2024 IL App (2d) 240086-U
No. 2-24-0086
Order filed April 19, 2024

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Lake County.
Plaintiff-Appellee,	)	
v.	)	No. 23-CF-2372
STEVEN D. CONNER,	)	Honorable Theodore S. Potkonjak,
Defendant-Appellant.	)	Judge, Presiding.

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

ORDER

¶ 1 *Held*: The trial court did not err in granting the State's petition to detain defendant.

¶ 2 In this interlocutory appeal under Illinois Supreme Court Rule 604(h) (eff. Oct. 19, 2023), defendant, Steven D. Conner, timely appeals the December 1, 2023, order of the circuit court of Lake County granting the State's petition to deny pretrial release pursuant to article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-1 *et seq*. (West 2022)), commonly known as the Pretrial Fairness Act (Act). See Pub. Acts. 101-652, § 10-255, 102-1104, § 70 (eff. Jan. 1, 2023). Specifically, defendant argues that: (1) the State failed to prove by clear and

convincing evidence that he committed a detainable offense; (2) the State failed to prove by clear and convincing evidence that he poses a real and present threat to the safety of any person or persons or the community; and (3) the State failed to prove by clear and convincing evidence that no condition or combination of conditions would mitigate that real and present threat. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On December 1, 2023, defendant was charged by information with three counts of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2022)) (Class X), four counts of aggravated criminal sexual abuse (720 ILCS 5/11-1.60(b) (West 2022)) (Class 2 felony), and one count of aggravated criminal sexual abuse (720 ILCS 5/12-16 (West 2010)) (Class 2 felony) (renumbered as 720 ILCS 5/11-1.60(b) (West 2022)).[1] That same day, the State filed a verified petition to detain defendant, alleging that he was charged with detainable offenses, that his pretrial release would pose a real and present threat to the safety of the victims and the community at large, and that there was no set of conditions that could mitigate that real and present threat.

¶ 5 The matter immediately proceeded to a detention hearing, and the State made the following proffer: Defendant is the stepfather of the three female victims in this case, namely J.I., J.K.I., and J.J.I., and they all lived together in a residence in Lake County. On October 24, 2023, J.I., who was then 17 years old, disclosed to her non-custodial biological father that defendant had been inappropriately touching her for years. The biological father contacted the Fox Lake police department and reported concern for both of his daughters—J.I., and a second minor female, J.K.I.,

[1]Defendant was later indicted by the grand jury on these counts on January 3, 2024, and two counts of aggravated criminal sexual abuse were added.

who was then 14 years old.

¶ 6 Several victim sensitive interviews (VSIs) were conducted. J.I. reported that defendant had been inappropriately touching her since she was eight years old. It often occurred when her mother would leave for work early in the morning. Defendant would call J.I. into his room or come into J.I.'s room. He would pull J.I. on top of him or lay J.I. on top of him and rub his private parts on her. On one occasion, defendant placed J.I.'s hand on defendant's penis, over his clothes, and he placed his hand on J.I.'s vagina, over her clothes. Defendant then moved his hand up and down. On another occasion, when J.I. was about 10 years old, defendant placed her on the bed, removed his pants and J.I's pants, and touched his hand to the skin of J.I.'s vagina while he touched his penis to the skin of J.I.'s vagina. J.I. reported that defendant tried to "put it inside," but she would not let him. In another incident, when she was about 14 years old, defendant pulled J.I. on top of his lap while they were in the basement and "rocked" her back and forth while rubbing his penis on her vagina, over their clothes. Another incident occurred at around this same time, when defendant sat on a couch and placed J.I.'s hand on his penis, under his clothes.

¶ 7 A second victim, J.K.I., disclosed that defendant began to touch her when she was about 8 or 9 years old. She recalled a time that, when she was nine years old, she was in the basement with defendant when he pulled her onto his lap, sat her face to face with him, and he would "slide" J.K.I.'s "private part" against defendant's "private part." J.K.I. also disclosed that defendant would grab her hand and force her to touch his penis. J.K.I. estimated that there were four similar episodes where she was forced to touch defendant's penis. She further detailed that defendant would bend her forward, while they were both clothed, and rub his penis against her buttocks. She also reported that, just three months prior to the interview, defendant grabbed her breast while they were in the kitchen, and he let go of her breast only when another sibling entered the room.

¶ 8 A third victim, J.J.I., was age 21 at the time of J.I.'s initial outcry. She reported that defendant began to inappropriately touch her when she was 9 or 10 years old. Defendant would tickle and touch her vagina and chest over her clothes. He would also pull J.J.I. onto his lap and grind against her vagina, over her clothes. J.J.I. recalled an incident when she was in sixth grade, when her family was staying in a hotel because they were moving to a new house. Defendant and J.J.I. were alone in the room, and defendant pulled her onto the bed and placed her on all fours. Defendant stood behind her with his penis area touching her buttocks area.

