Illinois Official Reports

Appellate Court

People v. Conner, 2025 IL App (4th) 240972

Appellate Court Caption	THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. ERVIN J. CONNER, Defendant-Appellant.
District & No.	Fourth District Nos. 4-24-0972 through 4-24-0976, 4-24-0300 cons.
Filed	June 17, 2025
Decision Under Review	Appeal from the Circuit Court of Rock Island County, Nos. 23-CM-413, 23-CF-927, 24-CM-34, 24-CF-88, 24-CF-89; the Hon. Frank R. Fuhr, Judge, presiding.
Judgment	Affirmed in part and vacated in part; cause remanded with directions.
Counsel on Appeal	James E. Chadd, Catherine K. Hart, and Sarah G. Lucey, of State Appellate Defender's Office, of Springfield, for appellant. Dora Villarreal, State's Attorney, of Rock Island (Patrick Delfino, David J. Robinson, and Brittany J. Whitfield, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.
Panel	JUSTICE KNECHT delivered the judgment of the court, with opinion. Justices Steigmann and Vancil concurred in the judgment and opinion.

OPINION

¶ 1 Following a July 2024 fitness hearing, the trial court found defendant unfit to stand trial. The court further found there was a substantial probability he would attain fitness within a year and transferred him to the custody of the Illinois Department of Human Services (DHS) for treatment. Defendant appealed.

¶ 2 On appeal, defendant argues the trial court erred by failing to make a determination as to the least physically restrictive form of treatment in his case. For the following reasons, we vacate in part and remand to allow the court to select the least physically restrictive form of treatment therapeutically appropriate and consistent with defendant's treatment plan and to clarify whether the treatment will be on an inpatient or outpatient basis.

¶ 3 I. BACKGROUND

¶ 4 On December 14, 2023, the State charged defendant with one count of burglary to a motor vehicle (720 ILCS 5/19-1(a) (West 2022)), one count of criminal trespass to a motor vehicle (*id.* § 21-2(a)), two counts of violation of an order of protection (*id.* § 12-3.4(a)(2)), and one count of domestic battery (*id.* § 12-3.2(a)(2)) in Rock Island County case No. 23-CF-927. The State filed a verified petition to deny pretrial release. The trial court denied the petition and released defendant with a GPS monitor. The State later dismissed the charge of burglary to a motor vehicle.

¶ 5 On December 27, 2023, the State charged defendant with two counts of violation of an order of protection (*id.* § 12-3.4(a)(2)) in Rock Island County case No. 23-CM-413. The State again filed a petition to deny pretrial release, which the trial court denied, and it rereleased defendant with a GPS monitor.

¶ 6 On February 5, 2024, the State filed a verified petition to revoke defendant's pretrial release in case No. 23-CF-927. The same day, the State filed three new cases against defendant. In Rock Island County case No. 24-CF-89, the State charged defendant with possession of a controlled substance (720 ILCS 570/402(c) (West 2022)). In Rock Island County case No. 24-CF-88, defendant was charged with criminal damage to property (720 ILCS 5/21-1(a)(1) (West 2022)) and violation of an order of protection (*id.* § 12-3.4(a)(2)). In Rock Island County case No. 24-CM-34, the State charged defendant with violation of an order of protection (*id.*). The State later dismissed the charge of criminal damage to property in case No. 24-CF-88.

¶ 7 On February 13, 2024, the trial court revoked defendant's pretrial release in case No. 23-CF-927, and defendant appealed. During the pendency of the appeal, defense counsel filed a motion for a fitness evaluation. In May 2024, this court vacated the detention order as untimely and remanded to allow the State to refile the petition. *People v. Conner*, 2024 IL App (4th) 240300-U, ¶ 29. On remand, the State refiled the petition to revoke defendant's pretrial release in case No. 23-CF-927, which the court granted.

¶ 8 In July 2024, a jury hearing was held to determine whether defendant was fit to stand trial. The State called Dr. Chad Brownfield, a licensed clinical and forensic psychologist. Dr. Brownfield testified he performed a fitness evaluation of defendant on June 8, 2024. Based on the evaluation, Dr. Brownfield opined defendant presented symptoms consistent with a diagnosis of bipolar I disorder with psychotic features or schizoaffective disorder. Dr.

Brownfield recommended defendant be found unfit, but there was a substantial probability he would attain fitness within one year.

¶ 9 On cross-examination, Dr. Brownfield testified he met with defendant for just under three hours for the examination. Before meeting with defendant, Dr. Brownfield reviewed the charging documents, police reports, and several letters written by defendant to the trial court. He also conducted collateral interviews with a police officer and defendant's brother and mother. Defendant's brother and mother expressed concerns about his mental health and substance use. They reported defendant told them he believed "people were out to kill him." They also described defendant's behavior as "erratic." His mother recalled her concerns with defendant's mental health arose approximately four to six months prior. His brother indicated defendant "could not let go of some of the concerns he had about people trying to hire someone to murder him and the prostitution of his girlfriend."

