NOTICE
Decision filed 03/29/24. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2024 IL App (5th) 240093-U

NO. 5-24-0093

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).

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Shelby County.
	)	
v.	)	No. 24-CF-1
	)	
BRENDEN T. BARGER,	)	Honorable
	)	Bryan M. Kibler,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE VAUGHAN delivered the judgment of the court.
Justices Barberis and Boie concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the trial court's order detaining defendant where the State sufficiently proved that there was no condition or combination of conditions that could mitigate defendant's willful flight and the trial court's detention order regarding the less restrictive conditions finding complied with the statutory requirements.

¶ 2 Defendant, Brenden T. Barger, appeals the trial court's order denying his pretrial release pursuant to Public Act 101-652, § 10-255 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act (Act). See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (lifting stay and setting effective date as

September 18, 2023). For the following reasons, we affirm the trial court's order denying defendant pretrial release.[1]

¶ 3 I. BACKGROUND

¶ 4 On January 2, 2024, defendant was charged, by information, with possession of a converted vehicle, a Class 2 felony, in violation of section 4-103.2(a)(1) of the Illinois Vehicle Code (625 ILCS 5/4-103.2(a)(1) (West 2022)); aggravated fleeing to elude a police officer, a Class 4 felony, in violation section 11-204.1 of the Illinois Vehicle Code (*id.* § 11-204.1); and two counts of forgery, Class 3 felonies, in violation of section 17-3 of the Criminal Code of 2012 (720 ILCS 5/17-3 (West 2022)). Defendant also received tickets for driving on a suspended license, improper turn signal usage, failing to yield to oncoming traffic, and three separate disregard of traffic control device occurrences.[2] A pretrial investigation report was filed the same day. The report revealed defendant lived with his mother in Watson, Illinois, for 12 years, and had one family member who lived in Shelby County. Defendant reported being single with no children. He also reported a history of using methamphetamines, last using the drug on December 29, 2023, and that he suffered from depression but was not taking medication. The report noted that defendant was on pretrial release stemming from a case in La Salle County.

¶ 5 The pretrial investigatory report also revealed that defendant also had the following pending charges: (1) aggravated fleeing, driving on a suspended license, possession of a title without assignment, and possession of a controlled substance in Effingham County case No. 23-

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[1]Pursuant to Illinois Supreme Court Rule 604(h)(5) (eff. Dec. 7, 2023), our decision in this case was due on or before March 25, 2024, absent a finding of good cause for extending the deadline. Based on the high volume of appeals under the Act currently under the court's consideration, as well as the complexity of issues and the lack of precedential authority, we find there to be good cause for extending the deadline.

[2]The information and tickets were file-stamped with the date January 2, 2023; however, the docket entries in this case and the report of proceedings make clear this was a mistake and that the information and tickets were filed on January 2, 2024.

CF-192; (2) possession of less than five grams of methamphetamines in Effingham County case No. 23-CF-77; (3) harassment by telephone in La Salle County case No. 23-CF-73; and (4) possession of less than five grams of methamphetamines in Christian County case No. 22-CF-238. His adult criminal history included convictions for possession of less than five grams of methamphetamines (Christian County case No. 20-CF-252), obstruction of justice/destruction of evidence (Effingham County case No. 18-CF-187), possession of a stolen firearm (Effingham County case No. 16-CF-78), felony escape (Fayette County case No. 15-CF-196), aggravated battery causing great bodily harm (Christian County case No. 16-CF-186), and fleeing an officer (Effingham County case No. 14-TR-5165). Defendant also had a juvenile criminal history, including convictions for mob action (Effingham County case No. 13-JD-60), possession of a stolen vehicle (Effingham County case No. 11-JD-49 and Christian County case No. 11-JD-42), and possession of a controlled substance (Effingham County case No. 12-JD-9). Defendant scored a 13 out of a possible 14 on the Virginia Pretrial Risk Assessment Instrument, placing him at the highest level of risk for recidivism.