¶ 9 The State argued that pretrial detention was necessary because defendant posed a threat to the three victims and the community at large. Specifically, it emphasized that defendant engaged in inappropriate conduct with each victim "beginning around the same age," and he then "moved from one victim to the next as they got older." The State argued that, due to the nature of the offenses and the position of trust that defendant held in the victims' lives, there were no conditions that the court could impose that would mitigate the risk he posed to the victims or to other children in the community.

¶ 10 Defendant, represented by the public defender, proffered that he was no longer living in his home in Ingleside with his wife and stepdaughters, and he was residing with his parents in Tinley Park. Defendant emphasized that he was a self-employed contractor, that he had adult children of his own who he helped periodically, and that he attended church. Defendant also emphasized that he had "virtually no criminal history," that he turned himself in to the police, and that he denied all of the allegations that formed the basis of the offenses. He asserted his belief that the biological father of J.I. and J.K.I. was 'the one driving all of this," because "[t]he biological father has never liked [defendant] or the role that he has in his daughters' lives," and he was trying to "wreck [the] household" and "get himself back in." Defendant also asserted that, when his

stepdaughters were little, he never changed their diapers or helped them get dressed, nor did he roughhouse with them or tickle them, and they never sat on his lap or slept with him in the same bed. Defendant also emphasized that his wife, who is the biological mother of all three victims, did not believe the allegations and had stated that defendant had never done anything inappropriate with them. Defendant further asserted that the allegations "came about when two of [the victims], at least, got into trouble," and they were "lying to stay out of trouble."

¶ 11 The circuit court found, by clear and convincing evidence, that defendant likely committed a detainable offense, that he posed a real and present threat to the safety of any person or persons or the community, and that there was no condition or combination of conditions that could mitigate that threat, and it accordingly granted the State's petition.

¶ 12 Defendant moved to reconsider the order of pretrial detention, and on December 12, 2023, the circuit court entered an order staying the 14-day period to file an appeal so that it could consider the motion. After a hearing on January 10, 2024, the circuit court denied defendant's motion to reconsider.

¶ 13 II. ANALYSIS

¶ 14 All persons charged with an offense in Illinois are eligible for pretrial release, which is governed by article 110 of the Code, as amended by the Act. 725 ILCS 5/110-1.5, 110-2(a) (West 2022). Under the Code, as amended, a defendant may be denied pretrial release where he or she poses a real and present threat to the safety of any person or the community. *Id.* § 110-6.1(a). In order to overcome the presumption that a defendant is eligible for pretrial release, the State must prove by clear and convincing evidence that: (1) the proof is evident or the presumption great that the defendant has committed an offense that qualifies for pretrial detention; (2) the defendant poses a real and present threat to the safety of any person in the community based on the specific and

articulable facts of the case; and (3) no condition or combination of conditions could mitigate the real and present threat, based on the specific and articulable facts of the case. *Id.* § 110-6.1(e).

¶ 15 We review the trial court's decision to deny pretrial release under a bifurcated standard. *People v. Trottier*, 2023 IL App (2d) 230317, ¶ 13. Specifically, we apply the manifest-weight-of-the-evidence standard to the trial court's factual findings, including whether a defendant poses a threat and whether any condition or combination of conditions could mitigate that threat. *Id.* A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *In re Marriage of Kavchak*, 2018 IL App (2d) 170853, ¶ 65. As for the trial court's ultimate determination of pretrial release, we review it for an abuse of discretion. *Trottier*, 2023 IL App (2d) 230317, ¶ 13. An abuse of discretion occurs only when the trial court's determination is arbitrary, fanciful, or unreasonable, or where no reasonable person would take the view adopted by the trial court. *Id.*

¶ 16 Defendant first argues that the State failed to prove by clear and convincing evidence that he committed a detainable offense because the accounts of the three victims in this case, without more, were insufficient to carry the State's burden. Specifically, he emphasizes that there was no police response, no physical evidence, no testimony from an uninterested witness, and no independent corroboration of the underlying allegations. Defendant concedes that the allegations were "detailed," but he argues that the State's proffer was insufficient because it "omitted any facts beyond double and triple hearsay allegations of sex acts to his minor stepdaughters." Defendant's argument, in essence, is that the State must prove more than what is required by the Act. Defendant's argument fails.

¶ 17 While the Act requires proof by clear and convincing evidence, it also expressly provides that the State may satisfy its burden of persuasion by presenting evidence "at the hearing by way

of proffer based on reliable information." 725 ILCS 5/110-6.1(f)(2) (West 2022). The quantum of evidence required to detain a defendant pending trial is less than what is required at trial to prove guilt beyond a reasonable doubt (see *id.* §§ 110-6.1(f)(2), (f)(4), (f)(5), and this court has repeatedly held that a police synopsis alone may be sufficient to sustain the State's burden. *People v. Mancilla*, 2024 IL App (2d) 230505, ¶ 24; *People v. Horne*, 2023 IL App (2d) 230382, ¶ 24; *People v. Jones*, 2024 IL App (2d) 230546-U.

