2026 IL App (2d) 260303-U
No. 2-26-0303
Order filed September 10, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

WALTER HAYES III, Defendant-Appellant.

Appeal from the Circuit Court of Lake County.
Honorable James K. Booras, Judge, Presiding.
No. 26-CF-875

PRESIDING JUSTICE KENNEDY delivered the judgment of the court.
Justices Hutchinson and Mullen concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in denying defendant pretrial release where there was evidence that defendant possessed over 900 grams of cocaine valued at over $100,000, had a history of possessing firearms, and attempted to hide or destroy evidence after being taken into custody.

¶ 2 Defendant, Walter Hayes III, appeals from the denial of his pretrial release under section 110-6.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1 (West 2024)). For the following reasons we affirm.

¶ 3 I. BACKGROUND

¶ 4 On April 27, 2026, defendant was charged via complaint with unlawful possession of a controlled substance (15-100 grams of cocaine) (720 ILCS 570/402(a)(2)(A) (West 2024) (Class

1 felony)), unlawful possession of a controlled substance with intent to distribute (900+ grams of cocaine) (*id.* § 401(a)(2)(D) (Class X felony)), unlawful possession of a controlled substance with intent to distribute (15-100 grams of cocaine) (*id.* § 401(a)(2)(A) (Class X felony)), unlawful possession of a controlled substance (900+ grams of cocaine) (*id.* § 402(a)(2)(D) (Class 1 felony)), and illegal window tint (625 ILCS 5/12-503(a-5) (West 2024)).

¶ 5 On April 29, 2026, the State filed a verified petition to deny pretrial release pursuant to section 110-6.1 of the Code. A hearing was held on the State's petition that day and the State made the following proffer. Waukegan police were behind defendant's vehicle traveling eastbound on Belvidere Road. They observed that the vehicle had illegal window tint and conducted a traffic stop. During the stop they asked defendant to exit the vehicle. One of the officers performed a pat-down of defendant and felt a bulge in his left pocket consistent with a baggy of controlled substances. The officer searched defendant's pocket and found 17.7 grams of a white powder rock-like substance, which field tested positive for cocaine. Defendant also had $910 in cash on his person.

¶ 6 Defendant was taken to the Waukegan police department, and he asked to make a phone call. He made a phone call in a recorded room on a Waukegan police department phone, during which he asked someone to "move the stuff out of the house."

¶ 7 Having overheard this, officers went in unmarked cars to surveil defendant's house. They observed someone leaving the house in a vehicle. Officers approached a woman later identified as defendant's fiancée who told them, "everything is in the trunk." Officers searched the trunk and located a backpack containing four vacuum-sealed plastic bags containing a total of 1,028.5 grams of a substance, which field tested positive for cocaine. Officers also discovered plastic packaging, a money counter, kitchen cookware, and a safe containing white residue. Defendant's fiancée

stated that she did not know what defendant did for a living and ultimately confirmed to police that defendant had instructed her to move the things out of the house. Defendant admitted to the police that the drugs were his and discussed the pricing of the drugs with the officers.

¶ 8 The State argued that defendant had a history indicative of violent, harassing, or assaultive behavior. The State proffered that in 2021, defendant's ex-girlfriend filed a petition for an order of protection in which she alleged that defendant had come to her house unannounced, took multiple items, and damaged property in her home. At the order of protection hearing, she stated that defendant had accused her of lying to his "associates." The emergency petition was denied, and petitioner did not appear at the subsequent hearing.

¶ 9 Approximately one month later, defendant was charged with criminal damage to property involving an incident with the same woman. She alleged that defendant went to her home. She was in her car and rolled up her window. Defendant gave her an ultimatum about taking him back. He threatened her and said he would fuck everything up for her. He left for a moment, then returned and said she had to take him back within three days and began punching her window. Defendant's father ultimately got him to stop punching the vehicle and he left. She did not feel safe to exit her vehicle and drove to the Gurnee police department.

¶ 10 This same woman reported that a few days later, she went back to the police department, after which she went to her grandmother's house and then to Woodman's in Kenosha, Wisconsin. While at the Woodman's, she saw defendant who confronted her, asking what she was doing at the police department earlier. She stated that she had no idea how defendant knew she had been at the police department or how he knew to find her at Woodman's.

¶ 11 The State argued that these facts were concerning in light of the fact that there was a cooperating witness in the instant case. Further, the value of the drugs in defendant's possession

was $100,000, indicating a history of previous drug dealing. Additionally, defendant had a firearm offense from 2012, demonstrating he had a history of accessing firearms and possessing them illegally.

¶ 12 The State further argued that defendant's attempt to hide the drugs while in police custody indicates that he was not likely to comply with conditions of pretrial release and would be willing to take steps to obstruct justice if released. Further electronic home monitoring would not be sufficient to deter defendant, as defendant was evidently operating from his home.

