

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).

2023 IL App (4th) 230840-U

NO. 4-23-0840

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
December 12, 2023
Carla Bender
4th District Appellate
Court, IL

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| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the |
| Plaintiff-Appellee, |) | Circuit Court of |
| v. |) | Rock Island County |
| ANTHONY M. ECCLES, |) | No. 23CF667 |
| Defendant-Appellant. |) | |
| |) | Honorable |
| |) | Frank R. Fuhr, |
| |) | Judge Presiding. |

JUSTICE CAVANAGH delivered the judgment of the court.
Justice Doherty concurred in the judgment.
Justice Turner specially concurred.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding the trial court’s order denying pretrial release was not an abuse of discretion.

¶ 2 Defendant, Anthony M. Eccles, appeals the trial court’s order denying him pretrial release pursuant to the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110 *et seq.*) (West 2022)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act. Defendant argues the Code does not permit the State to file a verified petition to deny pretrial release in cases where a defendant remains in custody after having been ordered released on the condition of posting monetary bail. Alternatively, defendant argues the court abused its discretion when denying him pretrial release. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In August 2023, defendant was charged with two counts of domestic battery causing bodily harm by biting and striking Jessica Bingham after having been previously convicted of domestic battery. 720 ILCS 5/12-3.2(a)(1), (b) (West 2022). That same day, the trial court set defendant's bond at \$50,000, requiring a deposit of 10%, and he was ordered to have no contact with Bingham. Defendant did not post bond and remained in custody. On September 8, 2023, defendant filed a motion for pretrial release. On September 14, 2023, the State filed a verified petition to deny defendant pretrial release. Therein, the State alleged defendant's pretrial release posed a real and present threat to the physical safety of any person or persons or the community.

¶ 5 On September 19, 2023, the trial court held a detention hearing. The State noted defendant had five prior convictions for domestic battery, including a February 2023 conviction for domestic battery involving Bingham. Defendant scored an 8 on the Ontario Domestic Abuse Risk Assessment (ODARA), which placed him as being high risk to recidivate, at 74%. The State by proffer alleged Bingham was asleep while defendant was playing a game on her tablet and listening to loud music. Bingham woke up and asked defendant to turn the music down. Defendant became upset and an argument ensued. Defendant grabbed Bingham's hand and bent her left finger back and then bit her wrist, leaving a bite mark. Defendant then struck Bingham in the mouth, causing her tooth to hurt and mouth to bleed. When defendant returned to Bingham's apartment, he claimed Bingham attacked him because he wanted to go eat at one of the churches. Defendant had a scrape on his knuckles consistent with striking Bingham in the mouth.

¶ 6 Defendant, through counsel, conceded the domestic battery as charged was a detention-eligible offense. Defendant argued there were no third-party witnesses to the

allegations and the court could address safety concerns by placing defendant on electronic monitoring with a no contact order regarding Bingham as part of his pretrial release.

¶ 7 The trial court found by clear and convincing evidence defendant was charged with a detention-eligible offense and the presumption was great that defendant had committed the offenses as alleged. The court found based on defendant's character, that he was currently on probation for a previous domestic battery involving Bingham, his ODARA score, and his prior record showed a lack of respect for court orders that there were no possible restrictions the court could place on defendant to protect the public. The court found defendant to be a specific threat to Bingham and the community and denied him pretrial release.

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 On appeal, defendant argues (1) the trial court erred when denying him pretrial release because the Code does not permit the State to file a verified petition to deny pretrial release for defendants who remain in custody after having been ordered released on the condition of depositing security; (2) his counsel provided ineffective assistance by failing to move to strike the State's verified petition to deny pretrial release; and (3) the court abused its discretion by finding defendant was a threat and no conditions of bond could mitigate that threat.

¶ 11 The State argues defendant's first two arguments should be stricken pursuant to Illinois Supreme Court Rule 604(h) (eff. Sep. 18, 2023) because they are unrelated to the grounds for relief requested in defendant's notice of appeal. We need not address this issue to reach the merits of defendant's contentions, and, for the reasons that follow, we now deny the State's motion to strike part of defendant's memorandum.

¶ 12 A. Claim Regarding the State's Verified Petition

¶ 13 Defendant specifically contends section 110-6.1(c) of the Code (725 ILCS 5/110-6.1(c) (West 2022)) does not permit the State to file a petition to deny pretrial release where the defendant, as is the case here, remains in custody simply because he could not meet the financial obligations imposed by his bond. Because the State was not permitted to file its verified petition to deny defendant’s pretrial release, he contends the trial court erred by considering and granting the State’s petition. Defendant did not object to the State’s petition and this issue was not raised in his notice of appeal; however, defendant requests we review this error under the plain-error doctrine.

¶ 14 “Under the plain-error doctrine, this court will review forfeited challenges when: (1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant; or (2) a clear or obvious error occurred, and the error is so serious that it affected the fairness of the defendant’s trial and the integrity of the judicial process, regardless of the closeness of the evidence.” *People v. Taylor*, 2011 IL 110067, ¶ 30. A reviewing court begins a plain-error analysis by determining whether error occurred at all. *People v. Sargent*, 239 Ill. 2d 166, 189 (2010).

