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NATURE OF THE CASE

John Finney, Defendant-Appellant, appealed from a Circuit Court order under the pretrial release statute. The court issued its ruling on September 3, 2025. On September 4, 2025, Defendant-Appellant filed a motion for relief, which was denied on September 10, 2025. The Appellate Court affirmed this denial on December 15, 2025. On February 13, 2026, this Court granted review.

This is a direct appeal from the pretrial-detention order below. No issue is raised challenging the charging instrument.

ISSUES PRESENTED FOR REVIEW

Under *People v. Morgan*, review is *de novo* where “parties to a pretrial detention hearing proceed solely by proffer.” 2025 IL 130626, ¶¶ 51, 54. Here, the parties conducted John Finney’s detention hearing solely by proffer. Several days later, however, the trial court, in a preliminary hearing, heard live testimony. The Appellate Court found that this live testimony required deferential review. This finding raises these issues:

1. Whether subsequent, live evidence is improperly considered in setting the standard of review on appeal, where the actual detention hearing proceeded solely by proffer.
2. Whether subsequent live evidence is irrelevant to the standard of review where an appellant challenges only a detention order.

STATUTES AND RULES INVOLVED

Illinois Supreme Court Rule 604(h) provides:

(1) Orders Appealable. An appeal may be taken to the Appellate Court from an interlocutory order of court entered under sections 110-5, 110-6, and 110-6.1 of the Code of Criminal Procedure of 1963 as follows:

(I) by the State and by the defendant from an order imposing conditions of pretrial release;

(ii) by the defendant from an order revoking pretrial release or by the State from an order denying a petition to revoke pretrial release;

(iii) by the defendant from an order denying pretrial release; or

(iv) by the State from an order denying a petition to deny pretrial release.

(2) Motion for Relief. As a prerequisite to appeal, the party taking the appeal shall first present to the trial court a written motion requesting the same relief to be sought on appeal and the grounds for such relief. The trial court shall promptly hear and decide the motion for relief. Upon appeal, any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived.

725 ILCS 5/110-6.1 (2025) provides, in relevant part:

(c) timing of petition.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant * * *.

(e) All defendants shall be presumed eligible for pretrial release, and the State shall bear the burden of proving [the elements of detention] by clear and convincing evidence * * *.

STATEMENT OF FACTS

Procedural summary.

The State charged John Finney with the first-degree murder of his wife, Amy Finney (“Amy”). It sought and got a pretrial-detention order, for both dangerousness and flight risk. (R. 20). A motion for relief was denied. (R. 58). He appealed. (C. 21). The detention was affirmed. *See People v. Finney*, 2025 IL App (5th) 250741-U. This Court granted leave to appeal. *People v. Finney*, No. 132703 (February 13, 2026).

Detention-hearing facts.

In the detention hearing, both sides offered only proffers. (R. 11-13) The State’s proffer drew on an interview with Collin Bradham (Finney’s friend), on Finney’s custodial statements, and on officer accounts. (R. 6-11). According to its proffer, on the morning in question, Brandham visited Finney’s Mount Vernon home, agitating Amy. (R. 7-8, 10). All day, Amy stayed angry, and both she and Finney were extremely drunk. (R. 7-11). After she called him her “piece of shit husband,” he shot her. (R. 8). The next morning, he put her body in his SUV. (R. 9). Later that day, officers arrested him. (R. 10-11). They found, in his SUV, a concrete block, extension cords, and the body; in his home, they found more forensic evidence, including the murder weapon. (R. 6, 9-11). Although Brandham said that Finney planned to leave the body in Rend Lake, the arrest was in Perry County. (R. 6, 10-11).

According to the defense proffer, Finney was 51 years old; he had lived in Mount Vernon for five years, and nearby for his whole life. (R. 12-13). He had family ties, including his mother, a daughter, and two sons. (R. 13). He

worked as an over-the-road truck driver. (R. 13). He had been so employed for 18 years, for the same firm. (R. 13). He was neither on probation, nor parole, nor pretrial or work release. (R. 13). His criminal history included misdemeanor disorderly conduct, a misdemeanor boating DUI, and most recently, domestic battery, but nothing since 2010. (R. 13). Counsel urged release conditions including home detention and weapons surrender. (R. 13-14).

In argument, the State, addressing pretrial-release conditions, argued that Finney faced the most serious charge possible, with mandatory prison time. (R. 11). Given these stakes, it later argued, “There is no condition or combination of conditions . . . which this Court could use to insure that Mr. Finney would appear for further court dates or comply with any court orders . . .” (R. 15).

The judge then asked questions and made findings. He elicited from Finney, and counsel, that the marriage was about 2.5 years old, with no children. (R. 15). He had Finney describe \$25,000 in life insurance “[t]hrough my work, just enough to cover anything.” (R. 15-16). He then noted Finney’s community ties, employment, and lack of felony convictions, probation, or supervision. (R. 17). He also noted Finney’s legal gun possession. (R. 17). He discussed Finney’s pending charges. (R. 17-18). And he found that Finney’s post-offense actions required “a certain amount of planning” and intent to avoid prosecution. (R. 18, 19).

The judge also found that the State had a strong case. (R. 19). He then found that Finney faced a long minimum sentence, “greatly increasing” flight risk. (R. 19). Finally, the judge found community danger; Finney had fired his gun after losing his temper, which would “be a clear and present danger if

you are capable of doing something like this.” (R. 19). The judge also found that alcohol was involved, but, he added, “it didn’t cloud your mind as to trying to hide your body.” (R. 20). He denied pretrial release. (R. 20, 28-29).

The next day, counsel filed a motion for relief. (C. 14). He argued that the judge failed to fully consider Finney’s community ties, willingness to comply, employment opportunities, and lack of criminal history. (C. 15).