¶ 10 Although Dr. Brownfield believed defendant understood the nature and purpose of the proceedings against him, he did not believe defendant could assist in his own defense. Dr. Brownfield described his observations of defendant's thought processes. Throughout the evaluation, defendant would randomly veer off into different topics and provide unprompted details of the alleged offenses. He also demonstrated a "preoccupying" and "perseverative" fixation on a "murder-for-hire claim" that he believed "was the key to exonerating himself from the current case." Dr. Brownfield determined defendant was not malingering, as "[h]is primary motivation was to be wanting to be found fit."

¶ 11 On the State's motion and without objection, the trial court admitted into evidence a copy of Dr. Brownfield's 17-page report. In the section titled "Diagnostic Impression(s)," the report described defendant's thoughts and writings as "persecutory" and "somewhat grandiose in nature." Defendant believed he was "set up" by his first attorney in one of his cases and that "someone contract[ed] another party to kill him in order to cover up a supposed informant to police, so [the] informant [will] not get deported." Those beliefs also extended to his current attorney. Defendant's family and the police suspected some of his mental health issues stemmed from his substance abuse. However, defendant's symptoms persisted despite having no access to drugs for several months while in jail. Defendant acknowledged he used cannabis regularly and his use contributed to his legal and relationship issues. In the section titled "Recommendations," Dr. Brownfield opined as follows:

> "[I]t is the opinion of this writer that at this time [defendant] *does not* appear to meet the legal criteria for fitness to stand trial. It is the opinion of this writer that [defendant] would likely attain fitness within one year. Although none of the alleged offenses are generally violent in nature, [defendant] does not appear open to treatment and his substance use could be a destabilizing factor in engaging in outpatient restoration treatment. There are concerns about him maintaining his behavior in the community as he had allegedly threated [*sic*] one of the alleged victims and he may continue to contact the alleged victims despite Orders of Protection. He had an elevation on testing related to Severe Aggression and his mother expressed concern about getting him riled up. Moreover, he stated he would speak up in court when his rights have been violated. If he is willing to violate those rules in open court, there may be additional concerns about how he may respond in the community especially without law enforcement readily present or if he were to develop deeper feelings of desperation or helplessness related

to his beliefs that others are out to kill him. As such, the least restrictive environment for treatment would be an inpatient setting." (Emphasis in original.)

¶ 12 Defense counsel moved for a directed verdict. The trial court granted the motion and found defendant unfit to stand trial. The court stated it considered the testimony of Dr. Brownfield and his written report. The court continued, "Based on the evidence, I do find that [defendant] should be restored to fitness within a year."

¶ 13 Following the ruling, defense counsel informed defendant that DHS would evaluate him within 30 days to determine which facility he would be placed in. When defendant asked why he was receiving inpatient treatment, rather than outpatient, the court responded, "Dr. Brownfield's recommendation is inpatient. [DHS's] evaluation will *** tell us whether they concur with that or whether they think some kind of outpatient community-based fitness restoration is available."

¶ 14 In its written order entered the same day, the trial court found "that there are compelling reasons why placement in a secure setting may or may not be necessary and that the discretion of [DHS] shall be utilized to determine appropriate placement for therapeutic purposes of fitness restoration." The court ordered defendant transferred to DHS to receive treatment.

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, defendant argues the trial court failed to make a determination as to the least physically restrictive form of treatment therapeutically appropriate and consistent with his treatment plan.

¶ 18 As an initial matter, we note defendant did not contemporaneously object or file a posttrial motion raising this issue in the trial court. See *People v. Sebby*, 2017 IL 119445, ¶ 48. Under such circumstances, the issue may be deemed forfeited. *Id.* "However, forfeiture is a limitation on the parties, not the court, and we may exercise our discretion to review an otherwise forfeited issue." *People v. Curry*, 2018 IL App (1st) 152616, ¶ 36. We may also overlook a defendant's forfeiture "when necessary to obtain a just result." (Internal quotation marks omitted.) *People v. Raney*, 2014 IL App (4th) 130551, ¶ 33. Under the circumstances presented, we decline to apply forfeiture and will address the merits of the issue.

¶ 19 A. Standard of Review

¶ 20 Before addressing the merits, we must decide the appropriate standard of review. Defendant argues, and the State agrees, the question presented here is whether the trial court abused its discretion. However, as the reviewing court, we have a duty to independently ascertain the proper standard, regardless of whether there is agreement between the parties. See *People v. Finlaw*, 2023 IL App (4th) 220797, ¶ 54.

