

NOTICE
Decision filed 09/02/26. 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.

2026 IL App (5th) 260547-U
NO. 5-26-0547
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Macon County.
	)	
v.	)	No. 26-CF-41
	)	
KEISHAUN R. THOMAS,	)	Honorable
	)	Thomas E. Griffith Jr.,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Presiding Justice Cates and Justice Clarke concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court’s orders granting the State’s verified petition to deny pretrial release and denying defendant’s motion for relief due to a real and present threat are affirmed.

¶ 2 Defendant, Keishaun R. Thomas, appeals the January 12, 2026, order from the Macon County circuit court that granted the State’s petition to deny pretrial release and the June 4, 2026, denial of his motion for relief and immediate release. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 12, 2026, defendant was charged with one count of aggravated discharge of a firearm, a Class 1 felony. 720 ILCS 5/24-1.2(a)(2) (West 2024). The State filed a verified petition to deny defendant pretrial release the same day, alleging that defendant was charged with a forcible felony involving the threat of or infliction of great bodily harm or permanent disability or

disfigurement, being aggravated discharge of a firearm, and that his pretrial release posed a real and present threat to the safety of any person or persons or the community. 725 ILCS 5/110-6.1(a)(1.5), (6) (West 2024).

¶ 5 The matter proceeded to a hearing the same day. The State asked the circuit court to take judicial notice of a sworn police statement, which included that Decatur Police Department (DPD) officers responded to Marietta Street in Decatur, Illinois, on January 9, 2026, at approximately 11 a.m., due to shots fired. Upon their arrival, officers found a victim, Cornelius Smith, who suffered a gunshot wound. Smith later died from this injury. An eyewitness, Tykaree Graves, stated that he saw defendant fighting with Smith, and Graves attempted to break up the fight. Graves heard three gunshots and tried to run away. Defendant fired a gunshot in Graves's direction as he was running away, unarmed. The report further detailed that a witness, Chaylynn Force, shared a minor child with defendant and defendant arrived at the residence to pick up the child. Force went outside with the child, followed by Smith and Graves. Force exchanged the child with defendant and returned inside the house. Once inside, Force heard gunshots.

¶ 6 Approximately one hour later, defendant went to the DPD with his father. Officers located a Glock 9-millimeter pistol in defendant's right pants pocket. After being "Mirandized,"¹ defendant stated that he went to Marietta Street to pick up his child from Force. When he arrived, he was involved in a mutual physical altercation with Smith during the exchange. Graves joined in and battered defendant while he was fighting Smith. Defendant broke free from Smith and Graves to retrieve his firearm from the trunk of his car. Defendant stated he shot Smith and shot in the direction of Graves as he was running away after the altercation. The State said that this offense occurred within a residential neighborhood and asked for defendant to be detained.

¹*Miranda v. Arizona*, 384 U.S. 436 (1966).

¶ 7 Defense counsel proffered that defendant had no record and scored zero on the pretrial risk assessment. He worked for Caterpillar full time, had community and family support, including a child he supported. Defendant did not have mental health or substance abuse issues. Defendant also turned himself in willingly. Defense counsel asked for release with conditions, including ankle monitoring.

¶ 8 The State argued that while defendant did not have a criminal history, his dangerousness could also be measured “by what he did.” Defendant killed a person and fired at an unarmed witness, whom he admitted to shooting because the witness “was with the victim.” No conditions could mitigate that risk, as defendant posed a real and present threat to society.

¶ 9 The circuit court found that the proof was evident or presumption great that defendant committed aggravated discharge of a firearm. Further, the State proved that defendant posed a real and present threat to the safety of the alleged victim and the community. No condition or combination of conditions would mitigate that threat. The circuit court stated,

“That is based in large part on the nature and circumstances as presented to the Court. I understand at this time he’s only charged with the aggravated discharge to Tykaree Graves, but the facts and circumstances as presented to the Court show the defendant admits to shooting the gun in the direction of this individual, who he admits was unarmed and running away from the scene at the time.”

Additionally, there was “a separate victim that’s not been charged yet at this time who is deceased from being shot by the defendant in this case.” The offense also occurred in a residential neighborhood with a minor child present. Defendant did have an active Firearm Owner Identification (FOID) card and concealed carry license (CCL), but the court said, “that means he

should know better than to start firing a weapon in the middle of the street with a child present at unarmed individuals.” The circuit court ordered defendant detained.

¶ 10 A written order was entered the same day, which in part stated that defendant posed a real and present threat, and that conditions would not mitigate that threat because, “defendant admits to shooting a gun in the direction of the unarmed victim who was running away & a child was present, took place in a residential area with others present & person was shot & killed during the incident—severity of the incident.”

¶ 11 On February 4, 2026, defendant was charged with three additional counts. Counts II, III, and IV all charged defendant with first degree murder of Corneilus Smith. 720 ILCS 5/9-1(a)(1) (West 2024).