Several days later, in a preliminary probable-cause hearing, Detective Justin Titzer testified to investigating Finney (R. 30-31), arresting him (R. 32-33), and hearing him confess, twice, to the shooting Amy. (R. 34, 37-38). He also described forensic evidence seized from Finney’s home and SUV. (R. 34-35, 38). The judge asked several questions to clarify the timeline. (R. 43-44). He then found probable cause. (R. 46).

Immediately thereafter, the judge addressed the motion for relief. (R. 46). Counsel re-proffered Finney’s family ties, criminal record, and work history, and (under Titzer’s testimony) Finney’s post-arrest cooperation. (R. 46-49). The State, highlighting the judge’s probable-cause finding and Titzer’s testimony, called Finney both a dangerous person and a flight risk. (R. 49-52).

The judge denied the motion for relief. He called the hearing “in essence “ a “repeat of the original” detention hearing, except that he now also had the detective’s testimony. (R. 53). After considering all of that, the judge denied the motion for relief. (R. 53-58).

Appeal facts.

On appeal, Finney argued that given his years of law abiding behavior, his work record, and his context-dependent offense, the State failed to meet

its public-safety and flight-risk burdens. (De. memo. 5-8). He acknowledged the serious charge; he argued, however, that its circumstances were unlikely to recur. (De. memo. 6). He also argued that he had almost no criminal record, but he did have a work history, family ties, and a low risk-assessment score. (De. memo. 6-7). His argument addressed only the proffered detention-hearing evidence, not the live preliminary-hearing evidence. (De. memo. at 5-8).

In response, the State argued safety risk, flight risk, and that conditions could mitigate neither risk. (St. memo. 2-6). Its argument also addressed only the proffered detention-hearing evidence, not the live preliminary-hearing evidence. (St. memo. 2-3).

The parties agreed that the standard of review on appeal was *de novo*. (De. memo. 5; St. memo. 4).

The Appellate Court affirmed, finding that, despite Finney's good record, employment, and family ties, the serious charges and Finney's subsequent actions justified detention. *People v. Finney*, 2025 IL App (5th) 250741-U, ¶¶ 21-22. In so finding, it addressed the standard of review. *Id.*, ¶¶ 19-20. A detective, it found, "provided live testimony at the preliminary hearing, which was conducted concurrently with the hearing on the defendant's motion for relief." ¶ 20. Therefore, it reviewed for manifest weight. *Id.*, ¶¶ 19-20.

Finney then sought leave to appeal, urging this Court to clarify the proper standard of review. *People v. Finney*, No. 132703, *petition for leave to appeal* (Jan. 14, 2026). This Court granted leave to appeal. *Id.* (Order of Feb. 23, 2026).

ARGUMENT

Given *Morgan*'s holding, the impropriety of new motion-for-relief evidence, and the irrelevance of such evidence, review should be *de novo*.

As the State agreed in its memorandum below, the proper standard of review here is *de novo*. Under *People v. Morgan*, detention orders, when resting on proffered evidence, must be reviewed *de novo*. 2025 IL 130626, ¶¶ 51, 54 (2025). Here, John Finney was detained in a proffered pretrial-release hearing. A few days later, in a preliminary hearing, the judge heard live testimony, which, later that day, he considered in the ensuing motion-for-relief hearing. But this subsequent live evidence should not alter the standard of review, for two reasons. First, subsequent live evidence is improperly considered in a motion-for-relief hearing. Second, subsequent live evidence is irrelevant to the earlier detention order, which, here, is the only order under review. Because the only properly considered and relevant evidence was proffered evidence, this Court should find that, under *Morgan*, review should be *de novo*.

A. Applicable law and legal background.

To win a detention order, the State must prove, by clear and convincing evidence: 1) a detainable offense, 2) a real, present public-safety or flight risk, and 3) that conditions could not mitigate risk. 725 ILCS 5/110-6.1(a)(8), (e)(2-3) (2025).

In detention-order appeals, the standard of review rests on the nature of the evidence. In *Morgan*, the judge ordered pretrial detention. 2025 IL

130626, ¶ 9. The Appellate Court reviewed for abuse of discretion. *Id.*, ¶¶ 10. This Court granted review. *Id.*, ¶ 14.

Initially *Morgan* noted that, in general, legal questions are reviewed *de novo*. *Id.*, 2025 IL 130626, ¶ 22. It also explained that courtroom-management decisions are typically reviewed for abuse of discretion. *Id.*, ¶ 23. And, as it recognized, factual findings “are *generally* reviewed for manifest weight.” *Id.*, ¶ 20 (emphasis in original).

Morgan then found that pretrial-detention review follows the nature of the evidence. 2025 IL 130626, ¶ 21. With live detention-hearing testimony, it observed, it noted, judges have an advantage: they can see and hear witnesses. *Id.* Review, in that event, is therefore for manifest weight. *Id.* But absent this live testimony, they lack this advantage. *Id.* Review, in that event, is therefore *de novo*. *Id.*

After noting these options, and after finding a detention order to be a binary, factual decision, *Morgan* rejected the Appellate Court’s abuse-of-discretion standard. 2025 IL 130626, ¶¶ 24-47. Rather, *Morgan* found, when live testimony “is presented at a pretrial detention hearing,” review is for manifest weight. *Id.*, 2025 IL 130626, ¶ 43. But “when parties to a pretrial detention hearing proceed solely by proffer, the reviewing court stands in the same position as the circuit court and may therefore conduct its own independent review of the proffered evidence and evidence otherwise documentary in nature.” *Id.*, ¶ 51.

