2026 IL App (1st) 261025-U

SECOND DIVISION
August 31, 2026

No. 1-26-1025B

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. ANTONIO PORTER, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 02 CR 2701801 Honorable Tyria B. Walton, Judge, presiding.

JUSTICE D.B. WALKER delivered the judgment of the court.
Justices McBride and Ellis concurred in the judgment.

ORDER

¶ 1 ***Held:*** We affirm the trial court's granting of defendant's pretrial release with conditions. Affirmed.

¶ 2 Defendant Antonio Porter appeals from the trial court's order (1) denying him pretrial release without restrictions pursuant to Section 110-6.1 of the Code of Criminal Procedure (Code), commonly referred to as the Pretrial Fairness Act (the Act) (725 ILCS 5/110-6.1 (West 2026)), and (2) denying his motion for relief. On appeal, defendant contends the State failed to show by clear and convincing evidence that no condition or combination of conditions (namely, electronic monitoring (EM) and global positioning system (GPS) tracking) could mitigate the real and present

threat to the safety of any person, persons, the community or defendant's willful flight from prosecution. For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 Following a jury trial, defendant was convicted of first degree murder (720 ILCS 5/9-1(a)(1) (West 2002)) and aggravated discharge of a firearm (720 ILCS 5/24-1.2(a) (West 2002)) in connection with the shooting death of Laymond Harrison on July 9, 2002. On December 16, 2003, defendant was sentenced to consecutive terms of 65 years' and 6 years' imprisonment, respectively, for the first degree murder and aggravated discharge of a firearm convictions.

¶ 5 At trial, the State presented evidence that several persons, including the victim and Vernon Andrews, were shooting dice on the steps of a local school on July 9, 2002. Defendant allegedly approached the group, and Andrews vouched for him. The group and defendant continued shooting dice. Defendant then pulled out a gun and had the group lie face-down on the ground. Defendant said he was going to "revenge Doogie's death." Defendant pointed the gun at the victim and accused him of having "set up" Doogie, a friend of defendant. Although the victim denied the accusation, defendant shot him in the face and three to five more times in the body.

¶ 6 We affirmed defendant's convictions and sentences on direct appeal. See *People v. Porter*, No. 1-04-2097 (2006) (unpublished order pursuant to Supreme Court Rule 23). Defendant subsequently filed a petition for postconviction relief. On January 21, 2026, the trial court granted defendant's petition following a third-stage hearing and continued the matter for a new trial.[1]

¶ 7 On January 21, 2026, immediately after the trial court's ruling, defendant filed a motion for release on recognizance. Defendant first argued that he was entitled to immediate release

[1] The State's appeal of the trial court's granting of defendant's petition is currently pending in this court. See *People v. Porter*, No. 1-26-0616 (appellant's brief due Nov. 5, 2026).

because the State had not filed a verified detention petition. Defendant further argued that the State could not show that the proof is evident and the presumption is great regarding his commission of the offense because no witnesses connected him to the offenses, multiple witnesses confirmed his lack of involvement, and DNA evidence did not link him to the offense. Defendant further argued that there was no indication that he was a threat to the community due to his substantial ties to the community, including supportive advocates, family members, and access to reintegration resources, all of which counsel argued mitigated any risk of flight.

¶ 8 On January 23, 2026, the State filed a petition to detain defendant pending trial pursuant to section 110-6.1 of the Code (725 ILCS 5/110-6.1 (West 2026)). The State's petition re-alleged the underlying facts of the case, including that defendant "pulled out a gun and pointed [it] at everyone." The petition further alleged that multiple witnesses identified defendant as the shooter.

¶ 9 On January 26, 2026, the trial court held a hearing on the State's petition. As to whether the proof was evident and the presumption great that defendant had committed the charged offense, the State began by reiterating the underlying facts of the case, noting in particular that, after allegedly shooting the victim, defendant "turned his weapon on the fleeing witnesses and fired at them numerous times." The State further noted that defendant had been identified as the shooter by "four witnesses in photo arrays," two of whom also identified defendant in a physical lineup.

¶ 10 With respect to defendant's prior criminal convictions, the State recounted the following: (1) a 1994 conviction for possession of a stolen motor vehicle and possession of burglary tools, resulting in a two-year sentence of probation that was terminated satisfactorily; (2) a 1997 conviction for unlawful use of a weapon by a felon (UUWF), resulting in an eventual sentence of two years' imprisonment due to defendant's violation of the original 30-month sentence of

probation; and (3) a misdemeanor conviction for possession of cannabis, resulting in a 30-day jail sentence. The State then added that defendant had "at least four failures to appear."

