NOTICE
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2026 IL App (5th) 260576-U

NO. 5-26-0576

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,	)	Vermilion County.
	)	
v.	)	No. 25-CF-739
	)	
ANTRON HAWTHORNE,	)	Honorable
	)	Karen E. Wall,
Defendant-Appellant.	)	Judge, presiding.

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

ORDER

¶ 1 *Held*: We affirm the circuit court's orders granting the State's verified petition to deny the defendant pretrial release and denying the defendant's motion for relief where the defendant waived his argument challenging the court's finding that he posed a real and present threat to the safety of the community by failing to raise that claim in his motion for relief and where the record contains clear and convincing evidence that no condition or combination of conditions of release would mitigate the real and present threat posed by the defendant.

¶ 2 The defendant, Antron Hawthorne, appeals orders of the circuit court of Vermilion County granting the State's verified petition to deny pretrial release and denying his subsequent motion for relief. The defendant argues that the State failed to prove by clear and convincing evidence that he posed a real and present threat to any person or the community and that no condition or combination of conditions of pretrial release would mitigate the real and present threat to the

community. The State contends that the defendant waived the first of these issues by failing to include it in his motion for relief. We affirm the circuit court's orders.

¶ 3 I. BACKGROUND

¶ 4 On September 29, 2025, the State filed a six-count information charging the defendant with one count each of armed violence, a Class X felony (720 ILCS 5/33A-2(a) (West 2024)); unlawful possession of a firearm by a repeat felony offender, a Class X felony (*id.* § 24-1.7(a)); unlawful possession of a weapon by a felon, a Class 2 felony (*id.* § 24-1.1(a)); possession of cannabis with intent to deliver more than 30 grams but not more than 100 grams, a Class 3 felony (720 ILCS 550/5(d) (West 2024)); possession of cannabis with intent to deliver more than 10 grams but not more than 30 grams, a Class 4 felony (*id.* § 5(c)); and possession of a controlled substance containing MDMA, oxycodone, and/or amphetamine dextroamphetamine, a Class 4 felony (720 ILCS 570/402(c) (West 2024)).

¶ 5 On the same date, the State filed a verified petition to deny the defendant pretrial release. The State alleged that the defendant was charged with a detainable offense, that he posed a real and present threat to the safety of any individual or the community, and that no condition or combination of conditions of release could mitigate that threat.

¶ 6 Also on September 29, 2025, the State filed a pretrial investigation report (PTI). The PTI noted that the defendant reported the following information to pretrial services: He lived with his girlfriend in Georgia and had been at the same residence for the past five years. The defendant had "some family" in Vermilion County, and he had transportation to court hearings. The defendant was unemployed and had no income. He acknowledged a prior history of drug abuse, but he indicated that he had not had problems with drugs for "many years." The defendant provided the

name of his girlfriend, Jane Ballard,[1] as a verification contact; however, he could not recall her cell phone number.

¶ 7 The PTI included the results of the Virginia Pretrial Risk Assessment Instrument-Revised (VPRAI-R). The defendant scored 8 out of a possible 14 points, placing him at Level 4. This meant that there was a 21.4% risk that pretrial conditions would fail.

¶ 8 In addition, the PTI contained a section detailing the defendant's prior criminal history. It revealed that the defendant had a total of seven felony convictions, four misdemeanor convictions, and one conviction for driving with a revoked license in Georgia, which was not classified. His convictions included four charges of possession of controlled substances or narcotics, three charges for possession of cannabis, one charge of manufacture or delivery of cannabis, two weapons charges, and a 2014 bank robbery conviction for which the defendant was sentenced to 10 years in federal prison. The criminal history section also indicated that the defendant had one failure to appear for a postconviction hearing on a misdemeanor cannabis charge in Knox County, Illinois, in 2009.

¶ 9 The matter proceeded to a detention hearing the following day. The State proffered that a Rossville, Illinois, police officer stopped a vehicle driven by the defendant for speeding. The vehicle smelled of cannabis, and the defendant admitted that he had cannabis in the car. The officer determined that there was a 2007 warrant for the defendant from Galesburg, although the State admitted, "I don't know how accurate that was." The vehicle was subsequently searched, based on both the outstanding warrant and the admitted presence of cannabis in the vehicle, which "was seen not to be packaged properly." The search revealed the presence of 1 tablet of MDMA, 10½

[1]Although identified in the PTI as "Jane Ballard," the defendant's girlfriend gave her full name as Jannie Powell in an affidavit she later submitted.

tablets of oxycodone, 14 tablets of amphetamine dextroamphetamine, packaging bags for cannabis, a scale, and a Taurus G3C handgun with a fully loaded magazine.