Where live testimony is presented only *after* a proffered detention hearing and order, the First District and the Fourth District review *de novo*. See *People v. Coleman*, 2025 IL App (1st) 251472-U, ¶¶ 10-11, 18; *People v. Yarbrough*, 2025 IL App (4th) 250915-U, ¶ 27 (discussed below). The Fifth

District, however, reviews for manifest weight. *See People v. Nabors*, 2025 IL App (5th) 250720-U, ¶ 21; *People v. Davis*, 2025 IL App (5th) 250715-U, ¶ 20; *People v. Ganaway*, 2025 IL App (5th) 250706-U, ¶ 42; and this case, *People v. Finney*, 2025 IL App (5th) 250741-U, ¶¶ 19-20. But *Nabors* and similar cases are incorrectly decided, as argued below.

B. Absent live detention-hearing testimony, the proper standard of review is *de novo*.

Again, under *Morgan*, pretrial-detention review is for manifest weight when the detention hearing features live testimony; however, it is *de novo* when, as here, the hearing is proffered. 2025 IL 130626, ¶¶ 38, 43, 51, 54. (R. 6-13, 29-45; CI. 4-7). Given the proffered hearing below, Finney and the State agreed that, under *Morgan*, review should be *de novo*. (De. memo. 5-6; St. memo 2-3). The parties were right – and *Nabors*, and similar cases, are wrong – for the following reasons.

1. Subsequent live testimony should not alter the standard of review because this testimony is not properly considered.

Nabors and its allied cases are incorrectly decided because, in evaluating the standard of review, they consider what cannot be properly considered below. They find that live testimony at a subsequent preliminary-hearing can affect a detention order's standard of review. They reason, presumably, that the judge would have considered this subsequent live testimony in the motion-for-relief hearing. But such consideration would be improper, for three reasons. First, such consideration would improperly subvert the intent of the legislature, which gave the State one opportunity to meet its detention burdens – one bite at the apple – with a maximum 21-day deadline. Second,

such consideration would improperly subvert the motion for relief's trial-level error-correction function. And third, such consideration would improperly subvert this motion's appellate-argument function, as any consideration of new testimony in the motion for relief would necessarily be absent from that motion. Because such subsequent live evidence is improperly considered in a motion-for-relief hearing, it is improperly considered in deciding the standard of review. *See Yarbrough*, 2025 IL App (4th) 250915-U (discussed below). Therefore, where, as here, a pretrial-detention hearing is proffered, subsequent live testimony should not alter what, under *Morgan*, must be *de novo* review.

Considering post-detention-hearing testimony for the first time in a motion-for-relief hearing would improperly subvert legislative intent. When the State petitions for pretrial detention, a statutory framework limits it to one hearing. By statute, the State must file its petition timely, either at the first appearance or within 21 days. 725 ILCS 5/110-6.1 (c)(1) (2026). The ensuing hearing must be within 48 hours or less. *Id.*, § (c)(2). At that hearing, the State must meet its burdens of proof. *Id.*, § (e). Nothing in the statute gives the State a second opportunity to meet its burden.

Given this framework, and absent unfair barriers against the State, this Court has found that where the State has failed, in the detention hearing, to meet its burden, a remand to make its proof would be an improper second bite at the apple. *People v. Cousins*, 2025 IL 130866, ¶¶ 35-36. Here, letting the State bolster its proof in a motion-for-relief hearing would do the same; in most cases, as here, nothing in the original hearing “prevent[s] the State from presenting its case for detention.” *Id.* ¶ 35. Letting the State bolster its proof would, in many cases, let the State offer more evidence beyond the

statutorily mandated single hearing and beyond the statutorily mandated 21 days. Therefore, considering preliminary-hearing testimony at the motion-for-relief hearing would be improper.

Considering post-detention-hearing testimony for the first time in a motion-for-relief hearing would also improperly subvert Rule 604(h)(2)'s trial-level function. Rule 604(h) requires motions for relief so "simple, correctable errors" can be "quickly addressed," avoiding "the much more time-consuming appellate process." *People v. Farah*, 2025 IL App (4th) 250322-U, ¶ 22 (quoting this Court's Pretrial Release Appeals Task Force, Report and Recommendations, at 5 (2024)) (hereafter, "Task Force Report"). Further, such motions "crystallize the issues" actually being "raised in the trial court." *People v. Cooksey*, 2024 IL App (1st) 240932, ¶ 16 (quoting Task Force Report, at 6).

Given these purposes, motion-for-relief hearings should address existing legal errors, not expand the pretrial-detention record, and especially not expand it with new preliminary-hearing testimony. *See People v. Williams*, 2024 IL App (1st) 241013. In *Williams*, after a proffered hearing, the accused was detained. *Id.*, ¶¶ 4-10, 22. He then filed a motion for relief. *Id.*, ¶¶ 13, 24. In the ensuing hearing, he offered new, live witnesses. *Id.*, ¶¶ 13-15. After hearing their testimony, the judge denied release.

On appeal, the State urged the reviewing court to ignore the motion-for-relief witnesses. *People v. Williams*, 2024 IL App (1st) 241013, ¶ 25. Such

1. [https://ilcourtsaudio.blob.core.windows.net/Antilles-resources/resources/628434e3-d07f-4ead-b1f6-4470d7e83bf3/Pretrial% 20Release% 20Appeals% 20Task% 20Force% 20Report_March% 202024.pdf](https://ilcourtsaudio.blob.core.windows.net/Antilles-resources/resources/628434e3-d07f-4ead-b1f6-4470d7e83bf3/Pretrial%20Release%20Appeals%20Task%20Force%20Report_March%202024.pdf) [<https://perma.cc/GDS4-7UT7>] (last viewed March 18, 2026).

new testimony, it argued, constituted a second full detention hearing and so was a nullity. *Id.*

Williams agreed. It found that the new motion-for-relief evidence created a second detention hearing. *Williams*, 2024 IL App (1st) 241013, ¶ 28. Such a hearing, it added, would be improper, as motions for relief must “promote efficiency, to streamline appeals, and to encourage early error detection.” *Id.* Therefore, it held, motion-for-relief hearings should address only the already-existing initial-detention-hearing evidence. *Id.*, ¶ 29.