¶ 11 Regarding the second prong (the risk to any person or the community), the State argued that defendant "shot and killed an unarmed victim without [] provocation." Finally, as to the third prong (*i.e.*, whether there are conditions of release that can mitigate the risks), the State noted that, even on EM, defendant could nonetheless remove the monitor to flee the state, and in any event, defendant would be entitled to "two days per week of unsupervised essential movement," which the State argued would give defendant an opportunity to commit further crimes, contact the witnesses in the case, or flee the jurisdiction.

¶ 12 After disputing the State's arguments on the first two prongs, defendant then turned to the State's comments on the third prong. Defendant noted that a family member would provide living quarters and would do whatever she could to assist defendant in complying with any restrictions. Defendant added that he had an offer of employment as a "marketing associate" within a friend's insurance agency. Defendant further added that, while incarcerated, he obtained his "GED" and "multiple certificates." Finally, defendant observed that the State had presented no evidence of any "major tickets" (*i.e.*, infractions) against defendant while incarcerated.

¶ 13 The trial court then announced its findings. The court first agreed with the State that the proof was evident and the presumption great that defendant committed the charged offenses, explaining that it had to view the proffered evidence "in the light most favorable to the State." The court additionally agreed with the State that there was a real and present threat to the safety of others based upon the evidence that the State had proffered.

¶ 14 Turning to the third prong, the court stated that it had observed defendant and recalled no behavioral issues reported by either the officers or deputy sheriffs responsible for his detention.

The court acknowledged the common risks associated with EM, including attempts to tamper with or remove monitoring devices, and individuals fleeing the jurisdiction. Nonetheless, the court found that, based upon the evidence presented at the third-stage evidentiary hearing on his postconviction petition, conditions could be imposed to mitigate these risks. Specifically, the court determined that EM with GPS tracking would sufficiently address concerns about defendant's behavior, allowing for verified movement related to work, medical needs, and education. The court then entered a written order denying the State's petition to detain defendant, providing that defendant would be released on EM with GPS tracking but would be required to remain in his residence 24 hours a day, every day, except for employment, medical matters, and school.

¶ 15 On March 25, 2026, defendant filed a motion to modify bond conditions. In defendant's motion, he noted that the State had appealed from the trial court's order granting a new trial for defendant following a third-stage hearing on his postconviction petition. Defendant argued that, due to his "complete compliance to date" and the potential lengthy time until the State's appeal is fully resolved, defendant asked that the EM and GPS-tracking requirements be removed so that, after his 23-year incarceration, "he can continue down the path of rebuilding his life and relationships." Defendant emphasized, "Remaining on essentially home confinement for what literally could be years substantially impairs those goals." Defendant further posited that the State was unlikely to prevail on appeal due to the deferential "manifest weight" standard of review for appeals from third-stage postconviction evidentiary hearings. For that reason, defendant argued that the State could not establish a compelling reason to maintain the restrictions.

¶ 16 On April 7, 2026, the trial court held a hearing on this motion. Defense counsel first explained that the motion to modify bond conditions was based upon the timeline anticipated for the State's pending appeal. Counsel's supplemental filing included an affidavit from the "First

District Deputy Defender," who stated that criminal appeals typically require at least one year from the filing date of notice of appeal to disposition and that a "sizeable number" take over two years. Counsel added that the Act requires a judicial review every 60 days when EM, GPS monitoring, or home confinement is imposed. Counsel then argued that, since more than 60 days had elapsed, and given defendant's compliance and the lack of evidence that less restrictive conditions would endanger an identifiable person, less restrictive conditions were warranted.

¶ 17 The State responded that EM and GPS tracking should remain, as the facts supporting the original denial of detention have not changed. The State added that mere compliance with monitoring does not warrant removal of these conditions because defendant is charged with murder and the State plans to retry the case. Finally, the State noted that maintaining these restrictions ensures that defendant will receive pretrial credit and will ensure his continued appearance in court as well as the protection of the community.

¶ 18 In reply, defense counsel pointed out that, among other things, defendant "can't go [to] church, he can't go to the grocery store." Counsel further pointed out that defendant, at 51 years of age at the time of the hearing, would be 97 at the completion of the remaining original 46-year term of imprisonment, and thus limiting the benefit of any presentence credit.

¶ 19 Following the arguments of the parties, the trial court granted defendant's motion in part and denied it in part. The court reaffirmed defendant's electronic monitoring of "24/7" with exceptions for work, school, medical appointments, attorney visits, and religious services. The court then allowed defendant two "essential movement" days of approximately four hours each. The court advised defendant that he may seek review every 60 days, but added, "It's probably not going to change my ruling within the next 60 [days]."

