not against the manifest weight of the evidence, and its ultimate decision denying defendant’s pretrial release was not an abuse of discretion.

¶ 15

### III. CONCLUSION

¶ 16 We affirm the judgment of McHenry County.

¶ 17 Affirmed.