Other courts have likewise found new motion-for-relief evidence improper. *People v. Davis*, 2025 IL App (1st) 242306-U, ¶ 43 (finding that, under *Williams*, new evidence requires a reconsideration motion, not a motion for relief); *People v. Phelps*, 2025 IL App (1st) 251777-U, ¶ 26 (following *Davis*); *People v. Badie*, 2025 IL App (3d) 250033, ¶ 27 (same); *People v. Townsend*, 2025 IL App (4th) 241615-U, ¶ 26 (following *Williams*); *People v. Smith*, 2025 IL App (5th) 250452-U, ¶ 16 (following *Davis*).

So too here. Under *Williams* and its progeny, preliminary-hearing evidence falls outside “the State’s evidence at the initial detention hearing.” *Williams*, 2024 IL App (1st) 241013, ¶ 28. Therefore, again, considering preliminary-hearing testimony at the motion-for-relief hearing would be improper.

Finally, considering post-detention-hearing testimony for the first time in a motion-for-relief hearing would improperly subvert Rule 604(h)(2)’s appellate-level function. Absent a defense appellate memorandum, a Rule 604(h)(2) motion “stands as the sole vessel for appellate argument.” Task Force Report at 5. Thus, it acts like a conventional opening brief. *See* Supreme Court Rule 604(h)(7) (“The motion for relief will serve as the

argument of the appellant on appeal”). In a conventional direct appeal, counsel could hardly write an opening brief before the close of evidence. Neither, therefore, can a motion for relief properly precede live evidence which, ultimately, will be reviewable on appeal. Thus, where, as here, 1) the defendant is detained, then 2) the defendant files a motion for relief, then 3) the judge holds a preliminary hearing, and then 4) the judge considers this new evidence in the motion-for-relief hearing, the motion for relief cannot properly serve its appellate function.

Of course, where new evidence is considered in a motion-for-relief hearing, the defendant (or, the State, if the losing party) might then file a second motion for relief, addressing this new evidence. But a second motion is not before this Court. Further, such duplication would hardly promote efficiency. *Williams*, 2024 IL App(1st) 241013, ¶ 28. Nor would it streamline appeals. *Id.* Rather, it would further strain trial courts. *See* Task Force Report, at 6 (acknowledging that motions for relief, although necessary, burden trial judges). And it would “blur[] the clarity that *Morgan*” (and, Finney would add, Rule 604(h) generally) “endeavored to create.” *People v. Medley*, 2025 IL App (4th) 250245-U, ¶ 28.

Because the preliminary-hearing testimony was improperly considered in the motion-for-relief hearing, it should be irrelevant to evaluating a detention order, and, thus, irrelevant to its standard of review. *See Yarbrough*, 2025 IL App (4th) 250915-U. In *Yarbrough*, the judge, after a proffered detention hearing, denied pretrial release. *Id.*, ¶¶ 5-15. About a month later, he heard live preliminary-hearing testimony. *Id.*, ¶ 18. Thereafter, in the motion-for-relief hearing, he considered this live testimony. *Id.*, ¶¶ 20-21. But his consideration was improper: where relief is sought only from an initial

detention order, a motion-for-relief hearing should address only detention-hearing evidence. *Id.*, ¶ 26. Given those circumstances, it found, the proper standard of review, under *Morgan*, was *de novo*. *Id.*, ¶ 27.

This Court should agree. Unlike *Nabors* and its progeny, *Yarborough* addressed the propriety of considering new evidence in a motion-for-relief hearing. 2025 IL App (4th) 250915, ¶ 26. *Yarbrough* found that such evidence was improper. *Id.*, ¶¶ 26-27. And, *Yarbrough* also found, because such evidence is improper, it should not change what otherwise, under *Morgan*, is *de novo* review. *Id.*, ¶ 2s7. This Court should too.

2. Subsequent live testimony should not alter the standard of review where, as in this appeal, the subsequent testimony is not under review.

Nabors and its allied cases are also incorrectly decided because, in evaluating the standard of review, they improperly consider what is irrelevant. Here, as in *Nabors*, Finney, on appeal, challenges only the detention order, not the motion-for-relief denial: he alleged no motion-for-relief errors. (De. memo. 5-8). Therefore, only the detention order is under review, and so only detention-order evidence should control the standard of review. *See People v. Kleutgen*, 359 Ill. App. 3d 275 (2nd Dist. 2005) (discussed below). Where, as her, the detention-order evidence was proffered, review, under *Morgan*, is properly *de novo*. 2025 IL 130626, ¶¶ 51, 54.

Finney, in his appeal, challenged only the detention order. (De. memo. 5-8). He argued that, given his law-abiding behavior, his work record, and his context-dependent offense, the State met neither its public-safety nor its flight-risk burdens. (De. memo. 5-8). He alleged no motion-for-relief errors. (De. memo 5-8).

Unchallenged or unchallengeable orders, or findings, are not under review. *See Buchanan v. Cook Cnty. Sheriff's Merit Bd.*, 2023 IL App (1st) 220320, ¶ 56 (finding that, in administrative review, circuit court's review of administrative order is not under review); *People v. Willoughby*, 250 Ill. App. 3d 699, 720 (5th Dist. 1993) (finding that where defendant's *Batson* claim addressed only the State peremptory challenges, judge's *prima facie* discrimination finding was not under review); *Carroll & Neiman, Inc. v. Silverman*, 28 Ill. App. 3d 289, 291 (1st Dist. 1975) (finding that where defendants did not challenge sufficiency of 2-1401 petition, sufficiency was not under review).