¶ 6 A probable cause affidavit was also filed on January 2, 2024. The affidavit stated that two officers were dispatched in reference to someone attempting to use a stolen check to purchase merchandise at a Tractor Supply in Shelbyville, IL. The officers obtained a picture of the two males attempting to use the stolen check from Tractor Supply's surveillance footage, and the Tractor Supply employees provided a description of the males' vehicle, which was an older model, dark-colored Ford F-150. Upon entering the Johnstowne Mall parking lot, the officers found a vehicle matching the description provided by the Tractor Supply employees. The officers drove up to the vehicle and immediately recognized the two males sitting in the driver and passenger seats as the same individuals seen in the Tractor Supply surveillance footage. They parked behind

the truck, ran the plate through Shelbyville Police Department dispatch, and exited their patrol car to approach the individuals. As the officers walked up to the truck, a dispatcher advised that the truck was stolen. At about the same time, the truck sped away at a high rate of speed eastbound through the parking lot. The officers returned to their patrol car and pursued the truck with their lights and sirens activated. During the officers' pursuit, they observed a semi-truck being forced to slow down to avoid a collision as the suspect vehicle crossed the intersection, disregarded three stop signs, and twice failed to use its turn signal. The suspect vehicle was also traveling at a high rate of speed, which was "extremely reckless" due to the snowy, wet road conditions. At one point, the officers looked at the speedometer and observed they were traveling at 90 miles per hour. The suspect vehicle was traveling slightly faster as the distance was increasing between the suspect and the officers' vehicles. The officers were not willing to drive any faster due to the road conditions. Despite the suspect vehicle's higher rate of speed, the officers were able to keep the suspect vehicle within view. Eventually, the suspect vehicle spun out as it attempted to make a turn. The driver exited the vehicle and fled on foot despite the officers' commands to stop. The passenger stayed in the vehicle and put his hands up. The driver was ultimately apprehended and identified as defendant. The passenger, Nicholas T. Hastings, advised that the two men first went to Walmart where defendant wrote a check. Hastings contended defendant coerced Hastings to go into Walmart and buy a smart phone and two phone cards with the check, and Hastings complied. The men then went to Tractor Supply where they attempted to buy merchandise with the forged, stolen checks, but were turned down. Hastings stated he participated in these acts due to defendant's threats of violence.

¶ 7 Defendant appeared before the court on January 2, 2024, and was appointed counsel. The court explained the charges against defendant and potential penalties, including that defendant was

eligible for Class X sentencing for the possession of a converted vehicle due to having two prior Class 2 felony convictions. After explaining the charges and potential sentences, the court asked if there was a motion to detain on file. The State indicated it filed the motion and had a copy. The court asked to review it, as the motion did not appear to be uploaded yet.[3]

¶ 8 After reviewing the State's motion, the court announced that the State's motion alleged that defendant committed a detainable offense based on the applicability of the nonprobational Class X sentencing for the possession of a converted vehicle. The State added that defendant also had a high risk of willful flight. The court stopped the State from further argument, stating it would get to it in a moment. Defense counsel argued that possession of a converted vehicle was not Class X eligible because the statute now requires the prior and current Class 2 felonies to be forcible felonies and possession of a converted vehicle does not qualify as a forcible felony. In support, defense counsel read section 5-4.5-95(b) of the Unified Code of Corrections (730 ILCS 5/5-4.5-95(b) (West 2022)). Assuming counsel correctly reiterated section 5-4.5-95(b), the court agreed but stated the offense was still a Class 2 felony, which was also a detainable offense. The court found, based on the probable cause affidavit, that the State proved the presumption was great that defendant committed a detainable offense. The court then averred the State was not alleging dangerousness but only that defendant presented a high likelihood of willful flight to avoid prosecution and allowed the parties to make argument.

¶ 9 The State argued that if there was anything that showed a willingness to flee, it was the very conduct shown in the probable cause affidavit. Defendant was stopped by police then drove away. In doing so, he endangered the lives of everybody remotely around his vehicle while he

[3]There was no petition to deny pretrial release in the record. However, defendant does not raise this as an issue on appeal.

went through multiple stop signs, traffic control devices, on wet, snowy ground. The State further contended defendant accelerated to speeds in excess of 90 miles per hour to avoid prosecution. It argued this was clear and convincing evidence that defendant already engaged in activity to avoid prosecution. It further asserted defendant did this because he did not want to comply with the general directives of the police, and if he was not willing to comply for the police, "our words don't matter."

