

2026 IL App (4th) 260606

NO. 4-26-0606

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

August 27, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Livingston County
NORMAN J. MAYER,	)	No. 26CF66
Defendant-Appellant.	)	
	)	Honorable
	)	Mary E. Koll and
	)	Randy A. Yedinak,
	)	Judges Presiding.

JUSTICE ZENOFF delivered the judgment of the court, with opinion.
Justices DeArmond and Harris concurred in the judgment and opinion.

OPINION

¶ 1 Defendant, Norman J. Mayer, appeals an order denying his motion for relief from an order granting the State’s petition to detain him before trial pursuant to article 110 of the Code of Criminal Procedure of 1963 (725 ILCS 5/art. 110 (West 2024)). On appeal, defendant’s sole argument is that the attorney who represented him at the initial detention hearing, and then again in connection with the motion for relief, labored under a *per se* conflict of interest. We affirm the judgment, as defendant waived this issue by failing to raise it below in his motion for relief.

¶ 2 I. BACKGROUND

¶ 3 On March 13, 2026, the State charged defendant with unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2024)), domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2024)) for pushing his wife, and battery (720 ILCS 5/12-3(a)(2) (West 2024)) for pushing

another individual. The State filed a petition to deny defendant pretrial release.

¶ 4 On March 13, 2026, the trial court, Judge Mary E. Koll presiding, held a hearing on the State's petition. At the beginning of the proceeding, the court asked the attorney who appeared for defendant for purposes of that hearing, Maggie Clark, whether she had an opportunity to confer with defendant. Clark responded, "Yes, Your Honor, and before we get started, I would just put on the record I do represent one of the victims in another case, but typically that's fine for these detention hearings." The court asked defendant whether he had "any concern about Ms. Clark representing [him] today." Defendant replied, "No." The court informed defendant of the nature of the charges, received a probable cause statement from the prosecutor, proceeded to a detention hearing, and ultimately granted the State's petition. The court then appointed the public defender to represent defendant going forward and set the matter for a preliminary hearing before Judge Randy A. Yedinak on April 1, 2026.

¶ 5 On March 16, 2026, the public defender filed a notice that attorney William Bertram was assigned to represent defendant in this case.

¶ 6 Bertram represented defendant during a court appearance before Judge Yedinak on April 1, 2026. That day, defendant waived his right to a preliminary hearing. The trial court set the matter for a pretrial conference on April 16, 2026, and for a jury trial on May 18, 2026. The court asked the parties whether they had any additional arguments or evidence they wished to present with respect to the issue of pretrial detention. Both the prosecutor and Bertram said there was nothing new to present. The court stated:

"All right. I have had a chance to review the record, and for the reasons previously stated, I'll find that the continued detention is necessary to avoid a real and present threat to the safety of any person or persons or the community, and

therefore the detention order will remain in effect.”

¶ 7 On April 16, 2026, Bertram appeared on defendant’s behalf before Judge Yedinak and requested continuing the matter to the June jury calendar. The State had no objection. The trial court set the matter for a pretrial conference on May 27, 2026, and for trial on June 26, 2026. Like what happened on April 1, 2026, both the prosecutor and Bertram indicated they had no additional evidence or argument to present relating to defendant’s pretrial detention, and the court made a finding that continued detention was necessary.

¶ 8 On May 4, 2026, Clark, identifying herself as a “Special Public Defender,” filed a motion for relief from pretrial detention on defendant’s behalf, pursuant to Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024). The only issue raised in the motion was whether any available and appropriate conditions could allow for defendant’s pretrial release.

¶ 9 On May 13, 2026, Clark represented defendant in connection with the motion for relief in a hearing before Judge Yedinak. The trial court denied defendant’s motion.

¶ 10 On May 27, 2026, Bertram appeared for defendant at a pretrial conference before Judge Yedinak. Bertram requested another continuance, which the trial court granted. As previously, both the prosecutor and Bertram indicated they had no additional evidence or argument to present relating to defendant’s pretrial detention, and the court made a finding that continued detention was necessary.

¶ 11 Also on May 27, 2026, Clark filed a notice of appeal on defendant’s behalf pursuant to Illinois Supreme Court Rule 604(h) (eff. Apr. 15, 2024). The notice of appeal identified Bertram as defendant’s trial attorney and listed the dates of the hearings regarding pretrial release as (1) March 13, 2026, (2) April 1, 2026, (3) April 16, 2026, (4) May 13, 2026, and (5) May 27, 2026.

¶ 12

II. ANALYSIS

¶ 13 On appeal, defendant is represented by the Office of the State Appellate Defender. Unlike a typical appeal involving pretrial detention, defendant does not dispute whether the State met its burden of proof to justify detention. Rather, defendant argues that Clark had a *per se* conflict of interest because she simultaneously represented both him and one of the individuals he was charged with battering. According to defendant, because the record does not reflect that he validly waived the conflict of interest, we should “reverse the detention order and remand for a new detention hearing.”

¶ 14 Defendant acknowledges that he did not raise this issue in his motion for relief, so the issue would ordinarily be deemed waived for purposes of this appeal. See Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024) (“Upon appeal, 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.”); *People v. Nettles*, 2024 IL App (4th) 240962, ¶ 32 (explaining that there is “no reason to conclude that the [supreme] court did not mean what it said” when it indicated in Rule 604(h)(2) that issues not raised in a motion for relief are waived). Nevertheless, analogizing the circumstances to a rule that developed in the context of the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2024)), defendant asks us not to deem his claim waived.