¶ 10 The State highlighted the defendant's criminal history. The State then noted that the defendant lived in Georgia.

¶ 11 Addressing the question of the defendant's dangerousness, the State pointed out that this was the defendant's third charge involving possession of a weapon. The State argued that a felon in possession of a weapon is always dangerous, especially with the presence of drugs. The State also argued that "the bank robbery is very significant."

¶ 12 Turning to the question of whether any conditions of release could mitigate the danger posed to the community by the defendant, the State again emphasized that the defendant had two previous convictions on gun charges and was again charged with unlawfully possessing a firearm as a felon in this case. The State argued that the defendant was a "long-time criminal" who repeatedly managed to possess firearms "regardless of the law."

¶ 13 Defense counsel began his proffer by emphasizing that the allegations in the instant case were not yet proven. He noted that the warrant mentioned in the State's proffer was in a Knox County misdemeanor case in which the defendant was sentenced to six months of court supervision. Counsel further stated that the defendant's fiancée was a lawful gun owner and that both she and the defendant used the vehicle involved in the traffic stop.[2] When the State asked the source of this information, counsel acknowledged that it was based on the representations made by the defendant. He further stated that the gun was found in the trunk and, as such, it was not immediately accessible to the defendant.

[2]The record does not reveal who owned the vehicle at issue.

¶ 14 Defense counsel argued that, if the court found that the defendant had committed a detainable offense, there were mitigating circumstances that prevented him from being a danger to the community. He argued that most of the defendant's prior convictions were for possession of cannabis, which was legal under some circumstances by the time of the hearing. He further argued that "the fact that the gun was not immediately accessible certainly mitigates any danger in these circumstances." Finally, counsel proffered that although the defendant lived in Georgia, he had a place to stay in Danville, Illinois, with the mother of his children, and he stated that the defendant would consent to wear an ankle monitor.

¶ 15 In rebuttal, the State noted that the pills containing various controlled substances were found in the trunk of the car along with the gun. The State argued that this contradicted the defendant's claim that he had no access to or knowledge of the gun.

¶ 16 Announcing its ruling from the bench, the circuit court noted that it heard the parties' proffers and reviewed the PTI. Discussing the PTI, the court noted that the defendant scored 8 points on the risk assessment tool. The court further noted that the defendant had a "significant criminal history," but acknowledged that his history was "a little dated" with the most recent conviction having been entered in 2014. The court also noted that the PTI revealed one postconviction failure to appear.

¶ 17 Turning its attention to the requirements for pretrial detention, the circuit court first found that, based on what the officers found in the vehicle, the proof was evident and the presumption great that the defendant committed a qualifying offense. The court then found that the evidence of drug dealing combined with the presence of a gun presented a danger to the community. Next, the court considered whether the defendant was likely to comply with conditions of release. The court noted that although the defendant was not allowed to have a gun due to his status as a convicted

felon, this was his third gun offense. The court thus found that conditions of release would not mitigate the threat to the community posed by the defendant. For these reasons, the court stated that it would order the defendant detained.

¶ 18 Also on September 30, 2025, the circuit court entered a written order for detention, finding by clear and convincing evidence that (1) the proof was evident and the presumption great that the defendant committed a detainable offense, (2) the defendant posed a real and present threat to the safety of the community, and (3) no condition or combination of conditions of release would mitigate that threat. As reasons for concluding that no condition or combination of conditions would mitigate the threat, the court checked boxes indicating that its finding was supported by (1) the nature and circumstances of the offenses charged; (2) a prior criminal history indicative of violent, abusive, or assaultive conduct; and (3) the fact that the defendant was known to possess or have access to a weapon. In addition, the court included the following handwritten findings: "A variety of drugs, scale and packaging materials indicate drug dealing. Firearm found in vehicle. Score of 8 on risk assessment. Defendant from [Georgia]. Defendant is a felon. Multiple convictions for gun offenses."

¶ 19 On June 24, 2026, the defendant filed a motion for relief. See Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). Under the heading "Detention Hearing Errors," he asserted that the circuit court erred by (1) giving too much weight to his criminal history, (2) giving too little weight to "the mitigating circumstances related to the alleged firearm recovered," and (3) finding that no conditions could mitigate any threat he posed.

