2026 IL App (2d) 260242-U
No. 2-26-0242
Order filed August 21, 2026
Modified Upon Denial of Rehearing September 9, 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NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).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.

JUAN A. DELA CRUZ LOPEZ, Defendant-Appellant.

Appeal from the Circuit Court of Kane County.
Honorable Robert K. Villa and John A. Barsanti, Judges, Presiding.
No. 26-CF-747

JUSTICE BIRKETT delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court improperly detained defendant where the State presented no clear and convincing evidence that the threat posed by his release was unmitigable by court conditions.

¶ 2 Defendant, Juan A. Dela Cruz Lopez, timely appeals the circuit court's order of pretrial detention. We reverse and remand with directions to order defendant's release with appropriate conditions.

¶ 3 I. BACKGROUND

¶ 4 On March 29, 2026, the State charged defendant with one count of attempted murder (720 ILCS 5/8-4(a), 9-1(a) (West 2024)) and one count of residential burglary (*id.* § 19-3(a)). That day,

the State also filed its verified petition to deny defendant's pretrial release, alleging that defendant was charged with a detainable offense, his release would pose a real and present threat to the safety of any persons or the community, and the threat could not be mitigated by conditions.

¶ 5 While presenting its motion, the State introduced the underlying police synopsis into evidence. The synopsis stated that, on March 27, 2026, a police officer investigated a report of a suspicious incident taking place at a local restaurant. There, the officer spoke with a "younger female subject" who identified herself as Roxanne Cortez. She informed the officer that Thomas Trandel, an elderly man whose house she cleaned, threatened her with a knife while at the restaurant. Trandel denied this and explained to officers that he had met Cortez on a dating website. Without making any arrests, officers accompanied Cortez to Trandel's house so that she could retrieve some property she had left there. Upon their arrival, an officer found defendant hiding in a bedroom with a "large kitchen knife." The officer promptly handcuffed defendant before finding empty cans of alcoholic drinks and other hidden knives throughout. Further, officers determined that several of Trandel's outside lights had been tampered with.

¶ 6 At the police station, defendant informed an officer that, earlier in the day, he had traveled to Trandel's home with Cortez, whose real name was Lilly Hernandez-Diaz. According to defendant, Trandel had perhaps drugged Hernandez-Diaz earlier in the week, and that, as a result, defendant intended to " 'rough him up.' " However, on the way to Trandel's home, defendant began drinking and "decided he was going to take [Trandel's] life." He planned for Hernandez-Diaz to distract Trandel while defendant entered Trandel's home. Upon arriving in Trandel's yard, defendant disabled Trandel's lights. He snuck into the home as Trandel and Hernandez-Diaz left the home and remained there for several hours until police discovered him.

¶ 7 Relying on the synopsis, the State argued that it demonstrated, by clear and convincing evidence, that the proof was evident or the presumption great that defendant committed the detainable offenses of attempted murder and residential burglary. The State further argued that, given the multiple knives, the elderly victim, defendant's admissions, and his mental instability, defendant's pretrial release would pose a real and present threat to the victim and the public. Concerning the applicability of conditions, the State argued:

> "[Defendant] has no ties to Kane County. He cannot be placed on electric home monitoring living in [Cook County]. That's the address on the synopsis.
>
> Again—and there is no conditions that would mitigate the threat that is currently present and very real to this victim in this case."

¶ 8 Defendant, on the other hand, argued that it was only his intention to protect Hernandez-Diaz, and that he was "very intoxicated" when he told police he intended to kill Trandel. Further, defendant had "absolutely no prior history of criminal activity, criminal convictions, [and] no prior histories of fail[ing] to appear."

¶ 9 The court granted the State's detention petition. On April 22, 2026, defendant filed his motion for relief. On May 13, 2026, the court denied the motion. Defendant timely appeals.

¶ 10 II. ANALYSIS

¶ 11 On appeal, defendant argues that the circuit court erred in finding that defendant's pretrial release would pose a threat to any persons or the public and that no conditions could mitigate such a threat.

¶ 12 A. Dangerousness

¶ 13 First, the trial court correctly found that defendant's pretrial release would pose a threat to Trandel. Under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110

(West 2024)), a defendant may only be denied pretrial release under certain circumstances. If the State files a petition to detain a defendant pending trial, it 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 would pose a real and present threat to any persons or the community, and that any less restrictive conditions could not mitigate such a threat. *Id.* §§ 6.1(e), (f).

¶ 14 In determining the danger posed by a defendant's release, a court may consider such factors as: 1) the nature and circumstances of the offense; 2) the defendant's history and characteristics; 3) any threatened parties' identities; 4) the defendant's statements; 5) the defendant's age and physical condition; 6) the victim's age and physical condition; 7) the defendant's access to weapons; 8) the defendant's parole or probation status; and 9) any other relevant factors. *Id.* § 6.1(g). However, "the bare allegations that defendant has committed a violent offense are not sufficient to establish this element." *People v. Stock*, 2023 IL App (1st) 231753, ¶ 18. Because the circuit court did not hear live testimony before denying defendant pretrial release, we review its findings *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54.

¶ 15 Here, defendant argues that the trial court erroneously based its dangerousness determination on the unproven allegations within the synopsis, which amounted to little more than a recitation of the inherent elements of the charged offenses. Defendant further contends that the court erroneously speculated that he suffered from "mental instability" in finding that his release would endanger others, all while ignoring his lack of any criminal history. We disagree.