¶ 18 Here, the lack of physical evidence or independent corroboration from an uninterested witness does not mean that the accounts of the three minor victims are unreliable. Defendant is alleged to have committed these offenses when he was alone with each victim, and the abuse commenced when the victims were between the ages of 8 and 10. The lack of independent corroboration is unsurprising given the nature of these offenses. At the detention hearing and on reconsideration, the trial court was expressly persuaded by the State's proffer, which included a police report and three separate VSIs that included, in the court's view, "a great degree of specificity as to what has taken place—or allegedly taken place over the years." Even if we accepted defendant's characterization that the State's proffer was entirely based on "double and triple hearsay," the argument is a nonstarter because the Illinois Rules of Evidence do not apply at pretrial detention hearings, and hearsay evidence is permitted under the Act. 725 ILCS 5/110-6.1(f)(2), (5) (West 2022)); *People v. Whitaker*, 2024 IL App (1st) 232009, ¶ 57. The proffer was adequate to satisfy the State's burden that defendant likely committed a detainable offense, and the trial court's finding in that regard was not against the manifest weight of the evidence.

¶ 19 Defendant next challenges the trial court's written finding that he posed a real and present threat to the safety of any person or persons or the community as contemplated in section 110-6.1(g) of the Code (725 ILCS 5/110-6.1(g) (West 2022)). He emphasizes that he is 54 years old,

has no "real" criminal history, does not own any weapons, and that the "detainable allegations" were based on events that were alleged to have occurred "nearly five years" prior. Defendant also highlights that he moved out of the victims' home and relocated to his parent's home located some 80 miles away after the allegations arose, and that he voluntarily surrendered after learning that a warrant was issued for his arrest.

¶ 20 We conclude that the trial court's dangerousness finding was not against the manifest weight of the evidence. Section 110-6.1(g) of the Code lists the factors that the court may consider in making a dangerousness determination, including "[t]he nature and circumstances of any offense charged, including whether the offense is a *** sex offense," the "identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat," and the age and physical condition of the victim. In issuing its ruling, the court expressly considered the factors it most deemed applicable, including that defendant began to sexually abuse his minor stepdaughters when each child was between the ages of 8 and 10, that the abuse went undetected for "about 13 years," and that defendant occupied a position of trust with them. Defendant contends that he does not pose a danger to the victims because "the detainable allegations against [him] are nearly five years old." In making this argument, defendant appears to believe that only the predatory criminal sexual assault charges, which concern acts he is alleged to have committed between 2016 and 2019, are detainable. He is mistaken. Defendant is also charged with aggravated criminal sexual assault, which is a detainable offense under section 110-6.1(a)(5) of the Code (725 ILCS 5/110-6.1(a)(5) (West 2020)), in connection with his alleged grabbing of J.K.I.'s breast in the summer of 2023. We also note that, subsequent to the detention hearing, the grand jury returned two additional counts of aggravated criminal sexual abuse, which alleged defendant had improper sexual contact with J.I. between June 2020 and June 2022. Given

that defendant's alleged misconduct reflects a longstanding pattern of sexual abuse commencing when the victim is between the ages of 8 and 10, defendant had only recently ceased abusing J.I., and because he continued to abuse J.K.I. (his youngest stepdaughter) up until the time of arrest, we cannot say that the trial court's determination that he poses a real and present threat was against the manifest weight of the evidence.

¶ 21 For his final argument, defendant contends that the State failed to establish that no conditions listed in section 110-10(b) of the Code could mitigate the threat he posed to the safety of any person or the community. 725 ILCS 5/110-6.1(e)(3)(i) (West 2022). Specifically, he asserts that the State presented "nothing of substance" to demonstrate this necessary element. This argument likewise fails. The State argued extensively during the detention hearing that defendant concealed the ongoing sexual abuse of his young stepdaughters for more than a decade, and that defendant's conduct therefore put the victims, as well as all children in Illinois, at risk. It emphasized that, as the victims "grew up, the defendant moved from one victim to the next as they got older." It also noted that the victims' own mother did not believe them, but instead believed that defendant had not touched them inappropriately—notwithstanding J.I.'s assertion that defendant would wait to sexually abuse her until after her mother would leave for work. It was not unreasonable for the court to conclude that defendant remained a threat to the victims and that their safety could not be ensured if defendant was released while he awaits trial. Here, in light of the seriousness of the offenses, the quantity of victims, the tender age at which the sexual abuse commenced against each victim, and the prolonged period during which defendant was able to conceal the ongoing abuse, we cannot say that the trial court's determination that no conditions could mitigate the threat defendant posed was against the manifest weight of the evidence.

Likewise, we cannot say that the trial court's decision to detain defendant pending trial was an abuse of discretion.

¶ 22 III. CONCLUSION

¶ 23 For the foregoing reasons, we affirm the order of the circuit court of Lake County granting the State's petition to detain.

¶ 24 Affirmed.