

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).

2023 IL App (4th) 230925-U
NO. 4-23-0925
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
December 12, 2023
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,) Appeal from the
Plaintiff-Appellee,) Circuit Court of
v.) Fulton County
WILLIAM DALLEFELD,) No. 23CF73
Defendant-Appellant.)
) Honorable
) Thomas B. Ewing,
) Judge Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Presiding Justice DeArmond and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court vacated the trial court’s order denying defendant pretrial release where the trial court failed to make sufficient findings and remanded for a new detention hearing. Defendant’s ineffective assistance of counsel claim was forfeited because that issue was not raised in his notice of appeal.

¶ 2 Defendant, William Dallefeld, appeals an order denying his pretrial release under article 110 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-1 *et seq.* (West 2022)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). For the following reasons, we vacate the order and remand for a new detention hearing.

¶ 3 I. BACKGROUND

¶ 4 On April 10, 2023, the State charged defendant with three counts of predatory criminal sexual assault of a child (725 ILCS 5/11-1.40(a)(1) (West 2022)) and two counts of criminal sexual assault (720 ILCS 5/11-1.20(a)(1) (West 2022)). According to the charges,

between February 12, 2023, and March 28, 2023, defendant engaged in acts of sexual penetration with the victim, who was under 13 years of age, by placing his finger in the anus of the victim, placing his mouth on the victim's penis, and placing his penis in the victim's mouth. Additionally, on April 12, 2023, the State charged defendant with possession of child pornography (720 ILCS 5/11-20.1(a)(6) West 2022)). Bail was set at \$250,000, and defendant remained detained.

¶ 5 On September 18, 2023, defendant filed a motion seeking a “hearing pursuant to 725 ILCS 5/110-5(e) to determine whether the State has met their burden to require the continued Detention of the Defendant.”

¶ 6 On September 27, 2023, the trial court held a detention hearing. The State argued that the court should deny pretrial release because defendant was a “danger to the community and a specific person as well as a flight risk.” Specifically, the State argued that the charges defendant faced were “all extremely serious offenses, which if convicted are consecutive sentences from 6 to 60 years.” The State argued that, given the sentences defendant faced, “the motivation to *** abscond would be fairly high.” The State further argued,

“And, we have a 46-year[-]old person with allegations of someone under the age of 13 years committing multiple sexual acts that are, just to put it as mildly as possible, just disgusting. And then on top of that, he had charges of child pornography for underage children, being pictures and, of some type or another, of underage children in the possession of this defendant at the time he was arrested.

We just think that protecting the community is something that the State is worried about, and we also think because of the severity of the penalty, if he were to be released, there would be a likelihood of him absconding from justice. So the State believes the charges speak for themselves [*sic*].”

¶ 7 In response, defendant testified on his behalf. Defendant explained that he had lived at the same address in Canton, Illinois, for 10 years and that his wife and children lived with him. Defendant testified that he had the ability to get to court and would come to court when required. Additionally, defendant stated that he would stay in touch with his attorney. Moreover, if ordered by the trial court, defendant would meet with the pretrial probation services officer, obtain a mental health evaluation, follow through with any recommended treatment, and stay away from anyone under the age of 18. Defendant testified that he had Parkinson's disease and was taking medication for it but that the Fulton County Sheriff's Office had not "been able to get me to my appointments because I missed two of them."

¶ 8 Following defendant's testimony, the trial court explained that, "[b]ased upon what I've heard and the proffer, I find that there would be a risk and danger to the community and specific persons to release the defendant as well as be a flight risk; and it's appropriate to detain him at this point." In its written order, the court denied pretrial release and determined that less restrictive conditions would not avoid a real and present threat to the safety of any person or persons or the community based upon the specific articulable facts of the case or prevent defendant's willful flight from prosecution. The entirety of the court's written findings were as follows:

"a. That there would be a risk and danger to the community and specific individuals based upon the specific facts of this case; and

b. That based upon the severity of the charges the defendant poses a flight risk."

¶ 9 This appeal followed.

¶ 10

II. ANALYSIS

¶ 11

A. Forfeiture

¶ 12 We first address defendant’s second argument on appeal. In his memorandum, defendant contends that the denial of his pretrial release should be reversed “because the State did not file a petition to deny pretrial release and any such petition would have been untimely, and defense counsel was both constitutionally ineffective and statutorily unreasonable in explicitly inviting the [trial] court to ‘continue [the] Detention of the Defendant.’ ” However, this argument is not in defendant’s notice of appeal.

