

Order filed June 3, 2024.
Modified upon denial of
rehearing June 12, 2024.

2024 IL App (5th) 240155-U
NO. 5-24-0155

IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Vermilion County.
)	
v.)	No. 24-CF-50
)	
HANNIBAL JOHNSON,)	Honorable
)	Derek J. Girton,
Defendant-Appellee.)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Justice McHaney concurred in the judgment.
Justice Welch dissented.

ORDER

¶ 1 *Held:* The circuit court abused its discretion by denying the State’s petition to detain defendant, where the State proved by clear and convincing evidence that defendant committed a detainable offense.

¶ 2 The State appeals the January 26, 2024, order of the circuit court of Vermilion County denying the State’s petition for pretrial detention and granting defendant, Hannibal Johnson, pretrial release with conditions. Pretrial release is governed by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act (Act), as codified in article 110 of the Code of Criminal Procedure of 1963 (Code)(725 ILCS 5/art. 110 (West 2022)). See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of the Code); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (lifting stay and setting effective date as

September 18, 2023). On appeal, the State argues that the circuit court erred by denying the State's request to deny pretrial release. Defendant responds, arguing that the court did not abuse its discretion by denying the State's petition to detain, where the State did not prove by clear and convincing evidence that defendant committed a detainable offense. For the following reasons, we reverse the circuit court's order granting defendant pretrial release and remand the matter for further proceedings.¹

¶ 3

I. BACKGROUND

¶ 4 On January 25, 2024, the State charged defendant by information with one count of aggravated battery with a deadly weapon, a Class 3 felony (720 ILCS 5/12-3.05(f)(1) (West 2022)). The information alleged that on January 24, 2024, defendant, while committing a battery, and by use of a deadly weapon, a knife, knowingly caused harm to Tynisha Earl when defendant cut Earl in the left arm with a knife. The same day, the State filed a verified petition to deny defendant pretrial release. The petition alleged that defendant posed a real and present threat to the safety of any person or persons or the community, and no condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case.

¶ 5 On January 26, 2024, the circuit court held a hearing on the State's petition to deny pretrial release. The State's proffer indicated that defendant had a substantial criminal history, including multiple violent convictions. Defendant was convicted in 16-CF-179 for aggravated battery of a pregnant or handicapped person, for which he received probation. Defendant was convicted in 16-

¹Pursuant to Illinois Supreme Court Rule 604(h)(5) (eff. Dec. 7, 2023), our decision in this case was due on or before April 22, 2024, absent a finding of good cause for extending the deadline. Based on the high volume of SAFE-T Act appeals currently under the court's consideration, and due to the complexity of issues and the lack of precedential authority available, we find there to be good cause for extending the deadline.

CF-661 for aggravated battery “for bodily harm” for which he received four years in prison. Following his release, in 22-CM-591, defendant was convicted for misdemeanor battery for which he received conditional discharge. The pretrial investigation report indicated that defendant was on conditional discharge for 22-CM-591 at the time of the charge from the instant matter.

¶ 6 The State proffered that on January 24, 2024, defendant stabbed Tynisha Earl. During an argument, Earl “may have initially had the knife” but defendant “took that knife from her and then stabbed her” in the arm. Officer Sentelle arrived on scene and spoke to witnesses. The State proffered that there was security video footage “confirming these events.” Officer Sentelle observed Earl with an approximately four-inch-long laceration “that went all the way to the bone” and required Earl to seek care at the hospital.

¶ 7 Officer Lomax later located defendant. Defendant also had a small cut on his shoulder which required medical treatment. However, the State proffered that law enforcement indicated that “defendant was the aggressor and also the one who did the most harm to the other individual.”

¶ 8 Defense counsel argued that defendant also sustained serious injuries which required “medical attention and stitches.” Defense counsel also argued that there were reports that there was security footage, however, defense counsel expressed concern about the footage and whether the incident was actually captured by surveillance. Defense counsel argued that there was not clear and convincing evidence that defendant “was the aggressor and not defending himself.”

¶ 9 The circuit court in its oral pronouncement ruled: “I do find that there is a question as to the ability of the State to show by clear and convincing evidence and the presumption that the defendant committed a qualifying offense ***.” As such, the court released defendant with the standard conditions, including defendant’s presence at further court hearings, informing the court

of address changes, reporting to pretrial services, refraining from using a firearm or other dangerous weapons, and that defendant have no contact with Tynisha Earl.

¶ 10 Following the court's ruling, the State asked the court for permission to expand on its argument, which the court allowed. The State noted that there were multiple witnesses that observed the incident. The witnesses indicated that defendant was the aggressor, and one witness specifically noted that defendant had a knife of his own prior to Earl having a knife. Following the proffer, the court simply noted that it stood by its earlier findings.