¶ 13 The defense argued that the trial court should afford no weight to the allegations in the order of protection case as that case was dismissed and not subject to adversarial testing. Defendant then argued that there were no threats made to the victim in the incident where he punched her window; rather, the allegations were that defendant kicked her door, denting it to the point where it would not open properly. Further, defendant had complied with the two-year plenary order of protection, demonstrating that he could comply with conditions of pretrial release. Defendant had ties to the community: he lived in Grayslake with his two children and had lived in Lake County all his life. His pretrial safety assessment scored level 1 for the lowest conditions of release. The trial court ultimately granted the State's petition to deny pretrial release.

¶ 14 On May 26, 2026, defendant filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024). A hearing was held on defendant's motion on June 15, 2026. At the hearing, defendant proffered that he had obtained an order vacating his 2012 unlawful possession of a weapon conviction, as the statute he was convicted under had been subsequently found unconstitutional, and argued that the conviction should not be considered for any purpose.

¶ 15 The State proffered that since the original hearing, it had learned that police became involved not because of the isolated traffic stop. Rather, police had received a tip from a

confidential source that defendant would be making a drug transaction in Waukegan. Police surveilled defendant's home, followed him to a Wendy's parking lot in Waukegan, and observed him pull up to another vehicle in the middle of the parking lot. Police then initiated a traffic stop on defendant's vehicle and the other vehicle drove away quickly.

¶ 16 The State then orally proffered the contents of the police report from the vacated 2012 unlawful possession of a weapon conviction. On September 19, 2012, police initiated a traffic stop of defendant's vehicle because they observed defendant was not wearing a seatbelt. Police determined that defendant's license was suspended and defendant was asked to step out of the vehicle and placed under arrest for driving while license suspended. Police searched defendant and found $500 in cash on his person. Police observed a loaded .38 caliber Taurus ultra-light revolver under defendant's seat. Defendant admitted to purchasing the gun on the street for $300 from a man named Mac.

¶ 17 The State further proffered that the phone call defendant had made was to Stephanie Primmer, who was defendant's fiancée and who police observed leaving defendant's home with 986.7 grams of cocaine in four clear bags. The trial court denied defendant's motion for relief and defendant timely appealed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, defendant argues that the State did not prove by clear and convincing evidence that he posed 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 that the State did not prove by clear and convincing evidence that no condition or combination of conditions could mitigate that threat.

¶ 20 When parties to a pretrial detention hearing proceed solely by proffer and documentary evidence, the reviewing court's standard of review is *de novo*. *People v. Morgan*, 2025 IL

130626, ¶ 51. Under a *de novo* standard, the reviewing court performs the same analysis as the trial court, determining whether the trial court's decision was correct as a matter of law. *People v. McDonald*, 2016 IL 118882, ¶ 32.

¶ 21 All defendants shall be presumed eligible for pretrial release, and the State shall bear the burden of proving otherwise by clear and convincing evidence. 725 ILCS 5/110-6.1(e) (West 2024). To deny a defendant pretrial release, the State must show (1) that the proof is evident or the presumption great that the defendant has committed an eligible offense, and (2) the defendant poses a real and present threat to the safety of any person or persons or the community, which (3) no condition or combination of conditions can mitigate. *Id.* The trial court's finding that no combination of conditions can mitigate the threat posed by a defendant must be based on the specific articulable facts of the case. *Id.* § 110-6.1(e)(3). The base allegations which comprise the elements of the charged offense are not sufficient to establish such on their own. *People v. Stock*, 2023 IL App (1st) 231753, ¶ 18 ("If the base allegations that make up the *sine qua non* of a violent offense were sufficient on their own to establish this element, then the legislature would have simply deemed those accused of violent offenses ineligible for release."). However, the alleged facts which comprise the basic elements of the charged offense can be relevant proof establishing that no conditions can mitigate the threat posed by defendant. *Id.*

¶ 22 Defendant argues that the facts in this case mirror those in *People v. Nicholson*, 2024 IL App (2d) 240257-U. In *Nicholson*, the defendant was charged with trafficking a controlled substance. *Id.* ¶ 4. The State alleged that defendant, who lived in Wisconsin, transported 1,020 grams of methamphetamine from Michigan to Illinois. *Id.* ¶ 8. There was no indication that the defendant had any significant criminal history. He was 47 years old and had a heart stent. *Id.* ¶ 7.

The *Nicholson* court ultimately concluded that the record did not support a finding of dangerousness and reversed the trial court's denial of the defendant's pretrial release. *Id.* ¶¶ 16-17.

¶ 23 Defendant also maintains that the trial court erred in relying on a 14-year-old expunged unlawful use of a weapon conviction to find that defendant had access to weapons. Likewise, defendant maintains that the trial court erred in considering the alleged incidents of domestic battery from 2021, as defendant completed supervisions without incident and they have no bearing on the instant case.