¶ 20 On May 8, 2026, defendant filed a "motion for relief from certain bond conditions." Defendant contended that the State had not met its burden of proving that EM and GPS tracking are necessary either to ensure his appearance at court or to protect any identifiable person from imminent threat of serious harm. Defendant noted that the case was on appeal with no scheduled court dates, and he added that, since he has always appeared voluntarily, there is no evidence that either EM or GPS tracking is needed. Defendant further stated that the State failed to identify any individuals at risk, asserting that all witnesses, including the State's, exculpated him, reducing the likelihood that defendant would harass or otherwise interfere with them.

¶ 21 Defendant also reiterated that section 110-5(i) requires the trial court to review EM and GPS conditions every 60 days to confirm they are the least restrictive means of release. Defendant stated that the court erred in stating that it had no intention to remove these restrictions at the next review because the statute requires a thorough inquiry, particularly during a lengthy appeal.

¶ 22 Finally, defendant argued that there was no evidence that he is a flight risk or would tamper with monitoring devices. Defendant asserted that neither the sentencing range nor the conduct of other individuals on pretrial release justifies restrictions that are based upon an individualized risk. Defendant concluded that the record since his release indicates that less restrictive conditions would still ensure his compliance. Defendant noted that he complied with all conditions to date without incident with one exception, during which "he was unintentionally in an exclusion zone for [nine] minutes while a passenger in a car for assigned duties at work."

¶ 23 On May 21, 2026, the trial court held a hearing on defendant's motion for relief. Defense counsel argued that the EM and GPS tracking conditions are not the least restrictive means necessary during the State's appeal. Counsel noted defendant's continued compliance, full-time employment, and participation in an eight-week "building maintenance certificate program."

Counsel added that, since there are no imminent court dates nor any indication defendant would fail to appear, restrictive conditions are unnecessary. Finally, counsel argued that recent appellate decisions indicate that an individualized determination is required before restrictions are imposed, rather than the "potential lengthy sentence" if the State's appeal is successful or the fact that others have improperly removed their EM devices. After describing defendant as "comporting himself respectfully," counsel concluded by asking for curfew only during the State's appeal.

¶ 24 In response, the State argued that the statute "regarding EM" also seeks to ensure an accused's compliance with returning to court. The State explained that, if it prevails on appeal, defendant would have to "surrender himself immediately" and return to prison to serve the remainder of his original sentence, which provides the court with "an enormous incentive" to ensure that it can keep track of defendant. The State acknowledged a prior violation on the part of defendant but noted that its only remedy is sanctions and not a revocation of pretrial release. The State concluded that the court's current conditions are the least restrictive to ensure defendant's return to court, and it asked the court to deny the motion.

¶ 25 The court then announced its findings. The court first acknowledged that the case was on appeal and that a reversal of its earlier ruling on defendant's postconviction petition would reinstate defendant's conviction and require him to serve the original sentence. The Court focused on the third prong—whether there are conditions or a combination thereof that mitigate risk and ensure compliance. The Court determined that EM, with allowances for work, essential movement, education, and medical needs constituted the least restrictive conditions for defendant's release. The court found defendant's request (specifically, removal of all conditions, including EM, and pretrial release without restrictions) inappropriate "under the full totality" of the circumstances.

¶ 26 The court further clarified, as to its prior statements that "it is unlikely that I will change my position in future court dates," the court was not "predictably denying it," it was merely giving defendant "a heads-up" and was not discouraging defendant from filing these motions. The Court added that it had "bent every corner that I can bend." The court maintained that, based upon the pending murder charge and pending appeal (which the court stated "may undo everything that I did"), the current conditions remain the least restrictive and most appropriate. The court indicated willingness to consider individualized requests for movement, such as for graduation, but maintained the necessity of oversight. The Court then denied defendant's motion and reaffirmed the existing conditions of release. This appeal follows.

¶ 27 ANALYSIS

¶ 28 Defendant elected to file a memorandum on appeal as a supplement to his motion for relief. See Ill. Sup. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). In his memorandum, defendant argues that the trial court failed to conduct an individualized assessment of conditions of release. Defendant also asks that we consider "the pleadings and court proceedings" on his motion for relief as well as "the other detention-related litigation" as his argument on appeal.

¶ 29 Section 110-6.1(e) of the Code provides that "all defendants shall be presumed eligible for pretrial release." 725 ILCS 5/110-6.1(e) (West 2026). To detain a defendant, the State must show by clear and convincing evidence, that (1) the proof is evident or the presumption great that the defendant committed the offense, (2) the defendant poses a real and present threat to the safety of any person or the community based on the specific facts of the case, and (3) no conditions or combination of conditions exist that can mitigate this threat or defendants willful flight. *Id.* Defendant's challenge here concerns the third prong, the conditions of his release.