Because the motion-for-relief order is unchallenged, it is not under review. Therefore, only the detention order is under review. And because only the detention order is under review, only detention-hearing evidence should control the standard of review. *See Kleutgen*, 359 Ill. App. 3d at 277-78. In *Kleutgen*, the judge rescinded a driving suspension, finding that the arresting officer lacked statutory authority. *Id.* at 277. The State appealed. *Id.* Under many circumstances, such an appeal is reviewed deferentially. *Id.* at 278. However, under other circumstances – specifically, an issue involving undisputed evidence – review is *de novo*. *Id.* Opposing *de novo* review, the defendant noted that the record included disputed evidence. *Id.* *Kleutgen* found, however, that this disputed evidence was irrelevant to the statutory-authority issue under review. *Id.* Therefore, *Kleutgen* held, “these purportedly disputed facts play no part in our analysis. Thus, we conduct *de novo* review based on the undisputed facts.” *Id.*

For similar reasons, here, this Court should review *de novo* based on the proffered facts. As with *Kleutgen*, the standard of review is deferential in

certain circumstances (live testimony) but *de novo* in others (proffers). *Morgan*, 2025 IL 130626, ¶ 43 (adhering to historical manifest-weight fact-finding review). As did the *Kleutgen* defendant, the Appellate Court here favored *de novo* review; it found that the record included live preliminary-hearing testimony. *Finney*, 2025 IL App (5th) 250741-U, ¶¶ 21-22. But, as with *Kleutgen*'s disputed-but-irrelevant evidence, this live preliminary-hearing testimony was irrelevant to the pretrial-detention order: neither the preliminary hearing, nor the ensuing motion-for-relief denial, was under review. Therefore, as with *Kleutgen*, this Court should find that the proper review is *de novo*.

C. This Court should review this issue despite potential mootness.

Although Finney's trial began on March 24, 2026, and it is possible that his case will be moot before this Court acts, this Court should still decide the proper standard of review for orders from pretrial detention hearings because the standard of review is a frequently recurring question of great public importance.

As noted above, courts have split on the question presented here: what standard of review governs proffered detention hearings, followed by live-testimony preliminary hearings, followed by motions for relief. *Compare Coleman*, 2025 IL App (1st) 251472-U, ¶¶ 10-11, 18 and *Yarbrough*, 2025 IL App (4th) 250915-U, ¶ 27 (*de novo*) with *Nabors*, 2025 IL App (5th) 250720-U, ¶ 21; and *Davis*, 2025 IL App (5th) 250715-U, ¶ 20 (manifest weight).

Therefore, this Court should resolve the standard of review to provide "[c]lear and stable legal norms" for "society at large by allowing people to more clearly understand their rights and risks." Timothy J. Storm, *The*

Standard of Review Does Matter: Evidence of Judicial Self-Restraint in the Illinois Appellate Court, 34 S. Ill. U. L.J. 73, 76 (2009). Additionally, this issue is likely to recur, so this Court should resolve this issue now.

Accordingly, even if Finney’s appeal from his pretrial detention order becomes moot – because his detention is no longer pretrial – this Court should invoke the public-interest exception and decide the standard of review for orders from pretrial detention hearings.

This Court does not usually “issue advisory opinions on moot or abstract questions of law.” *People ex rel. Partee v. Murphy*, 133 Ill. 2d 402, 408 (1990). However, since formally adopting the public interest exception over 70 years ago “this court has reviewed a variety of otherwise moot issues under this exception.” *In re Shelby R.*, 2013 IL 114994, ¶ 18 (collecting cases). In particular, the public interest exception requires that the question: 1) would provide needed guidance to the appellate court; 2) is of a public nature; and 3) will likely recur. *Id.* ¶ 16 (citing *Wisnasky-Bettorf v. Pierce*, 2012 IL 111253, ¶ 12).

Addressing the standard of review here would provide needed guidance to the Appellate Court. As noted above, the First District and Fourth District review cases like this one *de novo*. The Fifth District, on the other hand, reviews such cases deferentially. This split will not likely heal on its own.

The question presented here is of a public nature. This Court’s own rules highlight this public nature; appellants’ briefs must “include a concise statement of the applicable standard of review for each issue[.]” Ill. S. Ct. R. 341(h)(3). The importance of standards of review also highlight this public nature; they can control whether accused is detained or released. *Kearney v. Standard Ins. Co.*, 175 F.3d 1084, 1095 (9th Cir. 1999) (reviewing *de novo*

compared to clearly erroneous “could be outcome determinative”). And the need for public confidence in the judiciary also highlights this public nature; the standard of review should be uniform. “[P]eople must believe that disputes of like kind will be resolved in (essentially) the same way, regardless of the identities of the individual parties.” Storm, *The Standard of Review Does Matter*, 34 S. Ill. U. L.J. at 76. In sum, the standard-of-review question presented here is of a public nature.

And the question here will likely recur. With pretrial detentions being challenged regularly on appeal, with review times often exceeding pretrial-delay times, and with standards of review sometimes controlling the result, it is likely that this Court will continue to be petitioned to clarify the standard of review.