¶ 13 In filing this appeal, defendant utilized the notice of appeal form in the Article VI Forms Appendix to the Illinois Supreme Court Rules (see Ill. S. Ct. R. 606(d) (eff. Sept. 18, 2023)). This form provided defendant the opportunity to check boxes for purported errors. Defendant checked four boxes related to the following assertions: (1) the State failed to prove by clear and convincing evidence that the proof is evident or the presumption great that defendant committed the offenses charged, (2) the State failed to prove by clear and convincing evidence that defendant poses a real and present threat to the safety of any person or persons or the community, based on the specific, articulable facts of the case, (3) the State failed to prove by clear and convincing evidence that no condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons in the community, based on the specific, articulable facts of the case, or defendant’s willful flight, and (4) the trial court erred in its determination that no condition or combination of conditions would reasonably ensure the appearance of defendant for later hearings or prevent defendant from being charged with a subsequent felony or Class A misdemeanor. Though several preprinted blank lines appeared after each check-marked assertion, allowing for defendant to describe each ground for relief in detail, nothing was written on these lines.

¶ 14 Recently, in *People v. Martin*, 2023 IL App (4th) 230826, ¶ 19, we concluded, “[W]e must limit our review to the issues fairly raised by a liberal construction of defendant’s notice of appeal.” Even when construing defendant’s notice of appeal liberally, we do not see how it could be interpreted as raising claims that the denial of his pretrial detention should be reversed because the State did not file a petition to deny pretrial release and any such petition would have been untimely or that defense counsel was ineffective for inviting the court to continue defendant’s detention. Per *Martin*, then, these issues are forfeited.

¶ 15 B. Conditions of Release

¶ 16 Defendant argues that the trial court erred in denying his pretrial release because the State failed to present evidence that defendant presented a threat to anyone’s safety or posed a high likelihood of willful flight to avoid prosecution.

¶ 17 We review the trial court’s findings under the Act for an abuse of discretion. *People v. Inman*, 2023 IL App (4th) 230864, ¶¶ 10-11. An abuse of discretion occurs when the trial court’s decision is arbitrary, fanciful or unreasonable, or where no reasonable person would agree with the trial court’s position. *Inman*, 2023 IL App (4th) 230864, ¶ 10.

¶ 18 We conclude that the trial court’s findings were insufficient for this court to conduct a meaningful review. In its oral ruling, the trial court provided, “[b]ased upon what I’ve heard and the proffer, I find that there would be a risk and danger to the community and specific persons to release the defendant as well as be a flight risk; and it’s appropriate to detain him at this point.” The court, however, did not detail the findings serving as the basis for its conclusion. The court’s written order likewise provided no such detail, as it asserted only that “there would be a risk and danger to the community and specific individuals based upon the specific facts of this case” and

that defendant posed a flight risk “based upon the severity of the charges.” In an order for detention, the court is required to

“make a written finding summarizing the court’s reasons for concluding that the defendant should be denied pretrial release, including why less restrictive conditions would not avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or prevent the defendant’s willful flight from prosecution.” 725 ILCS 5/110-6.1(h)(1) (West 2022).

The court’s oral and written rulings fall short of complying with this legislative requirement of addressing less restrictive conditions of release. See *Martin*, 2023 IL App (4th) 230826, ¶ 23 (concluding that the trial court did not adequately address less restrictive conditions of release where its findings were insufficient for failing to provide any detail or explanation for the court’s determination).

¶ 19 Absent adequate findings from the trial court, we are unable to address the sufficiency of the facts underlying the court’s decision to deny pretrial release. *Martin*, 2023 IL App (4th) 230826, ¶ 24 (“While the facts underlying the court’s decision may well have been sufficient to deny defendant pretrial release on any combination of nonmonetary conditions, we cannot supply the missing conclusion; the Act requires that these matters be addressed by the trial court.”). Accordingly, we conclude that the court abused its discretion by failing to make a record adequate to allow meaningful review of its exercise of discretion. *Martin*, 2023 IL App (4th) 230826, ¶ 24.

¶ 20

III. CONCLUSION

¶ 21 For the foregoing reasons, we vacate the order denying defendant pretrial release and remand with directions for the trial court to set a new detention hearing and conduct those further proceedings in a manner consistent with this order.

¶ 22 Vacated and remanded.