¶ 30 Section 110-5(a) of the Act requires in relevant part the following:

> "(a) In determining which conditions of pretrial release, if any, will reasonably ensure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of pretrial release, the court shall, ***, take into account ***:
>
> (1) the nature and circumstances of the offense charged;
>
> (2) the weight of the evidence against the defendant, except that the court may consider the admissibility of any evidence sought to be excluded;
>
> (3) the history and characteristics of the defendant, including:
>
> (A) the defendant's character, *** criminal history, and record concerning appearance at court proceedings; and
>
> (B) whether, at the time of the current *** arrest, the defendant was on *** other release pending *** appeal[] or completion of sentence for an offense ***;
>
> (4) the nature and seriousness of the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, that would be posed by the defendant's release, ***." 725 ILCS 5/110-5(a) (West 2026).

Section 110-5(c) of the Act states that any conditions of release imposed must be "the least restrictive *** necessary to reasonably ensure the appearance of the defendant as required or the safety of any other person or persons or the community." *Id.* § 110-5(c).

¶ 31 The Act also provides that, at each court appearance, the trial court must determine whether the current conditions are necessary to ensure the defendant's appearance, the safety of others, and compliance with pretrial release. *Id.* § 110-5(f-5). The court may remove conditions without new information or a change in circumstances. *Id.* Section 110-5(g) reiterates that EM, GPS monitoring, or home confinement may only be imposed if no less restrictive alternatives would reasonably assure the defendant's appearance or protect an identifiable person from imminent harm. *Id.* § 110-5(g). If imposed, the court must state its reasoning on the record. *Id.* § 110-5(h). Finally, effective January 1, 2022, the court must, every sixty days, review whether less restrictive conditions would suffice and if so, remove the unnecessary conditions. *Id.* § 110-5(i).

¶ 32 Since no live testimony was presented at the detention hearing, we review *de novo* the trial court's findings and its ultimate decision as to whether or not to detain defendant. *People v. Morgan*, 2025 IL 130626 ¶¶ 54-55.

¶ 33 In this case, the State's petition alleged that defendant "pulled out a gun and pointed [it] at everyone." At the hearing on the State's petition, the State recounted the underlying facts of the offense and pointed out that, when the witnesses fled the area following the victim's shooting death, defendant "turned his weapon *** and fired at them numerous times." This establishes that, under these proffered facts, defendant would pose a threat to the persons in the community—namely, those people present at the time of the shooting who were shot at while they fled the scene.

¶ 34 In addition, the State's proffer indicated that defendant's preincarceration history included four instances where he had failed to appear in court for various nonviolent charges. We recognize that these failures to appear occurred decades ago because defendant was subsequently incarcerated for approximately 22 years, which would make his whereabouts during those decades easily determined. Clearly, the mere potential sentence or the nature of the charged offense *per se*

does not justify the denial of pretrial release (or, as here, the granting of pretrial release with various conditions). See *People v. Craig*, 2026 IL App (5th) 250867, ¶¶ 51-52. Nonetheless, either factor can inform the trial court's difficult decision whether to deny pretrial release or grant it with conditions. See 725 ILCS 5/110-5(a)(1), 110-5(a)(3)(B) (West 2026).

¶ 35 Here, the State's proffer included the following: (1) defendant had previously failed to appear in court four times and (2) he had prior convictions for possession of a stolen motor vehicle, burglary tools, and cannabis, as well as UUWF. Defendant did not dispute these facts at trial, and he does not do so before this court. Since defendant failed to appear in court—four times—for offenses that are considerably less serious than first-degree murder, allowing pretrial release with EM and GPS tracking but with multiple occasions to leave his residence does not appear to be an unreasonable restriction or overly burdensome. Furthermore, the trial court need not wait for defendant to file a motion before removing any conditions of release absent a motion from defendant. See 725 ILCS 5/110-6(g) (West 2026) ("The court may, at any time, *** on its own motion, remove previously set conditions of pretrial release, subject to the provisions in this subsection.").

¶ 36 In any event, as defendant points out, the Act requires a review of his conditions of release every 60 days. *Id.* § 110-5(i). We agree that the preemptive refusal to review its pretrial release conditions and subsequent failure to undertake a thoughtful, individualized evaluation of those conditions could result in reversible error. See, *e.g.*, *People v. Cooper*, 2025 IL 130946, ¶ 37 (explaining that the Act "aims to reform pretrial practices by eliminating cash bail and focusing on *individualized* assessments" to ensure public safety and fair outcomes (emphasis added)). Here, however, there is no such error in the record before us. Accordingly, defendant's claim of error is unavailing, and we affirm the trial court's granting of defendant's pretrial release with conditions.

¶ 37 CONCLUSION

¶ 38 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 39 Affirmed.