¶ 10 Defense counsel stated that he did not have a history with, or personally know, defendant; so, counsel was unsure whether defendant was likely to appear in court. Counsel argued the pretrial investigation report did not reveal whether defendant had a consistent record of appearing in court as directed, and no similar information had been presented to counsel. Counsel contended that the State's argument that defendant was likely to flee or not attend court because he was charged with fleeing and eluding does not track based on counsel's personal experience with his clients. He asserted that he had a number of clients charged with the same offense who still attended court as directed. Counsel argued that the State needed to establish that defendant had a history of failing to attend court in order to establish that he presented a flight risk. Counsel believed defendant's position would be that he would attend court as directed and argued if the court had any concerns, it could be corrected by the adoption of GPS monitoring.

¶ 11 The court noted its concern with the pretrial investigation report which showed defendant had a history of fleeing and eluding, noting defendant's conviction for obstructing justice/destroying evidence in Effingham County case No. 18-CF-187 and a 2014 escape conviction in Fayette County. The State argued that it articulated its issues concerning defendant's nonappearance in court. It also argued that his escape charge sets forth a willingness to avoid prosecution, and defendant's criminal history undermines his argument.

¶ 12 The court stated its disagreement with defense counsel's argument, and found there was no condition, or combination of conditions, that could mitigate defendant's high likelihood of willful flight. The court stated willful flight was inherent in the charge of aggravated fleeing. It further noted that the previous escape and obstructing justice convictions showed a high likelihood that defendant would try to avoid the judicial process. The court therefore ordered defendant detained.

¶ 13 The same day, the court entered an order detaining defendant. It found, by clear and convincing evidence, that the proof was evident or presumption great that defendant committed a detainable offense, and no condition, or combination of conditions, could mitigate the high likelihood of defendant's willful flight. With respect to the latter finding the court stated defendant had prior convictions for escape, obstruction of justice, and fleeing and eluding. It further stated, "Based on defendant's history of thwarting the judicial process, this court cannot find any combination of conditions."

¶ 14 On January 12, 2024, defendant filed a timely notice of appeal. Ill. S. Ct. R. 604(h) (eff. Dec. 7, 2023). The notice of appeal asserted that the State failed to meet its burden of proving by clear and convincing evidence that no condition or combination of conditions could mitigate the defendant's willful flight, and alleged the State failed to present evidence that defendant posed a real or present threat of willful flight or evidence that no condition or combination of conditions could mitigate the possible threat of willful flight.

¶ 15 The Office of the State Appellate Defender (OSAD) was appointed to represent defendant on appeal and filed a Rule 604(h) memorandum on February 23, 2024, raising two issues. It first argued that the State failed to prove by clear and convincing evidence that no condition or combination of conditions could mitigate the risk of willful flight. Secondly, it contended that the trial court failed to make specific findings regarding less restrictive conditions as required by

section 110-6.1(h)(1) of the Code Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1(h)(1) (West 2022)).

¶ 16 The State filed a Rule 604(h) memorandum on March 6, 2024. It argued the evidence was sufficient to find no condition or combination of conditions to mitigate defendant's high likelihood of willful flight.

¶ 17 II. ANALYSIS

¶ 18 From the outset, we note that in the notice of appeal, defendant argued that the State failed to present evidence that defendant posed a real or present threat of willful flight, but OSAD did not make such argument in its Rule 604(h) memorandum. In *People v. Forthenberry*, 2024 IL App (5th) 231002, ¶ 42, this court held "if a memorandum is filed, it will be the controlling document for issues or claims on appeal and we will not reference the notice of appeal to seek out further arguments not raised in the memorandum, except in limited circumstances, *e.g.*, to determine jurisdiction." Other appellate districts have also adopted this holding. See also *People v. Rollins*, 2024 IL App (2d) 230372, ¶ 22; *People v. Martin*, 2024 IL App (4th) 231512-U, ¶¶ 57-59. Accordingly, we will address only the arguments raised by OSAD in the Rule 604(h) memorandum.