¶ 12 On May 20, 2026, defendant filed a motion for relief. The motion argued that in a different case, the defendant, who accidentally shot his girlfriend, received pretrial release in Macon County. Defense counsel argued that defendant was “similarly situated,” and thus, this defendant should be treated similarly. The motion further asserted that defendant acted in self-defense against the two victims in this case, he turned himself in to law enforcement, and had a FOID card and CCL. Defendant also “put his gun down before the fist fight with” Smith. Defendant was also employed and only had one misdemeanor and traffic offenses in his criminal history. The motion alleged that the State failed to prove that defendant posed a real and present threat to the safety of the community, and did not address possible conditions orally or in its petition to detain. Further, the circuit court erred in finding that defendant posed a real and present threat, and that no conditions could mitigate that threat.

¶ 13 The matter proceeded to a hearing on the motion for relief on June 4, 2026. Defense counsel presented the circuit court with several written letters from community members in support of

defendant, including family and employers. Defense counsel also addressed concerns with a pretrial investigation report, which she argued included an error in the calculation because defendant's present case for aggravated discharge of a firearm was calculated into the assessment tool for the case. Defendant's only other criminal history was a misdemeanor driving on a suspended license. Defense counsel argued that defendant acted in self-defense and the video that the State obtained did not show "what happened." Counsel stated that defendant only obtained his gun after he was "attacked by two individuals." Based on an objection from the State, the circuit court did not permit defense counsel to rely on the other defendant's release in a separate Macon County case mentioned in the motion for relief. Defense counsel argued that defendant was not a danger to the community and the letters presented supported that. Conditions could also mitigate any risk, as defendant worked and took care of his daughter, and electronic monitoring or home confinement would be sufficient conditions. Defendant also presented himself to law enforcement after the offense, and he was "not a danger to this community."

¶ 14 The State noted that it did not have an opportunity to read the community support letters given to the court. The State argued that the defense focused on defendant being a good father but asserted that defendant "went to the home to retrieve [his] child in an aggressive manner, is involved in a fight, and does this in front of the child." Defendant's child was in the vehicle while this offense occurred. The State said that defendant's murder charges were later added due to a thorough investigation of the evidence available, including a video that the circuit court had not viewed. The State represented that the video showed a fight between defendant and the two victims. Graves ran away, and defendant shot at him while he was running from defendant. The State said Smith was walking out of the house, standing with his hands out before being shot by defendant. Defense counsel objected to the State's proffer of the video, which the circuit court

overruled. The State further asserted that one victim was shot at and the other victim was shot and killed at 10:57 a.m. in a neighborhood. The State said that defendant posed a threat to the community, no conditions would be appropriate, and asked for defendant to remain detained.

¶ 15 After reviewing the letters from defendant during a recess, the circuit court denied the motion for relief. In issuing its decision, the circuit court said, “[T]his is a very, very unfortunate situation. It’s one more example where a gun turned a fistfight for absolutely no reason into a first-degree murder charge.” The court said it directly considered the strength of the State’s evidence, that defendant was a danger as he shot somebody on a city street in the morning, and conditions would not mitigate the risk because in balancing all the factors including defendant’s criminal history, employment, community support letters, that he was a “good father,” that he turned himself in, but these did not outweigh defendant’s risk. Defendant appealed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, the Office of the State Appellate Defender (OSAD) was appointed as appellate counsel. Defendant was permitted, but not required, to file a memorandum on appeal. OSAD filed a notice in lieu of a memorandum pursuant to Rule 604(h)(7). “Issues raised in the motion for relief are before the appellate court regardless of whether the optional memorandum is filed.” Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). Therefore, our review is limited to the issues raised in the motion for relief.

¶ 18 Defendant’s motion for relief argued that the State failed to prove, and the circuit court erred in finding, that defendant posed a real and present threat, and that conditions could not mitigate that threat. Specifically, the State did not present “specific articulable facts of the case” and only relied upon the nature and circumstances of the charged offense.

¶ 19 Pretrial release—including the conditions related thereto—is governed by article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2024)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act. A defendant’s pretrial release may be denied only in certain statutorily limited situations. 725 ILCS 5/110-6.1 (West 2024). 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 the defendant has committed a qualifying offense, that the defendant’s pretrial release poses a real and present threat to the safety of any person or the community or poses a flight risk, and that 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). The State or the defendant may present evidence to the trial court by way of proffer based upon reliable information. *Id.* § 110-6.1(f)(2). The trial court may order a defendant detained pending trial if the defendant is charged with a qualifying offense and the trial court concludes the defendant poses a real and present threat to the safety of any person or the community (*id.* § 110-6.1(a)(1)-(7)) or there is a high likelihood of willful flight to avoid prosecution (*id.* § 110-6.1(a)(8)).

¶ 20 Where the parties to a pretrial detention hearing proceed solely by proffer or submission of documentary evidence, this court stands in the same position as the trial court and may conduct its own independent review of the proffered evidence, thus reviewing the record *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54. In the present matter, the parties proceeded solely by proffer, so we will employ a *de novo* review.