¶ 15 The issue defendant raises here was recently addressed in *People v. Jones*, 2023 IL App (4th) 230837. In *Jones*, the defendant argued the trial court erred when denying her pretrial release because the Code did not permit the State to file a verified petition to deny pretrial release except during the defendant’s first appearance or upon the defendant’s arrest and release. *Id.* ¶ 12. The defendant in *Jones* also filed a motion for pretrial release prior to the State filing its verified petition to deny pretrial release. *Id.* ¶ 4. We held, “the State’s petition was not barred by the restrictions contained in section 110-6.1(c)(1).” *Id.* ¶ 20.

¶ 16 Because the Code permits the State to file a petition to deny pretrial release in a case in which a defendant remains in custody after being ordered released upon the posting of monetary bail, we adhere to *Jones* and reject defendant’s arguments in the case *sub judice*. Therefore, we do not find error, let alone plain error. *Id.* ¶ 24. Regarding defendant’s alternative argument that counsel rendered ineffective assistance by not moving to strike the State’s verified petition, we conclude “the absence of error nullifies any ineffective assistance of counsel argument because counsel’s performance is not deficient for failing to raise a meritless issue.” (Internal quotation marks omitted.) *Id.*

¶ 17 B. Claim the Trial Court Abused Its Discretion

¶ 18 Defendant also contends the trial court abused its discretion when it found defendant was a threat and that no conditions of bond could mitigate that threat.

¶ 19 We review the trial court’s decision to deny pretrial release for an abuse of discretion. *People v. Inman*, 2023 IL App (4th) 230864, ¶¶ 10-11. A court abuses its discretion by issuing a decision that is arbitrary, fanciful, or unreasonable—a decision with which no reasonable person would agree. *Id.* ¶ 10.

¶ 20 Defendant, in his memorandum to this court, argues he stands on the arguments he made before the trial court. At the hearing, defendant argued there were no third-party witnesses to the allegations and that the trial court could address safety concerns by placing defendant on electronic monitoring with a no contact order regarding Bingham as part of his pretrial release. These arguments at the hearing were offered as an alternative to the State’s request to deny defendant’s pretrial release. On appeal, however, these arguments do not provide a coherent argument as to why the court abused its discretion when denying defendant’s pretrial release. “A reviewing court is entitled to have the issues on appeal clearly defined with pertinent

authority cited and a cohesive legal argument presented. The appellate court is not a depository in which the appellant may dump the burden of argument and research.” (Internal quotation marks omitted.) *Id.* ¶ 13. When reviewing the trial court’s ruling for an abuse of discretion, we will not substitute our judgment for that of the trial court simply because we could have balanced the appropriate factors differently. *Id.* ¶ 11.

¶ 21 “Under the Code, the [trial] court was invested with the responsibility to consider the various factors listed in section 110-6.1(g) (real and present danger), as well as those in section 110-6.1(a)(1)-(8) (feasibility of less restrictive conditions) before finding detention to be appropriate.” *Id.*; see 725 ILCS 5/110-6.1(a)(1)-(8), (g) (West 2022). “We presume the [trial] court knows, follows, and applies the law, unless the record affirmatively rebuts that presumption.” *Inman*, 2023 IL App (4th) 230864, ¶ 14. Our review of the record reveals nothing that rebuts this presumption. The record shows defendant was charged with detainable offenses pursuant to the Code. 725 ILCS 5/110-6.1(a)(4) (West 2022). The trial court provided a written finding summarizing its reasons for concluding defendant should be denied pretrial release, as required by the Code. *Id.* § 110-6.1(h)(1). Defendant has provided this court with no basis for finding the trial court’s written findings and conclusions to be arbitrary, fanciful, or unreasonable. Therefore, we find the court’s denial of defendant’s pretrial release was not an abuse of discretion.

¶ 22 III. CONCLUSION

¶ 23 For the reasons stated, we affirm the trial court’s order and remand the cause for further proceedings.

¶ 24 Affirmed; cause remanded.

¶ 25 JUSTICE TURNER, specially concurring:

¶ 26 I agree we should affirm the trial court's judgment denying defendant's pretrial release. However, I write separately for the reasons stated in my special concurrence in *Jones*. See *Jones*, 2023 IL App (4th) 230837, ¶ 38 (Turner, J., specially concurring). The time restrictions in section 110-6.1(c)(1) of the Code (725 ILCS 5/110-6.1(c)(1) (West 2022)) apply to persons charged on or after the effective date of the amended Code. The procedure applicable to persons charged before the effective date of the amended Code and who are *eligible* for detention is governed by the second paragraph of section 110-7.5(b) of the Code (725 ILCS 5/110-7.5(b) (West 2022)). That paragraph allows the person charged to file a motion for reconsideration of pretrial release conditions to which the State may unquestionably respond.