¶ 15 The State responds that defendant waived his right to raise a claim regarding a conflict of interest by failing to raise it in his motion for relief. The State argues that defendant’s claim lacks merit anyway, as he knowingly waived the conflict of interest in open court on March 13, 2026. The State also contends that there would be no purpose in remanding the matter for a new detention hearing, given that defendant does not challenge the detention findings and the record amply supports the conclusion that he should be detained.

¶ 16 At the outset, we note that defendant cites no case where a reviewing court

remanded a cause for a new pretrial detention hearing based on an attorney’s conflict of interest at the initial detention hearing. Rather, in presenting his claim, defendant relies heavily on cases where individuals were convicted of offenses and then raised issues on direct appeal about whether their trial attorneys had conflicts. In what appears to be an issue of first impression, defendant maintains that we should apply the logic from that body of case law to a situation where he has not yet gone to trial.

¶ 17 However, we cannot address the substance of defendant’s arguments unless the issue is properly before us. Defendant plainly waived the issue he seeks to raise by failing to include it in his motion for relief. See Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). Nevertheless, he asks us not to deem his claim waived because Clark—the attorney who had the purported *per se* conflict of interest and represented him at the hearing on the State’s detention petition—also filed and argued the motion for relief on his behalf. According to defendant, enforcing waiver based on Rule 604(h)(2) here would be tantamount to finding that Clark “waived her own conflict.”

¶ 18 Defendant analogizes the circumstances to a waiver exception that developed in the postconviction petition context. Specifically, defendant notes that the Act provides that “[a]ny claim of substantial denial of constitutional rights not raised in the original or an amended [postconviction] petition is waived.” 725 ILCS 5/122-3 (West 2024). Defendant emphasizes that courts have recognized an exception to that rule where (1) an incarcerated individual alleges in a proposed successive postconviction petition that his or her attorney was ineffective for failing to raise an issue on direct appeal and (2) that same attorney also represented the defendant in connection with the initial postconviction proceedings. See, *e.g.*, *People v. Erickson*, 183 Ill. 2d 213, 223 (1998).

¶ 19 The postconviction exception that defendant cites does not, by analogy, support

overlooking waiver here. The exception relates to whether a petitioner should be allowed to file a successive postconviction petition *in the trial court* without certain claims being deemed waived. Here, by contrast, defendant raises a claim on appeal that he did not raise below. Even in the postconviction context, a petitioner generally may not raise new claims on appeal. See *People v. Jones*, 213 Ill. 2d 498, 508-09 (2004).

¶ 20 Moreover, unlike a postconviction petitioner, defendant has not been convicted of an offense in this case, and the trial court proceedings are ongoing. As we explained in *Nettles*, “ ‘an expedited, limited review of detention decisions is designed in the first instance to be review of the trial court’s decision,’ ” and it is “ ‘unreasonable to expect this expedited process to carry the same weight and scope of argument that is seen in a direct appeal following conviction.’ ” *Nettles*, 2024 IL App (4th) 240962, ¶ 31 (quoting Ill. Sup. Ct. Pretrial Release Appeals Task Force, Report and Recommendations 7 (2024)) https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/628434e3-d07f-4ead-b1f6-4470d7e83bf3/Pretrial%20Release%20Appeals%20Task%20Force%20Report_March%202024.pdf [https://perma.cc/LL5Y-R4FN]. Thus, the present expedited, interlocutory appeal is not the proper forum to litigate an issue of constitutional magnitude that was not raised below. This is especially true because the record attendant to defendant’s conflict-of-interest claim has not been fully developed, and we have no findings on that issue to review.

¶ 21 Furthermore, unlike in the postconviction context, where a petitioner must seek leave of court to raise new claims in a successive postconviction petition (see *People v. Bailey*, 2017 IL 121450, ¶ 15), defendant may challenge his detention in the trial court at any time before the charges against him are adjudicated. Indeed, at each court appearance, the court is required to consider the necessity of defendant’s continued detention. See 725 ILCS 5/110-6.1(i-5) (West

2024). Unlike a postconviction petitioner, who has limited recourse to challenge his or her conviction in a collateral proceeding, if defendant believes there is some reason he should not be detained before trial or he should receive a new detention hearing, he may articulate his reasons to the trial court at any future court appearance, and a record can be made.

¶ 22 Finally, defendant expresses concern that deeming his claim waived because it was not raised in the motion for relief would essentially allow Clark to “waive[] her own conflict.” We note that Bertram, who apparently does not have any conflict of interest, could have challenged defendant’s pretrial detention when Judge Yedinak gave him the opportunity on three occasions. Thus, contrary to what defendant seems to suggest, he was not solely at the mercy of the allegedly conflicted counsel to bring his conflict-of-interest claim to the trial court’s attention.

¶ 23 Accordingly, we express no opinion regarding the merits of the issue defendant raises about Clark’s representation of him. We simply hold that defendant waived his right to raise the issue in this appeal because he failed to include it in his motion for relief. Because defendant raises no other challenge, we affirm the judgment ordering his pretrial detention.

¶ 24 III. CONCLUSION

¶ 25 For the reasons stated, we affirm the trial court’s judgment.

¶ 26 Affirmed.

People v. Mayer, 2026 IL App (4th) 260606

Decision Under Review: Appeal from the Circuit Court of Livingston County, No. 26-CF-66; the Hon. Mary E. Koll and the Hon. Randy A. Yedinak, Judges, presiding.

**Attorneys
for
Appellant:** James E. Chadd, Carolyn R. Klarquist, and Michael H. Orenstein, of State Appellate Defender's Office, of Chicago, for appellant.

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