¶ 22 The trial court is provided a nonexhaustive list of factors it should consider when determining whether a defendant poses a real and present threat to the safety of any individual(s) or the community. Those factors include (1) the nature and circumstances of the offenses charged, including whether they are crimes of violence, involve a weapon, or a sex offense; (2) whether the defendant's prior criminal history indicates "violent, abusive, or assaultive behavior, or lack of such behavior"; (3) the identity of any individual to whose safety the defendant may pose a threat and the nature of any such threat; (4) any statements made by, or attributed to the defendant, together with the circumstances surrounding them; (5) the defendant's age and physical condition; (6) the age and physical condition of the victim or complaining witness; (7) whether the defendant possesses or has access to any weapons; (8) whether the defendant was on probation, parole, or mandatory supervised release when arrested on the underlying charges or any other offense; and (9) any other factor that has a reasonable bearing on the defendant's propensity for violent, abusive, or assaultive behavior. 725 ILCS 5/110-6.1(g)(1)-(9) (West 2024). No one factor is determinative, and the court must base its decision on an individualized assessment. *People v. Atterberry*, 2023 IL App (4th) 231028, ¶ 15 (citing 725 ILCS 5/110-6.1(f)(7) (West 2022)).

¶ 23 We have conducted our own independent review of the proffered evidence and the relevant factors. First, the nature and circumstances of the offenses charged against defendant involve a crime of violence and the use of a weapon. 725 ILCS 5/110-6.1(g)(1) (West 2024). While the nature and circumstances of the offense is only one element, it is extremely important in this case. Defendant was initially charged only with aggravated discharge of a weapon for shooting Graves. After the State conducted further investigation into the available evidence, defendant was later charged with three counts of first degree murder of Smith. In addition to the actions of the offense,

the record shows that defendant's minor child was present in the vehicle during the offense. The offense occurred at approximately 11 a.m. in a residential area, and defendant shot at Graves while he was running away, unarmed. Defendant did turn himself in to law enforcement. During his statement, defendant informed law enforcement that Graves was running away from him and defendant knew he was unarmed. *Id.* § 110-6.1(g)(4). While defendant had a FOID card and CCL, he did have access to weapons. *Id.* § 110-6.1(g)(7).

¶ 24 Defendant argued in his motion for relief that he acted in self-defense to Graves and Smith fighting him. While we may consider defendant's proffer that he acted in self-defense, "[t]he court [is] not required to accept [the] defendant's contention that he acted in self-defense when the record permitted other conclusions concerning his culpability and, by extension, his potential dangerousness." *People v. Romine*, 2024 IL App (4th) 240321, ¶ 21. The State's proffer of defendant's statements to law enforcement undermines this argument, as defendant admitted that he shot Graves when he was running away from defendant and was unarmed. The record provides clear and convincing evidence that Graves was unarmed and that defendant had no grounds to reasonably believe that the victim threatened defendant with death, great bodily harm, or a forcible felony. 720 ILCS 5/7-1(a) (West 2024) (One is "justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony."). Considering all the factors presented, this court agrees with the circuit court, that based on the specific articulable facts and the Code's factors, defendant poses a real and present threat to the community.

¶ 26 Once a court determines that the defendant poses a threat to the safety of any individual or the community, the trial court must determine whether the State has met its burden of proving by clear and convincing evidence what 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.” 725 ILCS 5/110-5(a) (West 2024). 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;² (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)(1)-(5). The Code lists no singular factor as dispositive. See *id.* § 110-5(a). The nature and circumstances of the underlying offense is “just one factor to consider in determining whether the threat posed can be mitigated by conditions of release.” *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 19.

¶ 27 As we are employing *de novo* review, we will apply these same factors to the evidence proffered. We find the following factors support the conclusion that no condition or combination of conditions could mitigate the real and present threat posed by defendant. First, the nature and circumstances of the offenses charged. Defendant was charged with aggravated discharge of a firearm and later first degree murder, detainable offenses, both of which involved violence and the

²The defendant’s history and characteristics include: “the defendant’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past relating to drug or alcohol abuse, conduct, *** criminal history, and record concerning appearance at court proceedings,” as well as “whether, at the time of the current offense or arrest, the defendant was on probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal law, or the law of this or any other state.” *Id.* § 110-5(a)(3)(A), (B).

use of a weapon. 725 ILCS 5/110-5(a)(1) (West 2024). Next, the weight of the evidence against defendant included a proffer from the State of the police report. Within the report, defendant admitted to shooting Graves. *Id.* § 110-5(a)(2). Defendant also posed a risk to Graves, as defendant only shot Graves because he was “with Smith” and defendant’s release could put Graves at risk. *Id.* § 110-5(a)(4). Accordingly, based on our independent review, we agree with the circuit court that no condition or combination of conditions would mitigate the threat posed by defendant.

¶ 28

III. CONCLUSION

¶ 29 Based on the foregoing reasons, we affirm the circuit court’s orders of January 12, 2026, and June 4, 2026.

¶ 30 Affirmed.