¶ 19 Pretrial release is governed by the Act as codified in article 110 of the Code (725 ILCS 5/110-1 *et seq.* (West 2022)). A defendant's pretrial release may only be denied in certain statutorily limited situations. *Id.* §§ 110-2(a), 110-6.1. After filing a timely verified petition requesting denial of pretrial release, the State has the burden to prove by clear and convincing evidence that (1) the proof is evident or the presumption great that 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).

¶ 20 If the trial court finds the State proved defendant's likely willful flight to avoid prosecution, the trial court must then determine what pretrial release conditions, "if any, will reasonably ensure the appearance of a defendant as required *** and the likelihood of compliance with all the conditions of pretrial release." *Id.* § 110-5(a). Such conditions may include reporting or appearing in person to a person or agency as directed by the court, being placed under direct supervision of Pretrial Services Agency in a pretrial home supervision capacity with or without an approved electronic monitoring device, or any other reasonable conditions. *Id.* § 110-10(b). In reaching its determination, the trial 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; (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). The statute lists no singular factor as dispositive. See *id.*

¶ 21 Our standard of review of pretrial release determinations is twofold. The trial court's factual findings are reviewed under the manifest weight of the evidence standard. *People v. Johnson*, 2023 IL App (5th) 230714, ¶ 14; *People v. Trottier*, 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). "Under the manifest weight standard, we give deference to the trial court as the finder of fact because it is in the best position to observe the conduct and demeanor of the parties and witnesses." *Id.* The trial court's ultimate pretrial release

determination will not be reversed unless the determination was an abuse of discretion. See *Johnson*, 2023 IL App (5th) 230714, ¶ 13; *Trottier*, 2023 IL App (2d) 230317, ¶ 13. "An abuse of discretion occurs where the circuit court's decision is arbitrary, unreasonable, or fanciful or where no reasonable person would have taken the position adopted by the circuit court." *People v. Heineman*, 2023 IL 127854, ¶ 59.

¶ 22 OSAD acknowledges that this court has already addressed the appropriate standard of review applicable to decisions pursuant to the Act but argues we should implement a *de novo* review as explained in the special concurrence in *People v. Saucedo*, 2024 IL App (1st) 232020, ¶¶ 98-102 (Ellis, J., specially concurring). We disagree.

¶ 23 According to the special concurrence in *Saucedo*, a *de novo* standard of review is warranted because of the gravity of the question involved. *Id.* ¶ 104. As support for this argument, the special concurrence in *Saucedo* explains that the Illinois Supreme Court in *In re D.T.*, 212 Ill. 2d 347 (2004), rejected the deferential abuse of discretion standard for a best-interests determination in child custody or parental right termination cases due to the fundamental liberty interest in parental care. *Saucedo*, 2024 IL App (1st) 232020, ¶¶ 108-110. The *Saucedo* special concurrence's conclusion is misguided as *In re D.T.* determined the burden of proof the State must meet at a best-interest hearing, not the standard of review on appeal. *In re D.T.*, 212 Ill. 2d at 358, 366. Moreover, despite a parent's fundamental liberty interest in the care, custody, and management of their child, an appellate court reviews a trial court's best interest of the child determination only to determine if that finding is against the manifest weight of the evidence. *In re Marriage of Fatkin*, 2019 IL 123602, ¶ 32. Therefore, like appellate review of best-interest determinations, we will continue to review the trial court's findings under a manifest weight of the evidence standard and disagree that the standard undermines the importance of the question at hand.