¶ 24 We disagree with defendant and find that the instant case is distinguishable from *Nicholson*. Section 110-6.1(g) of the Code (725 ILCS 5/110-6.1(g) (West 2024)) sets forth factors that the court may consider in making a determination of dangerousness. Beginning with the nature and circumstances of the charged offense, while "[w]e have consistently held that generalizations about the societal harm caused by drug sales, standing alone, are insufficient to demonstrate that pretrial release of a defendant charged with drug offenses poses a threat to the community" (*People v. Barajas*, 2025 IL App (2d) 250130-U, ¶ 22), the specific articulable facts of a case can support a finding of dangerousness (see 725 ILCS 5/110-6.1(g)(1) (West 2024) (the first factor in determining dangerousness is "[t]he nature and circumstances of any offense charged"); *People v. Johnson*, 2023 IL App (5th) 230714, ¶ 21 (threat to safety is not limited to violent criminal acts)).

¶ 25 In the instant case, defendant was stopped midway through an apparent drug transaction, following a tip from a confidential source. Defendant possessed nearly a kilogram of cocaine worth over $100,000, a safe, money counter, plastic packaging, and kitchen tools. The money counter indicates that defendant regularly transacted in large cash sums. The plastic packaging and tools indicate defendant would process the drugs for further distribution, ultimately engaging in transactions with individuals. Primmer stated that she did not know what defendant did for a living,

and defendant did not proffer that he was employed. Taken together, the evidence demonstrates that defendant had a history of selling significant quantities of cocaine and is not otherwise employed. Defendant therefore poses a threat to the safety of the community.

¶ 26 Next, the incidents with defendant's ex-girlfriend demonstrate a history indicative of violent, abusive, or assaultive behavior. Of particular concern in the instant case was the proffer that in the 2021 order of protection case, defendant somehow learned that his ex-girlfriend had gone to the police station, then somehow learned that she was at the Woodman's and went to confront her about going to the police. That defendant has engaged in this stalking behavior highlights his potential danger to the confidential witness and possibly Primmer. The 2021 incident shows that defendant had previously tried to intimidate a former romantic partner for speaking to the police. According to the record, Primmer was cooperating with police. Likewise, police were working with a confidential informant in the instant case. As such, there was a risk of defendant reaching out to either Primmer or whomever he believes to be the confidential informant in order to intimidate them and/or obstruct justice.

¶ 27 Additionally, the court may consider whether defendant engaged in conduct including obstruction of justice or intimidation in assessing whether defendant poses a real and present threat to any person or the community. (725 ILCS 5/110-6.1(e)(2) (West 2024)). Defendant attempted to obstruct justice shortly after being taken into custody by contacting Primmer and instructing her to take the drugs and other items out of the house thereby attempting to obstruct justice by trying to hide or destroy evidence.

¶ 28 Defendant is also known to possess or have access to firearms. While defendant's conviction was ultimately expunged, the State proffered that defendant was found to be in possession of a revolver that he purchased from an individual "on the street." Though defendant

now argues that the conviction was expunged, the Code does not require that defendant possess weapons illegally. Even perfectly legal access to weapons can be considered in determining dangerousness. See 725 ILCS 5/110-6.1(g)(7) (West 2024) Here, the record indicates that defendant knew how to obtain a firearm without going through regular channels. Defendant urges that the possession is remote in time and not indicative of his current access to firearms. We disagree; defendant previously knew an individual who could get him a firearm, and his possession of over $100,000 in cocaine suggests that defendant would still have need for, and the means of obtaining, a firearm today. This factor also favors a finding of dangerousness.

¶ 29 Finally, defendant was keeping large amounts of drugs in his home, where his two children lived, which placed them in danger as well. For all these reasons, there was sufficient evidence to show that defendant posed a real and present threat to the safety of Primmer, the confidential informant, his children, and members of the community.

¶ 30 Turning to conditions, defendant points to his pretrial safety assessment and successful completion of court supervision in several cases (including the now-expunged unlawful use of a weapon conviction, plenary order of protection, and several traffic cases) as evidence he will comply with conditions of pretrial release. However, defendant failed to mention his attempt to hide or destroy evidence in the instant case, as well as his intimidation of his ex-girlfriend when she went to the police station in the order of protection case. Additionally, the most restrictive condition of pretrial release that can generally be imposed is electronic home monitoring. But in the instant case, defendant was evidently operating out of his home and living with Primmer who is now a cooperating witness. Further, the trial court stated that electronic home monitoring was not available in Lake County. Accordingly, there was sufficient evidence to show that there were no conditions which could mitigate the threat posed by defendant.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, affirm the judgment of the circuit court of Lake County.

¶ 33 Affirmed.