¶ 20 The motion then set forth new evidence the defendant intended to present, which was contained in three exhibits that were filed the same day. The evidence included an affidavit by the defendant's girlfriend, an Illinois State Police (ISP) lab report, and a document explaining the law

providing for the expungement of certain cannabis-related offenses. In her affidavit, the defendant's girlfriend, Jannie Powell, attested that she traveled to Illinois with the defendant late in August of 2025 and attended a family reunion with him. She stated that she owned the gun at issue in this case, which she brought with her when she traveled to Illinois. Powell further attested that she placed the gun in the trunk of a vehicle owned by Marcia Hawthorne without the knowledge or consent of the owner or driver of the vehicle, and she unintentionally left it there when she returned to Georgia on September 1, 2025. The lab report indicated that no suitable latent fingerprints were found on the pistol, magazine, cartridges, or holster. The document explaining the expungement of certain cannabis offenses stated, in relevant part, that arrests for minor cannabis offenses, including possession of less than 30 grams of cannabis, are eligible for automatic expungement, and that convictions for minor cannabis offenses "may still be expunged automatically."

¶ 21 In his motion, the defendant argued that under *People v. Slaten*, 2024 IL App (2d) 240015, a defendant's criminal history may be considered, but "cannot establish the bulk of the reasoning for denying pretrial release." He noted that all his prior convictions were resolved more than 10 years earlier and asserted that most of his previous charges involved possession of cannabis, which may be subject to expungement under current law. The defendant further argued that the circuit court failed to consider the defendant's cooperation with law enforcement, both during the stop at issue in this case and in his prior cases. He asserted that his history demonstrates he would be likely to abide by any conditions imposed upon him by the court.

¶ 22 The trial court held a hearing on the defendant's motion for relief on July 1, 2026. Through counsel, the defendant reiterated his argument that the court placed too much emphasis on his criminal history. Quoting from *Slaten*, he argued that the State was required to present clear and

convincing evidence based on the specific, articulable facts of the case, " 'not generalities about the nature or number of criminal charges.' " See *Slaten*, 2024 IL App (2d) 240015, ¶ 22. Counsel further argued that the defendant's prior convictions for possession of cannabis may be subject to expungement.

¶ 23 Counsel noted that, at the detention hearing, he had proffered that there was no DNA or fingerprint evidence linking the defendant to the gun. He stated that the ISP lab report now provided support for this proffer. He highlighted Powell's affidavit, attesting that she was the owner of the gun and that she placed it in the trunk of the vehicle the defendant was driving when he was stopped.

¶ 24 Counsel acknowledged the defendant's failure to appear in the Knox County misdemeanor case, but he emphasized that the State's petition to detain did not allege that the defendant was a risk for willful flight. Further, counsel argued that the failure to appear was an "anomaly" in view of the defendant's substantial record of appearing when required. Counsel argued that although the defendant was charged in this case with the offense of armed violence, which "seems to bespeak of some sort of heinous act," there was no indication that he engaged in any violent acts while committing the offenses charged.

¶ 25 Defense counsel acknowledged that "indeed there might be sufficient proof" to establish that the proof was evident and the presumption was great that the defendant committed a detainable offense. He argued, however, that the court could impose conditions of release to make sure the defendant would abide by its orders, including electronic monitoring or home detention.

¶ 26 In response, the State first took issue with the defense claim that the defendant's prior convictions were mostly for possession of cannabis. The State noted that he had two convictions

on weapons charges, more than one conviction for possession of a controlled substance other than cannabis, and a conviction for unlawful delivery of cannabis.

¶ 27 Addressing the defendant's argument about the dates of his prior convictions, the State proffered that records indicated the defendant was released from federal prison on the bank robbery charge on October 2, 2020. Thus, the State argued, he was not living a crime-free life for as long as defense counsel's argument implied.

¶ 28 The State next proffered the following additional details concerning the traffic stop and search of the vehicle: The defendant was stopped for driving 58 miles per hour in a 30-mile-per-hour zone. The search of the vehicle yielded 30 grams of cannabis and over 60 small baggies. In addition, the gun was found next to a bag containing the 60 small baggies, and the defendant made a statement admitting he knew the baggies were there.