¶ 11 The circuit court's January 26, 2024, written conditions of pretrial release order notes that defendant was charged with a detention-eligible offense, but following the detention hearing, the court denied the State's petition to detain.

¶ 12 On January 29, 2024, the State filed a timely notice of appeal of the circuit court's granting of pretrial release. In the notice of appeal, the State argues that (1) the court erred in its determination that the State failed to meet its burden of proving by clear and convincing evidence that the proof is evident or presumption great that defendant committed the offenses charged;² (2) the court erred in its determination that the State failed to meet its burden of proving by clear and convincing evidence that defendant poses a real and present threat to the safety of any person or persons or the community based on the specific articulable facts of the case;³ and (3) the court erred in its determination that the State failed to meet its burden of proving by clear and convincing evidence that no condition or combination of conditions can mitigate the real and present threat to

²In the portion of the form where the State can further explain its argument, the State argued that the factual bases demonstrated that defendant committed a domestic battery as witnessed by three people.

³In the portion of the form where the State can further explain its argument, the State noted that the factual bases demonstrated that defendant committed a domestic battery against a specific person. The State further argued that defendant's series of violent offenses and criminal history demonstrated that defendant posed a real and present threat.

the safety of any person, persons, or the community, based on the specific, articulable facts of the case or defendant's willful flight.⁴

¶ 13

II. ANALYSIS

¶ 14 On appeal, the State argues that the circuit court erred by denying its request to deny pretrial release. Defendant responds, arguing that the circuit court did not abuse its discretion by denying the State's petition, where the State did not prove by clear and convincing evidence that defendant committed a detainable offense. We agree with the State, reverse the circuit court's order, and remand for a new detention hearing.

¶ 15 Pretrial release, including any conditions related thereto, is governed by the Act as codified in article 110 of the Code (725 ILCS 5/art. 110 (West 2022)). Under the Code, as amended by the Act, a defendant's pretrial release may only be denied in certain statutorily limited situations. *Id.* § 110-6.1. In Illinois, we presume all defendants are entitled to pretrial release. *Id.* §§ 110-2(a), 110-6.1(e).

¶ 16 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 (1) the defendant committed a qualifying offense, (2) the defendant's pretrial release poses a real and present threat to the safety of any person or the community or a flight risk, and (3) 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). If the circuit court finds that the State proved a valid threat to the safety of any person or the community and/or the defendant's likely willful flight to avoid prosecution, or the defendant's

⁴In the portion of the form where the State can further explain its argument, the State argued that defendant's series of violent offenses and criminal history demonstrated that defendant's threat could not be mitigated.

failure to abide by previously issued conditions of pretrial release, the court must determine which 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.” *Id.* § 110-5(a).

¶ 17 Our standard of review of pretrial release determinations is twofold. The circuit court’s factual findings will be reviewed under the manifest weight of the evidence standard. *People v. Trotter*, 2023 IL App (2d) 230317, ¶ 13. “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). The circuit court’s ultimate determination regarding pretrial release will not be reversed absent an abuse of discretion. *People v. Swan*, 2023 IL App (5th) 230766, ¶ 11. An abuse of discretion occurs when the decision of the circuit court is arbitrary, fanciful, or unreasonable, or when no reasonable person would agree with the position adopted by the circuit court. *Id.*

¶ 18 Initially we note that in his memorandum, defendant contends that the State did not prove by clear and convincing evidence that defendant committed a detainable offense. We disagree. Here, defendant was charged with aggravated battery with a deadly weapon. This charge is expressly encompassed in the statute itself:

“the defendant’s pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, and the defendant is charged with a forcible felony, which as used in this Section, means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated robbery, robbery, burglary where there is use of force against another person, residential burglary, home invasion, vehicular invasion, aggravated arson, arson, aggravated kidnaping, kidnaping, *aggravated battery resulting in great bodily harm or permanent disability or disfigurement or any other felony which involves the threat of or infliction of great bodily harm or permanent disability or disfigurement[.]*” (Emphasis added.) 725 ILCS 5/110-6.1(a)(1.5) (West 2022).

Moreover, the circuit court’s written order expressly indicates that defendant was charged with a detainable offense. Therefore, the charge against defendant is a qualifying offense. *Id.* § 110-6.1(a)(6).