¶ 24 We also find the *Saucedo* special concurrence's argument that *de novo* review is required because there is no live testimony at most detention hearings equally unpersuasive. All of the cases cited by the *Saucedo* special concurrence in support of this position regard documented testimony (discovery depositions or transcripts) or other documentary evidence. *Saucedo*, 2024 IL App (1st) 232020, ¶¶ 99-100 (Ellis, J., specially concurring) (collecting cases). At pretrial detention hearings, the State and defendant are allowed to present competing proffers of evidence, as long as the evidence is based upon reliable information. 725 ILCS 5/110-6.1(f)(2) (West 2022). Proffers differ from purely documentary evidence in that proffers do not represent a wholly objective view of the evidence. A proffer apprises the court of "what the offered evidence is or what the expected testimony will be, by whom it will be presented and its purpose." (Internal quotation marks omitted.) *People v. Weinke*, 2016 IL App (1st) 141196, ¶ 41. Pretrial detention hearings also differ in that "the rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing." 725 ILCS 5/110-6.1(f)(5) (West 2022). A pretrial detention hearing therefore necessarily requires the court to consider the reliability of the evidence as presented and weigh the competing proffers to determine whether the State met its burden of proof. We therefore find pretrial detention hearings are distinguishable from the cases relied upon in the *Saucedo* special concurrence. Accordingly, the *Saucedo* special concurrence fails to convince this court to alter our standard of review.

¶ 25 As to the merits, defendant contends the State failed to prove by clear and convincing evidence that no condition or combination of conditions could mitigate his risk of willful flight. The issue raised is one of evidentiary sufficiency as it relates to the State's obligation to prove, by clear and convincing evidence, that there is no condition or combination of conditions set forth in subsection (b) of section 110-10 of the Code that could mitigate defendant's willful flight. *Id.*

§ 110-6.1(e)(3). When considering sufficiency of the evidence arguments, "the reviewing court must view the evidence 'in the light most favorable to the prosecution.' " *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "This means the reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *Id.*

¶ 26 Here, the State was required to show "by clear and convincing evidence" that there were no conditions or combination of conditions that could mitigate defendant's willful flight. "Clear and convincing evidence is 'that quantum of proof that leaves no reasonable doubt in the mind of the fact finder about the truth of the proposition in question.' " *People v. Pitts*, 2024 IL App (1st) 232336, ¶ 29 (quoting *In re Tiffany W*., 2012 IL App (1st) 102492-B, ¶ 12). As such, we review the evidence, in a light most favorable to the prosecution, to determine if any rational trier of fact could have found that the State presented clear and convincing evidence that there was no condition, or combination of conditions, that could mitigate defendant's willful flight.

¶ 27 Defendant argues the State relied on the charged offense and defendant's prior convictions to show the risk of willful flight, but never addressed whether any conditions of release could serve as a less restrictive means to mitigate that risk. Defendant asserts this case is similar to *People v. Stock*, 2023 IL App (1st) 231753, in that the State here simply contended that defendant was a flight risk and did not present any argument or evidence that GPS monitoring or any other condition or combination of conditions was insufficient as a less restrictive means.

¶ 28 Defendant's argument misconstrues the record. In *Stock*, the court found the State sufficiently proved dangerousness as to the defendant—who was charged with aggravated discharge of a firearm—but insufficiently proved no conditions could mitigate the danger posed by defendant where the State presented no evidence in this regard. *Id.* ¶¶ 17-19. The court noted

that "the State at no point referenced or discussed these conditions or section 110-10(b) of the Code." *Id.* ¶ 17. It further reasoned that the bare allegation that defendant committed a violent offense was insufficient. *Id.* ¶ 18. The case before us is quite different.

¶ 29 Here, in its initial argument, the State addressed the insufficiency of any conditions imposed by the court by contending that if defendant willingly failed to comply with police directives, he would also willingly fail to comply with the court's orders. It also directly responded to counsel's argument that GPS or other conditions could mitigate any concern of defendant's risk of willful flight. In doing so, it relied on defendant's escape in this case—which included defendant engaging in reckless driving behavior—and pointed to defendant's history of fleeing or eluding officers. Therefore, unlike the State in *Stock*, the State here expressly provided argument to support its conclusion that no conditions could mitigate defendant's risk of willful flight. Its argument discussed the nature and circumstances of the offenses and defendant's history, both of which are proper considerations when addressing the sufficiency of pretrial conditions. See 725 ILCS 5/110-5(a)(1), (2) (West 2022).

¶ 30 Moreover, the pretrial investigation report revealed that defendant was already on pretrial release in another case when he committed these crimes and fled. As such, the evidence showed that defendant disregarded court orders by committing other offenses while on pretrial release and had a history of repeatedly thwarting the judicial process. The State therefore sufficiently proved there were no conditions, or combination of conditions, that could mitigate defendant's risk of willful flight, and the court's finding of the same was not against the manifest weight of the evidence.