In sum, this Court should invoke the public interest exception and decide the proper standard of review for orders from pretrial detention hearings because the standard of review: 1) would provide needed guidance to the appellate court; 2) is of a public nature; and 3) will likely recur. See *Shelby R.*, 2013 IL 114994, ¶ 16. As in *People v. Cooper*, which addressed the pretrial-detention 48-hour rule, the “magnitude and immediacy of the interests involved warrant action by this court, the question is of a public nature, an authoritative determination of the question is desirable for the future guidance of public officers, and the question is likely to recur.” 2025 IL 130946, ¶ 16, n.1. More specifically, as in *Morgan*, a “debate has arisen in the appellate court regarding the appropriate standard of review,” resolving the debate will “provide consensus throughout the Illinois judiciary,” and otherwise “this issue is likely to recur.” *Morgan*, 2025 IL 130626, ¶ 17. This

Court should therefore apply the public-interest exception and review the merits.

D. Summary.

Under *Morgan*, proffered detention hearings are reviewed *de novo*. Subsequent live testimony should not alter that standard of review because it is neither properly considered; nor, as to a detention-hearing appeal, is it relevant. The court below therefore erred in reviewing for manifest weight. This Court should therefore clarify that only the actual evidence presented at the initial detention hearing controls what the standard of review should be on appeal.

CONCLUSION

For the foregoing reasons, this Court should clarify that only the actual evidence presented at the initial detention hearing controls what the standard of review should be on appeal.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 21 pages.

/s/ Michael H. Orenstein
MICHAEL H. ORENSTEIN
Assistant Appellate Defender

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NOTICE

Decision filed 12/15/25. 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.

2025 IL App (5th) 250741-U

NO. 5-25-0741

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,	)	Jefferson County.
	)	
v.	)	No. 25-CF-199
	)	
JOHN W. FINNEY,	)	Honorable
	)	Jerry E. Crisel,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Moore and Sholar concurred in the judgment.

ORDER

- ¶ 1 **Held:** The trial court's orders granting the State's verified petition to deny pretrial release and denying the defendant's motion for relief are affirmed.
- ¶ 2 The defendant, John W. Finney, appeals the September 3, 2025, order of the trial court of Jefferson County that granted the State's petition to deny pretrial release and the September 10, 2025, denial of his motion for relief and immediate release. The defendant filed a timely notice of appeal, and the Office of the State Appellate Defender (OSAD) was appointed to represent the defendant. In the defendant's memorandum, he argues that the State did not meet the clear and convincing standard that he is a risk to public safety and a flight risk, and, therefore, the trial court erred. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On September 2, 2025, the defendant was charged by information with three counts of first degree murder, a Class M felony. 720 ILCS 5/9-1(a)(1) (West 2024). The defendant was arrested on September 2, 2025. The same day, the State filed a verified petition to deny pretrial release. The petition alleged that the defendant should be denied pretrial release because the defendant is charged with a forcible felony and is a flight risk. 725 ILCS 5/110-6.1(a)(1.5), (8) (West 2024). Further, the petition alleged the defendant's release would pose a real and present threat to the safety of any person or persons or the community, and no less restrictive means exist which would guarantee the defendant's compliance. *Id.* § 110-6.1(a)(1.5)

¶ 5 On September 3, 2025, the trial court heard the State's petition to deny pretrial release. The State proffered that, if this case went to trial, Detective Titzer of the Jefferson County Sheriff's Office would testify that, on September 1, 2025, at approximately 8 p.m., he was contacted by Captain Corey Waide, also of the Jefferson County Sheriff's Office. Captain Waide had advised Detective Titzer that he had received a call from a witness, Collin Bradham. Bradham informed dispatch that the defendant had come to his residence and had confessed that he shot and killed his wife, Amy Finney. Bradham also gave a statement to dispatch indicating that he had personally observed the defendant's wife deceased and wrapped in a blanket in the back of the defendant's vehicle. Detective Titzer had received information that members of law enforcement were attempting to locate the defendant's vehicle and had been told that the defendant might be attempting to dispose of his wife's body in Rend Lake. Detective Titzer was en route to Jefferson County when he received a dispatch call advising that the defendant had been stopped by law enforcement in Perry County, Illinois. When at the scene of the arrest, Detective Titzer was notified that a deceased body had been found in the back of the defendant's vehicle.

¶ 6 Around the time of the arrest, the defendant's house was searched; officers seized three pistols, including the apparent murder weapon, and other forensic evidence. Officers interrogated the defendant both at the scene and later at the station. The defendant said that, on the day in question, his wife had been yelling at him all day, and they were both intoxicated. After she, on the phone, described the defendant as her "piece of s*** husband," he became enraged and shot her in the back. At 4 a.m. on September 2, 2025, he wrapped the body in a blanket and put it in the back of his vehicle.

¶ 7 The State then proceeded by argument. The defendant was charged with three theories of murder, including first degree murder. The defendant does not have an extensive criminal history but had been charged with a 2010 conviction for misdemeanor domestic battery; a 2008 court supervision disposition for disorderly conduct, a Class C misdemeanor; and court supervision disposition for DUI on a water vessel in 2004, a Class A misdemeanor. The State maintained that this is a confession case, in which the defendant's confession was recorded and corroborated by the crime scene and by evidence recovered from his vehicle and residence. Further, the likelihood of success at trial is high, and the defendant is a flight risk, given the particular facts of the case. For these reasons, there is no condition or combination of conditions that would ensure the defendant's presence at further court dates or for trial.

¶ 8 The defense counsel proffered that the defendant is 51 years old, he has lived in Mount Vernon, Illinois, for five years, and in the Jefferson County region for his whole life, he has family ties in Jefferson County, and he is a high school graduate with a year of college. At the time of his arrest, he was employed at Beelman Trucking. He was not on probation, bond, or pretrial release at the time of his arrest, and has never been sentenced to the Illinois Department of Corrections

penitentiary. Further, several years ago, he had one failure to appear. Lastly, he would be willing to submit to any conditions of pretrial release.