¶ 29 In rebuttal, defense counsel conceded that it was not accurate to say that "most" of the defendant's prior convictions were for possession of cannabis, but he emphasized that the defendant did have at least some "cannabis cases that may possibly be non[-]issues considering our new laws." Addressing the State's argument that the defendant had only been out of prison since October 2020, counsel argued that five years was still a significant period without reoffending.

¶ 30 Ruling from the bench, the circuit court indicated that it reviewed the PTI, the transcript of the detention hearing, the exhibits tendered by the defendant, and the arguments of the parties. The court stated, "The defense is not contesting here today, from what I'm understanding from the arguments, is that this Court's finding that the offense is a detainable offense and then the needing—the State meeting the standard on dangerousness." Regarding the question of whether conditions of pretrial release could mitigate the threat, the court found that even placing the

defendant on home confinement with GPS monitoring would not stop him from obtaining a gun or dealing drugs. The court therefore concluded that continued detention was necessary.

¶ 31 The circuit court entered a written order for continued detention that same date. In a summary of findings, the court stated that there was evidence of drug dealing—specifically, 60 small plastic baggies and a scale—and there was evidence that the defendant knew about the baggies, which were found with the gun. The court further noted that the defendant had a significant criminal history for guns and drugs. On July 6, 2026, the defendant filed a timely notice of appeal pursuant to Illinois Supreme Court Rule 604(h)(1)(iii) (eff. Apr. 15, 2024).

¶ 32 II. ANALYSIS

¶ 33 On appeal, the defendant argues that the State failed to provide clear and convincing evidence that he posed a real and present threat to the safety of any person or persons or the community. He further contends that the State likewise failed to provide clear and convincing evidence that no condition or combination of conditions of release could mitigate the threat. Before addressing these contentions, however, we must first address the State's argument that the defendant waived his claim concerning evidence that he posed a real and present threat by failing to include it in his motion for relief. See Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024).

¶ 34 Filing a motion for relief is a prerequisite for filing an appeal. *People v. Burries*, 2025 IL App (5th) 241033, ¶ 25. Illinois Supreme Court Rule 604(h)(2) requires such motions to set forth "the same relief to be sought on appeal and the grounds for such relief." Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). The rule further provides that "[u]pon 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." *Id.* These requirements serve "as a means to give the circuit court the opportunity to correct errors, crystalize the issues being raised in the circuit court, [and]

streamline the appeal process." *Burries*, 2025 IL App (5th) 241033, ¶ 30. Thus, where a defendant's motion for relief "fails to properly place the arguments advanced on appeal before the circuit court, this court cannot review the judgment as to those issues." *Id.* ¶ 28.

¶ 35 Here, as discussed above, the defendant's motion for relief asserted that the circuit court made three errors: (1) placing too much weight on the defendant's criminal history, (2) placing too little weight on "the mitigating circumstances" related to the firearm found in the vehicle, and (3) finding that there were no conditions of pretrial release that would mitigate the threat. He did not explicitly claim that the circuit court erred in finding that he posed a real and present threat to the community. See *People v. Patterson*, 2025 IL App (5th) 250510, ¶ 15 (noting that the defendant's motion "did not identify any errors in previous detention hearings"); *Burries*, 2025 IL App (5th) 241033, ¶ 22 (noting that the motion for relief did not cite any error from any hearing).

¶ 36 We recognize that some of the defendant's more detailed arguments related to the evidence presented could, conceivably, support a claim that the court erred in finding that he posed a real and present threat to the safety of the community. For example, he argued that the defendant did not have immediate access to the gun when the stop occurred and pointed to proffered evidence that the gun belonged to Powell, that no fingerprints or DNA evidence were found linking the defendant to the gun, and that the defendant denied knowing the gun was in the trunk. However, the motion contained no language referencing the standard for a finding of a real and present threat or linking these arguments to that standard. See *Burries*, 2025 IL App (5th) 241033, ¶ 22 (noting that the defendant's motion did not refer to the legal standards for pretrial detention or include arguments related to those standards). Indeed, the circuit court indicated in ruling from the bench that based on the arguments presented, the defendant was challenging only the finding that no

conditions of release would mitigate the threat, not the finding that he posed a real and present threat to the safety of the community.

¶ 37 For these reasons, we conclude that the defendant has waived his claim that the court erred in finding that he posed a real and present threat to the safety of the community. The only issue properly before us, then, is whether the court correctly determined that the State met its burden of proving that no condition or combination of conditions of release would mitigate the threat. We turn our attention now to that question.