¶ 16 As a starting point, Illinois courts have recognized that courts may base detention determinations solely on the information contained within police synopses. *People v. Horne*, 2023 IL App (2d) 230382, ¶ 24. Here, the record makes clear that the trial court properly relied on the

synopsis to consider several relevant factors bearing on defendant's dangerousness, including: 1) the violent nature of the charged offenses; 2) defendant's mannerisms following his apprehension; 3) Trandel's identity as a threatened party; 4) defendant's admissions to police; 5) Trandel's age; and 6) defendant's access to weapons. 725 ILCS 5/110-6.1(g) (West 2024). Contrary to defendant's assertion, these factors are not merely inherent in the charged offenses, and they sufficiently supported the court's dangerousness determination, notwithstanding defendant's lack of a criminal history or any reported mental health issues.

¶ 17 B. Conditions

¶ 18 Second, we agree with defendant that the court erroneously found that no conditions could mitigate the threat posed by his prospective release. In determining whether conditions could reasonably ensure the safety of the public or a specific victim, or whether a defendant is likely to comply with such conditions, a court should consider: 1) the nature of the charged offense; 2) the weight of the evidence; 3) defendant's history and characteristics; 4) the nature and seriousness of any prospective threat posed by a defendant; and 5) the risk of obstructing the criminal justice process. *Id.* § 5(a).

¶ 19 Here, defendant argues that the court's determination that no conditions could mitigate the threat of his pretrial release was unsupported by the record. Defendant notes that he has no criminal history and that the record otherwise reveals no evidence whatsoever concerning the applicability of conditions. Instead, defendant argues that the court based its determination solely on a conclusion lacking any evidentiary basis in the record—that his residency in Cook County purportedly renders him ineligible for electronic home monitoring. On the other hand, the State argues—without any citation to the record or pertinent authority—that:

> "the record demonstrates that the trial court properly considered evidence of the facts and circumstances surrounding defendant's alleged offenses as presented at the hearing and in the record, as well as the pretrial investigation report and other relevant evidence. *** It is clear that the trial court heard sufficient evidence to support its determination by clear and convincing evidence that defendant committed the offenses alleged and that detention is necessary to mitigate his dangerousness to the community."

We agree with defendant.

¶ 20 Here, the State bore the burden of proving, by clear and convincing evidence, that "no condition or combination of conditions" short of detention could reasonably ensure the safety of any specific victim or the public at large. *Id.* § 6.1(e). During the detention hearing, the State only argued that one condition—electronic home monitoring—was inapplicable, even though no evidence was introduced to that effect. The State also presented evidence concerning the violent nature of the offense, the identity of a specific victim, defendant's admissions to police, and his access to knives. While these factors are relevant under section 110-5(a), they do not clearly or convincingly establish, in and of themselves, whether defendant would comply with court orders, which remains the threshold question under section 110-6.1(e)(3) of the Code. *Id.* §§ 5(a), 6.1(e)(3). Indeed, given the low scores on his risk assessment scales, defendant's public safety assessment report did not recommend any need for pretrial supervision if defendant were to be released. Even more, defendant had absolutely no criminal history. These factors, which are also relevant under section 110-5(a), directly cut against any finding that defendant would not comply with release conditions. *Id.* § 5(a). Further, even if home monitoring was unavailable, the Code only allows for pretrial detention where *no combination* of conditions could mitigate the threat of a defendant's release. *Id.* § 6.1(e). Logically, evidence that a defendant's address renders him

inapplicable for one condition does not necessarily suggest that he will not follow any court conditions. Accordingly, the court erred in finding that the State had proven, by clear and convincing evidence, that any threat posed by defendant's release was unmitigable by court conditions. Further, the State's brief conclusions to the contrary are unsupported by any citation to the record or authority and are therefore forfeited. See *People v. Smith*, 2023 IL App (3d) 230060, ¶ 67 (citing *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 12).

¶ 21 In its petition for rehearing, the State cites—for the first time—*People v. Mikolaitis*, 2024 IL 130693, to argue that it was not required to specifically address every conceivable combination of applicable conditions for the court to detain defendant, and that the relevant factors under section 110-5 support defendant's detention. Because the State's arguments concerning *Mikolaitis* were raised for the first time in its petition for rehearing, despite being directly relevant to defendant's arguments on appeal, they are forfeited. *People v. McNeal* 405 Ill. App. 3d 647, 681-82 (2010).

¶ 22 Forfeiture aside, *Mikolaitis* is distinguishable and supports our holding. There, our supreme court noted that the State was not required to prove the futility of every possible combination of release conditions to have a defendant detained, but rather, it "must *** present sufficient evidence regarding the specific scenario presented by each case ***." *Mikolaitis*, 2024 IL 130693, ¶ 20. Thus, the trial court in that case properly considered defense counsel's admission of the defendant's specific, untreated mental illnesses to infer that he would not follow release conditions. *Id* ¶ 24

¶ 23 Here, while presenting its detention petition, the State speculated that defendant exhibited a "kind of mental instability" making him a danger to the community. However, despite the State's repeated insistence that defendant's "significant mental health issues" render any conditions inapplicable, there is absolutely no evidence in the record that defendant suffered from any mental illness whatsoever. This is a far cry from the situation in *Mikolaitis*, where the record plainly

revealed that the defendant suffered from at least three specific mental illnesses, failed to take his prescribed antipsychotics, and had been hospitalized in the past. *Id.* ¶ 7. Accordingly, we reject the State's forfeited argument that our decision runs afoul of *Mikolaitis*.

¶ 24 III. CONCLUSION

¶ 25 For the reasons stated, we reverse the judgment of the circuit court of Kane County and remand for a hearing to set conditions for defendant's pretrial release.

¶ 26 Reversed and remanded with directions.