¶ 9 The trial court found that the State had met its burden under the clear and convincing standard of evidence. The trial court acknowledged that the defendant has strong family ties in the area, was employed at the time of his arrest, has no prior felony convictions, was not on probation or pretrial release, and legally owned the firearm with a FOID card. However, due to the seriousness of the charge, the circumstances surrounding the offense, such as driving with the body in the back of his vehicle, and the likelihood of conviction at trial, there is a higher likelihood of flight. The record reflects that on September 3, 2025, both a docket entry was made as well as an oral pronouncement, which stated that the State's petition to deny pretrial release is granted. The trial court entered a written *nunc pro tunc* order for detention on September 10, 2025.

¶ 10 On September 4, 2025, the defendant filed a motion for relief and immediate pretrial release. See Ill. S. Ct. R. 604(h) (eff. Apr. 15, 2024). The defendant's motion for relief stated, *inter alia*, as follows:

“5. Following the 9/3/25 hearing, the Court made the following findings by clear and convincing evidence:

- a. The proof is evident or the presumption great that the defendant has committed a qualifying offense;
- b. The defendant poses a real and present threat to the safety of any person or person or the community, based on the specific articulable facts of the case;
- c. No condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons;

6. The Court erred in granting the State's Petition to Deny Pre-Trial Release at said hearing, in that the State failed to meet its burden of proving by clear and convincing evidence any of the above in that:

- a. The Court failed to fully consider Defendant's ties to the community and the fact that he is a life-long resident of Southern Illinois.
- b. The Court failed to fully consider Defendant's willingness to abide by any terms of pre-trial release.
- c. The Court failed to fully consider Defendant's employment opportunities.
- d. The Court failed to fully consider lack of criminal history."

¶ 11 On September 10, 2025, by agreement of the parties, the trial court jointly heard the preliminary hearing and the defendant's motion for relief. The State called Detective Titzer of the Jefferson County Sheriff's Office to testify. Titzer testified that on September 2, 2025,¹ the sheriff's department received a call from the defendant's friend, Bradham, reporting that the defendant had killed his wife and had her body in the back of his vehicle. The defendant's vehicle was stopped by the Christopher Police Department, where the wife's body was discovered along with a concrete block and an extension cord. Titzer soon thereafter arrived on the scene and interviewed the defendant, who confessed to the murder of his wife. The defendant advised that he had shot his wife at his residence, and the firearm was still in the home; the firearm was later found inside the home. Upon arrival at the Jefferson County Sheriff's Office, the defendant again confessed to killing his wife.

¹On occasion, the events that occurred on September 2, 2025, are mistakenly said to have taken place on September 1, 2025.

¶ 12 On cross-examination, Titzer testified that the defendant was cooperative with the police and did not resist arrest. Upon the close of evidence, the trial court found that the State had met its burden of establishing probable cause that a felony had been committed.

¶ 13 The trial court then heard arguments on the defendant's motion for relief. Defense counsel proffered the same background on the defendant as in the prior detention hearing on September 3, 2025. The State argued many of the same arguments as in the September 3, 2025, hearing. The State also referenced the testimony the trial court heard from Detective Titzer about the discovery of the body, the blue blanket used to wrap the body, and the cinder block and extension cords. The State emphasized that this is a confession case, and due to the nature of the offense and the defendant's actions after the commission of the crime, wrapping the victim's body in a blanket and driving the body in his vehicle, and the potentially substantial sentencing length, he poses a flight risk, and conditions or a combination of conditions would not be appropriate here.

¶ 14 Upon the conclusion of the hearing, the trial court denied the defendant's motion for relief. The trial court noted that the evidence presented was substantially similar to that presented at the original detention hearing, with the addition of Detective Titzer's testimony heard at the jointly held preliminary hearing. The trial court found that after considering everything presented, the defendant posed a flight risk due to the substantial sentencing length, a minimum sentence of 45 years, and the strong amount of evidence for the State. The trial court also noted that it found the defendant to be a danger to the public, a possible danger to himself, and to Bradham, who reported the crime to law enforcement.

¶ 15 II. ANALYSIS

¶ 16 On appeal, OSAD was appointed to represent the defendant. The defendant filed a memorandum in support of his appeal pursuant to Rule 604(h). The defendant's memorandum

argues that the trial court erred in finding that the State met its burden of proving that the defendant posed a real and present threat to the safety of any person or persons or the community. Further, the defendant argued that the State failed to meet its burden that the defendant is a flight risk.

¶ 17 Because the defendant's motion for relief did not assert an argument that the defendant is not a flight risk, and the defendant's memorandum did not assert an argument regarding whether the proof is evident or presumption great that he committed a qualifying offense, both issues are waived under Rule 604(h)(2):

“As a prerequisite to appeal, the party taking the appeal shall first present to the trial court a written motion requesting the same relief to be sought on appeal and the grounds for such relief. The trial court shall promptly hear and decide the motion for relief. Upon appeal, any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived.” Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024).

As such, we only consider the remaining issue of the defendant's danger to a person or community as a whole and whether any condition or conditions could mitigate the threat of danger.

¶ 18 Pretrial release—including the conditions related thereto—is governed by Public Act 101-652, § 10-255 (eff. Jan. 1, 2023). See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of the Act); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (lifting stay and setting effective date as September 18, 2023). 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 of proving 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 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)).

