2026 IL App (2d) 260278-U
No. 2-26-0278
Order filed September 14, 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NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).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.

SHERRY EMERICK SWISTOWICZ, Defendant-Appellant.

Appeal from the Circuit Court of Kane County.
Honorable Bianca Camargo, Judge, Presiding.
No. 26-CF-1007

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices McLaren and Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in ordering defendant's pretrial detention.

¶ 2 Defendant, Sherry Emerick Swistowicz, appeals from the circuit court of Kane County's order denying her pretrial release pursuant to article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110 (West 2024)). She argues the State failed to prove that no condition or combination of conditions of pretrial release could mitigate the threat she posed. She therefore asserts that the trial court erred in denying her pretrial release. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On April 29, 2026, defendant was charged with aggravated domestic battery (720 ILCS 5/12-3.3(a) (West 2024)), aggravated battery with use of a deadly weapon (*id.* § 3.05(f)(1)) and

three counts of domestic battery (*id.* §§ 3.2(a)(1), 3.2(a)(2)). The charges alleged that defendant stabbed her husband in the neck with a knife. On that same day, the State filed a verified petition to deny defendant pretrial release (725 ILCS 5/110-6.1 (West 2024)), and the trial court held a hearing on the petition. The State presented as evidence the South Elgin police department synopsis.

¶ 5 That synopsis indicated that, on April 28, 2026, police officers responded to the report of a stabbing at a house in South Elgin. Upon arriving, the officers observed Michael Swistowicz standing in the middle of the road holding a bandana to his neck. Michael was bleeding from an apparent stab wound. Michael stated that his wife, defendant, had stabbed him with a knife and that she was in the backyard of the residence. The officers went to the backyard and saw defendant kneeling on the ground with a knife next to her. Defendant was arrested and taken to Sherman hospital for a psychological evaluation.

¶ 6 After Michael was taken to St. Joseph's hospital, the officers went to interview him. Michael stated that defendant had recently served him with divorce papers, and he had gone to see her to reconcile. He asked if she would like to go to a movie. She responded by yelling "you fucking fagot," reached over with her right hand, which was holding a knife, and stabbed him in the neck. She then tried to stab him a second time, but he was able to grab her hand which was holding the knife. He suffered lacerations to three of his fingers.

¶ 7 Michael then ran through the garage and into the backyard. Defendant followed him and repeatedly called him "a fucking fagot." She also yelled for someone to call the police. Michael was able to jump over a fence, and he then contacted 911. Officers observed a one-to-two-inch laceration which had appeared to penetrate his neck.

¶ 8 The State argued that the above facts demonstrated that the proof was evident and the presumption great that defendant had committed the charged offenses and that she was a threat to a person or the community, specifically Michael. The State maintained that no conditions could mitigate this dangerousness because this was a crime of violence, defendant was known to possess weapons, she lived in the same house as Michael, and her actions were the result of being asked to see a movie.

¶ 9 In response, the defense proffered that defendant had somewhere else to live, other than with Michael, if released. The defense argued that Michael's statement that defendant followed her outside while yelling for someone to call the police were not the acts of an aggressor. The defense insisted that the State did not prove dangerousness because, without hearing her side of the story, it was not clear what happened. The defense asserted that any danger defendant posed could be mitigated by conditions, such as a no contact order or electronic monitoring. The defense also noted that defendant did not have any criminal history.

¶ 10 At the close of the hearing, the trial court granted the State's petition for pretrial detention. It found that the State had met its burden that defendant had committed a detainable offense and that she was dangerous. It further found that conditions less than detention would not mitigate the threat she posed to Michael. The trial court explained that based on the nature of the unprovoked attack, "simply telling you to stay away is not going to be enough to protect him from you. GPS only tells us *** where you've been. And it does not allow us to stop something in real time."

¶ 11 On May 20, 2026, defendant filed a motion for relief, raising the same arguments she had at the detention hearing. The trial court denied her motion. As to whether there were any conditions less than detention that would protect Michael, the trial court noted that defendant's divorce from Michael remained pending, which seemed to be the basis for her unprovoked attack

on him. The trial court found that as these were "high emotion, high-risk times," EHM and GPS would be insufficient to mitigate the real and present threat that defendant posed to Michael.

¶ 12 Defendant thereafter filed a timely notice of appeal.

¶ 13 II. ANALYSIS

¶ 14 Upon filing a verified petition requesting denial of pretrial release, the State has the burden to prove, by clear and convincing evidence, that (1) the proof is evident or the presumption great that the defendant has committed a qualifying offense (*id.* § 110-6.1(e)(1)), (2) the defendant's pretrial release would pose a real and present threat to the safety of any person or persons or the community (*id.* § 110-6.1(e)(2)), and (3) no condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons or the community or prevent the defendant's willful flight from prosecution (*id*. § 110-6.1(e)(3)). "Evidence is clear and convincing if it leaves no reasonable doubt in the mind of the trier of fact as to the truth of the proposition in question ***." *Chaudhary v. Department of Human Services*, 2023 IL 127712, ¶ 74. Where both parties proceed solely by proffer, such as here, our review is *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 22; *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 18.

¶ 15 On appeal, defendant does not challenge that the State carried its burden as to whether she committed a detainable offense and that she posed a danger to someone. Rather, her sole contention on appeal is that the State failed to present clear and convincing evidence that less restrictive conditions could not mitigate any threat posed by her. She points out that she has no criminal history, and the circumstances suggest she would comply with any conditions. She insists that the alleged attack was an isolated incident and there is "no indication [she] would be violent as long as she is kept away from Michael." As she has an alternative address where she can stay, she maintains that she will not interact with Michael if she were released.

¶ 16 In response, the State asserts that defendant has "demonstrated the type of erratic and violent behavior that is unpredictable and seemingly without any specific trigger." Such erratic behavior is a strong indication that no conditions placed by the trial court would mitigate the threat she poses to Michael.

¶ 17 We agree with the State. Defendant's alleged conduct here—stabbing her husband in the neck and calling him a "fucking fagot" after he invited her to see a movie—is so antithetical to normal human relations that it is impossible to have any certainty what would happen if she were released before trial. As the Appellate Court, Fourth District, stated when confronted with a similar issue:

> "Ultimately, the evidence of a defendant's charged conduct, even if it took place on a single occasion, may reflect such a departure from the basic expectations of civil society that it becomes difficult to predict the defendant's compliance with court orders—or even societal norms regarding the safety of others—if the defendant is placed on pretrial release. The presumption in favor of pretrial release under the Act does not obligate a trial court to release such a defendant in the hopes that his otherwise spotless record will negate the real and present threat he poses to the safety of the community as shown by the State's evidence." *People v. Romine,* 2024 IL App (4th) 240321, ¶ 20.

¶ 18 As such, we agree with the trial court that, based on the record before us, there are no conditions that could be imposed to mitigate the threat that defendant poses to Michael. Accordingly, we have no basis to disturb the trial court's detention order.

¶ 19 III. CONCLUSION

¶ 20 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 21 Affirmed.