¶ 31 Defendant also contends the pretrial detention order must be reversed because the trial court did not make specific findings regarding the imposition of less restrictive conditions as

required by section 110-6.1(h)(1) of the Code (*id.* § 110-6.1(h)(1)). He argues the court never indicated that it considered any specific condition or set of conditions that could mitigate the risk of willful flight or provided any reasons why less restrictive conditions would not prevent willful flight. He further contends the court's statements at the hearing, and the conclusions in its order, conflate its finding of risk of willful flight with its finding that there are no conditions that could mitigate the risk of willful flight. In support, defendant cites to *People v. Quintero*, 2024 IL App (1st) 232129-U, ¶ 25, among other cases, which reversed a pretrial detention where there was no evidence in the record that the trial court considered any alternative to defendant's detention. Defendant argues although this error was not included in the notice of appeal and therefore forfeited, it should be reviewed for plain error or, alternatively, trial counsel was ineffective for failing to preserve the issue when he did not include it in the notice of appeal.

¶ 32 We do not find this issue forfeited. This court explained in *People v. Robinson*, 2024 IL App (5th) 231099, ¶ 19, that to avoid forfeiture, the grounds for relief needed to be provided in an appellant's notice of appeal taken in conjunction with the appellant's memorandum. Since the memorandum here contains the issue with argument, it is not forfeited for failing to raise it in the notice of appeal. We acknowledge that generally a failure to raise the alleged error in the lower court can also result in forfeiture of an issue (*id.*), but "[i]n general a party does not waive an issue if raised at the first opportunity" (*People v. Strain*, 194 Ill. 2d 467, 475 (2000)). Given that the alleged error could not occur until the court entered its detention order, this appeal was defendant's first opportunity to raise it.[4]

[4]We note this appeal occurred before the amendments to Rule 604 that take effective April 15, 2024. Under the amended rule, defendant will be required to file a written motion for relief in the trial court as a prerequisite to appeal and any issue not raised in the motion for relief will be forfeited. Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024).

¶ 33 To the merits, we find the trial court did not err. Section 110-6.1(h)(1) requires the court, in any detention order, to "make a written finding summarizing the court's reasons for concluding that the defendant should be denied pretrial release, including why less restrictive conditions would not *** prevent the defendant's willful flight from prosecution." 725 ILCS 5/110-6.1(h)(1) (West 2022). In the court's order for detention here, it reasoned it could not find any combination of conditions based on defendant's history of thwarting the judicial process, specifically noting defendant's prior convictions for escape, obstruction of justice, and fleeing. It provided a similar basis at the detention hearing.

¶ 34 Unlike *Quintero* and defendant's other cited authority, the issue of whether GPS was a viable condition that could mitigate defendant's risk of willful flight was presented to the court here and the State directly responded to that argument, contending that defendant's criminal history undermined such argument. Therefore, this case is distinguishable.

¶ 35 While defendant alleges the court conflated its findings that defendant presented a risk of willful flight and its finding that no conditions that could mitigate the risk of willful flight, we find the court clearly provided reasoning for the latter. In its written findings, it explicitly stated it could not find any conditions of pretrial release that could mitigate defendant's willful flight because of defendant's prior history of thwarting the judicial process. The court therefore explained why less restrictive conditions would not prevent defendant's willful flight and complied with section 110-6.1(h)(1) in this respect.[5]

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[5]OSAD's Rule 604(h) memorandum does not assert any argument that the court's detention order should be reversed for any error regarding its finding that the State proved by clear and convincing evidence that defendant presented a risk of willful flight to avoid prosecution. Accordingly, any such argument is forfeited.

¶ 36 III. CONCLUSION

¶ 37 The State sufficiently proved there was no condition or combination of conditions that could mitigate defendant's willful flight and the court's detention order regarding the less restrictive conditions finding complied with section 110-6.1(h)(1) of the Code. Accordingly, we affirm the trial court's pretrial detention order.

¶ 38 Affirmed.