¶ 19 Defendant contends that the State failed to prove by clear and convincing evidence that defendant committed the charged offense. The “clear and convincing” standard of proof requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt. *People v. Clay*, 361 Ill. App. 3d 310, 322 (2005). The State’s proffer showed, and the record reveals, that on January 24, 2024, defendant stabbed Tynisha Earl. During an argument, Earl “may have initially had the knife” but defendant “took that knife from her and then stabbed her” in the arm. Officer Sentelle arrived on scene and spoke to witnesses. The State proffered that there was security video footage “confirming these events.” Officer Sentelle observed Earl with an approximately four-inch-long laceration “that went all the way to the bone” and required Earl to seek care at the hospital. Law enforcement indicated that “defendant was the aggressor and also the one who did the most harm to the other individual.” The State noted that there were multiple witnesses that observed the incident. The witnesses indicated that defendant was the aggressor, and one witness specifically noted that defendant had a knife of his own prior to Earl having a knife. The State’s proffer was sufficient to show by clear and convincing evidence that defendant committed the charged offense. Therefore, the circuit court’s order was against the manifest weight of the evidence.

¶ 20 Next, we must determine whether the circuit court erred by finding that the State failed to prove by clear and convincing evidence that defendant posed a real and present threat to the safety of a specific, identifiable person or persons or the community, based on the specific and articulable

facts of the case. Here, the State proffered that defendant's criminal history served as evidence that defendant was a risk to the community. Defendant was convicted in 16-CF-179 for aggravated battery of a pregnant or handicapped person, for which he received probation. Defendant was convicted in 16-CF-661 for aggravated battery "for bodily harm" for which he received four years in prison. Following his release, in 22-CF-591, defendant was convicted for misdemeanor battery for which he remained on conditional discharge when the instant charge was filed.

¶ 21 Despite defendant's criminal history, which included similar batteries and aggravated batteries, the circuit court found that the State did not meet its burden. The court imposed the standard conditions of pretrial release. However, defendant's current charges and past criminal convictions demonstrate defendant's willingness to ignore the law and previously ordered restrictions, particularly where defendant was on conditional discharge for a prior battery when the instant offense occurred. The evidence shows that defendant is a danger to the community because the articulable facts of this case in conjunction with defendant's criminal history demonstrate that defendant is willing to ignore restrictions of his prior convictions and continue to engage in aggravated batteries. Accordingly, we agree with the State that the conditions of pretrial release will likely not prevent defendant from committing further crime.

¶ 22 Although defendant contends that he has a potentially valid affirmative defense of self-defense, this does not preclude the circuit court from entering a detention order. Simply stated, a claim of an affirmative defense is not a bar to detention. "[W]hile the abuse of discretion standard is deferential, it affords the defendant meaningful review and does not amount to a rubber-stamp of the trial court's decision." *People v. Morgan*, 2024 IL App (4th) 240103, ¶ 35. Therefore, we conclude that the circuit court abused its discretion by denying the State's petition and ordering defendant's release.

¶ 23

III. CONCLUSION

¶ 24 For these reasons, we reverse the circuit court’s January 26, 2024, order granting defendant pretrial release and remand the matter to the court for further proceedings consistent with this order.

¶ 25 Reversed and remanded.

¶ 26 JUSTICE WELCH, dissenting:

¶ 27 The standard of review in pretrial release cases has been repeatedly made clear by this court. This court must decline to reweigh the evidence against the defendant. See *People v. Jackson*, 2020 IL 124112. This court may not redetermine whether the State met its burden to prove by clear and convincing evidence that the proof was evident or the presumption great that the defendant committed the charged offense. This court may only consider whether the trial court’s determination that it did not was against the manifest weight of the evidence. See *In re C.N.*, 196 Ill. 2d 181, 208 (2001). “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.” *Deleon*, 227 Ill. 2d at 332.

¶ 28 Here, defense counsel contested the State’s contention that security footage showed the incident occurring. He stated that none of the reports on the security footage indicated that the incident had been captured. Counsel also contested that “all circumstances” suggested the defendant was the aggressor, as Earl had also been arrested in connection with the incident. Counsel also contradicted the State by describing the defendant’s injury not as a small cut, but as “a stab wound that required medical attention and stitches.” Counsel alleged that one witness indicated it had been Earl who first brought the knife into the situation, and that, generally, the witness reports were “conflicting.” The State admitted that witnesses observed Earl possessing a

knife at some point during the incident. The State was unsure of what the inciting argument was about or who initially had the knife.

¶ 29 Based on my review of the record, I cannot say that the trial court's finding that the State failed to show by clear and convincing evidence that the proof was evident or the presumption great that the defendant committed the charged offense was against the manifest weight of the evidence. The opposite conclusion is not clearly evident, and the finding itself is not unreasonable, arbitrary, or not based on the evidence presented. I would affirm the trial court's judgment.

¶ 30 For the above reasons, I respectfully dissent.