¶ 38 All criminal defendants are presumptively eligible for pretrial release, even those charged with violent offenses. *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 20; see also 725 ILCS 5/110-2(a) (West 2024). Pretrial release may only be denied "in certain statutorily limited situations." *Lopez*, 2025 IL App (2d) 240709, ¶ 15 (citing 725 ILCS 5/110-6.1(e) (West 2022)). Pertinent here, a circuit court may deny pretrial release after a hearing on the State's verified petition if (1) the proof is evident or the presumption great that the defendant has committed a detainable offense; (2) the defendant poses a real and present threat to the safety of any person or persons or to the community at large; and (3) no condition or combination of conditions would mitigate the threat. *People v. Miller*, 2024 IL App (1st) 240588, ¶ 24 (citing 725 ILCS 5/110-6.1(e)(1)-(3) (West 2022)).

¶ 39 The State bears the burden of proving all three requirements by clear and convincing evidence. *People v. Horne*, 2023 IL App (2d) 230382, ¶ 16. If the State fails to prove any one of these requirements, "the presumption of release remains, and detention is unlawful." *People v. Sorrentino*, 2024 IL App (1st) 232363, ¶ 32. In addition, the circuit court must make written findings summarizing its reasons for denying pretrial release. *Horne*, 2023 IL App (2d) 230382, ¶ 18 (citing 725 ILCS 5/110-6.1(h)(1) (West 2022)).

¶ 40 Our standard of review on appeal depends on the nature of the evidence presented at the pretrial detention hearing. Where the parties present the testimony of live witnesses, we review the circuit court's decision to determine whether it is against the manifest weight of the evidence. *People v. Morgan*, 2025 IL 130626, ¶ 54. However, where the parties proceed by proffer, as they did in this case, the appellate 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. Our review is thus *de novo*. *Id.* ¶ 54. This means we will conduct the same analysis the circuit court would conduct, and we are not bound by its findings. *Lopez*, 2025 IL App (2d) 240709, ¶ 18.

¶ 41 As we have discussed, the only claim properly before us relates to the third element. The defendant argues that the circuit court erred in finding that the State satisfied its burden of proving by clear and convincing evidence that no condition or combination of conditions would mitigate the threat. We reject this contention.

¶ 42 Once the circuit court determines that a defendant poses a real and present threat to the safety of any individual or the community, the court must consider whether any conditions of pretrial release will mitigate the threat and whether defendant is likely to comply with such conditions. *Horne*, 2023 IL App (2d) 230382, ¶ 32 (citing 725 ILCS 5/110-5(a)(1)-(6) (West 2022)). Pertinent factors include (1) the nature and circumstances of the offenses charged (725 ILCS 5/110-5(a)(1) (West 2024)); (2) the weight of the evidence against defendant (*id.* § 110-5(a)(2)); (3) the defendant's character, family ties, employment, community ties, length of residence in the community, and criminal history (*id.* § 110-5(a)(3)(A)); (4) whether the defendant was on probation or parole when arrested on the underlying charges (*id.* § 110-5(a)(3)(B)); and (5) the nature and seriousness of the threat posed by the defendant's release based on the specific

and articulable facts of the case (*id.* § 110-5(a)(4)). The court may also consider a risk assessment tool. *Id.* § 110-5(b).

¶ 43 The defendant contends that the circuit court erroneously accepted the State's argument based "mostly on the bare allegations" of the offense, which, he argues, was insufficient. See *People v. Stock*, 2023 IL App (1st) 231753, ¶ 18. We disagree. The circuit court found that both the defendant's current charge of possession of a weapon by a felon and his previous conviction on the same offense demonstrated that he was unwilling to comply with restrictions on his ability to possess a weapon. The court also expressly found the defendant's score of 8 on the VPRAI-R pertinent. See 725 ILCS 5/110-5(b) (West 2024). Further, the PTI indicated that the defendant was unemployed, did not live in the community, and had an extensive criminal history. See *id.* § 110-5(a)(3)(A). Finally, the evidence against the defendant was strong, consisting of items recovered during a search of the vehicle he was driving. See *id.* § 110-5(a)(2). These factors go beyond the bare allegations of the current charges, and they support the circuit court's determination that no conditions of release would mitigate the real and present threat. As such, we find no error.

¶ 44 III. CONCLUSION

¶ 45 For the foregoing reasons, we affirm the orders of the circuit court granting the State's petition for pretrial detention and denying the defendant's motion for relief.

¶ 46 Affirmed.