¶ 19 Our standard of review of pretrial release determinations is twofold. 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. However, where the trial court is asked to consider the testimony of live witnesses, and make factual findings, such as the State's burden of presenting clear and convincing evidence that conditions of pretrial release would not protect any person or the community, the defendant has a high likelihood of willful flight to avoid prosecution, or the defendant failed to comply with previously ordered conditions of pretrial release, our standard of review is the manifest weight of the evidence. *Id.* "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). In light of the live testimony of Detective Titzer, we review the evidence under the manifest weight standard.

¶ 20 The defendant's memorandum asserts that no live testimony was taken in this matter; however, that assertion is inaccurate. Detective Titzer provided live testimony at the preliminary hearing, which was conducted concurrently with the hearing on the defendant's motion for relief. Moreover, the trial court expressly stated that it relied upon Detective Titzer's testimony in determining that the defendant's motion for relief should be denied.

¶ 21 We have thoroughly reviewed the record on appeal in this matter, including the initial detention hearing and the motion for relief hearing. The record reflects that the defendant's criminal history is not substantial and includes no prior felony convictions. The trial court also noted that the defendant was not on pretrial release or parole at the time of the offense, is a high school graduate, was gainfully employed at the time of the offense, and has significant family ties within the community. However, the trial court also considered the grave nature of the offense, the defendant's actions following the commission of the offense, including driving with the victim's body in the back of his vehicle, and the potential for a lengthy sentence upon conviction.

¶ 22 Based on these facts, the trial court found that no condition or combination of conditions, including home confinement and electronic monitoring, could reasonably mitigate the danger the defendant posed to the victim's family and the community. An opposite conclusion is not clearly evident or the finding itself is not unreasonable, arbitrary, or not based on the evidence presented. Therefore, we find that the trial court's decision to detain the defendant was not against the manifest weight of the evidence. *Morgan*, 2025 IL 130626, ¶¶ 38, 43.

¶ 23 III. CONCLUSION

¶ 24 Based on the foregoing reasons, we affirm the trial court of Jefferson County.

¶ 25 Affirmed.

IN THE CIRCUIT COURT OF Jefferson COUNTY
Second JUDICIAL CIRCUIT

FILED
 SECOND JUDICIAL COURT
 SEP 10 2025
Patty Klee
 CLERK OF CIRCUIT COURT
 JEFFERSON COUNTY ILLINOIS

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

-VS-)

JOHN FINNEY,)

Defendant-Appellant.)

No. 25-CF-199

NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER
PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)

(Defendant as Appellant)

Court from which appeal is taken:

Circuit Court of Jefferson County.

The Judge who entered the order on the motion for relief under Rule
 604(h)(2): JUDGE JERRY CRISEL

Date of Order on Motion for Relief*: 9/3/25

***Without an Order on a Motion for Relief, this notice of appeal is
 prohibited by Rule 604(h)(2).**

Date(s) of Hearing(s) Regarding Pretrial Release: 9/3/25 and 9/10/25

Court to which appeal is taken:

Appellate Court of Illinois, Fifth Judicial District

**Name of Defendant and address to which notices shall be sent (if
 Defendant has no attorney):**

Defendant's Name: _____

Defendant's Address: _____

Defendant's E-mail: _____

Defendant's Phone: _____

**If Defendant is indigent and has no attorney, does he or she want one
 appointed? ☒ Yes ☐ No**

Name of Defendant's attorney on appeal (if any):

Attorney's Name: Ofc. of State Appellate Defender, 5th Judicial Dist.
 Attorney's Address: 909 Water Tower Circle, Mt. Vernon, IL 62864
 Attorney's E-mail: 5thdistrict@osad.state.il.us
 Attorney's Phone: 618.244.2466

Name of Defendant's trial attorney (if any):

Attorney's Name: Neal Heflin, Jefferson Co., IL Public Defender
 Attorney's Address: 100 S 10th St., Rm. 306, Mt. Vernon, IL 62864
 Attorney's E-mail: jeffcopd2@gmail.com
 Attorney's Phone: 618.244.8013

Is the trial attorney a public defender? ☒ Yes ☐ No

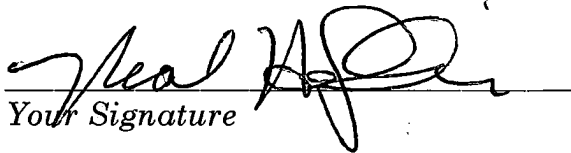
Nature of Order Appealed (check only one):

- ☒ Denying pretrial release
☐ Revoking pretrial release
☐ Imposing conditions of pretrial release

Are there currently pending any other appeals in this matter by the same party under the Pretrial Fairness Act? ☐ Yes* ☒ No

*If Yes, this notice of appeal is prohibited by Rule 604(h)(11).

I certify that everything in this NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h) is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.


 Your Signature

Neal Heflin
 Printed Name

6280184
 Attorney # (if any)

No. 132703

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 5-25-0741.
	)	
Plaintiff-Appellee,	)	There on appeal from the Circuit
	)	Court of the Second Judicial Circuit,
-vs-	)	Jefferson County, Illinois, No. 25
	)	CF 199.
	)	
JOHN W. FINNEY,	)	Honorable
	)	Jerry E. Crisel,
Defendant-Appellant.	)	Judge Presiding.

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 115 S. LaSalle St., Chicago, IL 60603,
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Mr. David J. Robinson, Chief Deputy Director - PTFA, State's Attorneys Appellate
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Mr. John Finney, Jefferson County Jail, 911 Casey Ave., Mt. Vernon, IL 62864

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On March 26, 2026, the Brief and Argument for Defendant-Appellant in Support of Rule 604(h) Appeal was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the Defendant-Appellant in an envelope deposited in a U.S. mailbox in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument for Defendant-Appellant in Support of Rule 604(h) Appeal to the Clerk of the above Court.

/s/Christopher Moy-Lopez

LEGAL SECRETARY

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