¶ 21 Because this issue does not present a question purely of law, the available standards of review are the abuse-of-discretion standard or the manifest-weight-of-the-evidence standard. Under the abuse-of-discretion standard, a reviewing court considers whether "the [trial] court's decision is arbitrary, fanciful[,] or unreasonable, or where no reasonable person would agree with the position adopted by the [trial] court." (Internal quotation marks omitted.) *People v. Inman*, 2023 IL App (4th) 230864, ¶ 10. Under the manifest-weight-of-the-evidence standard, a reviewing court considers whether "the opposite conclusion is clearly evident *or* the

determination is unreasonable, arbitrary, or not based on the evidence presented." (Emphasis in original.) *People v. Corbett*, 2022 IL App (2d) 200025, ¶ 47. The abuse-of-discretion standard typically applies to "decisions made by a trial judge in overseeing his or her courtroom or in maintaining the progress of a trial" (*In re D.T.*, 212 Ill. 2d 347, 356 (2004)), while the manifest-weight-of-the-evidence standard is appropriate to review " 'findings of fact and credibility determinations made by the trial court.' " *People v. Maury*, 2025 IL App (4th) 220887, ¶ 82 (quoting *People v. Slater*, 228 Ill. 2d 137, 149 (2008)).

¶ 22 As this court recently affirmed in *Finlaw*, 2023 IL App (4th) 220797, ¶ 57, a trial court's ruling on a defendant's fitness to stand trial is reviewed under the manifest-weight-of-the-evidence standard. Our reasoning was as follows:

> "A trial court's decision on fitness is not a matter of discretion; it is a matter of *evidence*. Once a *bona fide* doubt as to fitness is raised, the State bears the burden of proving fitness by a preponderance of the evidence. [Citation.] Typically, the manifest error standard is appropriate to review findings of fact made by a trial judge." (Emphasis in original and internal quotation marks omitted.) *Id.* ¶ 55.

¶ 23 Here, however, defendant does not contest the trial court's order finding him unfit. Instead, he argues the court erred by failing to select the least physically restrictive form of treatment therapeutically appropriate and consistent with his treatment plan. See 725 ILCS 5/104-17(a) (West 2022). Unlike the fitness decision, the treatment decision is not subject to a statutorily mandated burden of proof. See *id.* § 104-11(c) (allocating the burden of proof to the State to prove the defendant is fit by a preponderance of the evidence); *People v. Morgan*, 2025 IL 130626 ¶¶ 27-28, 31-32 (explaining why the manifest-weight-of-the-evidence standard applies to issues involving a statutorily mandated burden of proof). Similarly, there is no statutory obligation on either party to present evidence on the form of treatment most suitable for an unfit defendant. See 725 ILCS 5/104-15(b) (West 2022) ("The [fitness] report *may* include a general description of the type of treatment needed and of the least physically restrictive form of treatment therapeutically appropriate." (Emphasis added.)).

¶ 24 Another important consideration in the treatment decision is the trial court's observations of the defendant. Unlike the reviewing court, the trial court is in the best position to personally observe the defendant's demeanor and whether he appears able to comply with a less restrictive placement for treatment. In other cases where we recognize the trial court is in a better position to evaluate an issue based on the court's observations and familiarity with the case, the abuse-of-discretion standard applies. See, *e.g.*, *People v. Wheeler*, 2019 IL App (4th) 160937, ¶ 39 (applying the abuse-of-discretion standard when reviewing the trial court's sentencing decision); *In re Al. S.*, 2017 IL App (4th) 160737, ¶ 41 (same for whether the court selected an inappropriate dispositional order in a wardship proceeding); *People v. Ridgeway*, 194 Ill. App. 3d 881, 884 (1990) (same for the court's decision as to whether a child witness is competent to testify). For these reasons, we find the court's ultimate treatment decision appears to be more of a question of discretion than a question of evidence.

¶ 25 However, because the trial court renders its treatment decision following a fitness hearing, its decision may necessitate certain factual findings. For example, the court may need to determine the credibility of a defendant who testifies on his own behalf or whether there is factual support for a treatment recommendation made by an expert in his or her fitness report. To the extent the court makes findings of fact in support of its treatment decision, those findings are more appropriately reviewed under the manifest-weight-of-the-evidence standard.

Cf. In re J.C., 396 Ill. App. 3d 1050, 1060 (2009) (applying a two-tiered standard of review to the trial court's dispositional order in a wardship proceeding, asking whether (1) the court committed an abuse of discretion by selecting an inappropriate disposition and (2) the court's findings of fact were against the manifest weight of the evidence).

¶ 26 Accordingly, the trial court's decision will be reversed only if the findings of fact are against the manifest weight of the evidence or if the court committed an abuse of discretion by selecting an inappropriate form of treatment.

¶ 27 B. Treatment Decision

¶ 28 The due process clause of the fourteenth amendment proscribes the prosecution of a defendant who is unfit to stand trial. U.S. Const., amend. XIV; *People v. Holt*, 2014 IL 116989, ¶ 51. A defendant is unfit to stand trial if a mental or physical condition prevents him from understanding the nature and purpose of the proceedings against him or assisting in his defense. 725 ILCS 5/104-10 (West 2022). When a *bona fide* doubt as to a defendant's fitness is raised, the trial court must hold a fitness hearing. *People v. Cook*, 2014 IL App (2d) 130545, ¶ 14. If a defendant is found unfit but likely to attain fitness within one year, "the court shall order the defendant to undergo treatment for the purpose of rendering him fit." 725 ILCS 5/104-16(d) (West 2022).

> "If the defendant is eligible to be or has been released on pretrial release or on his own recognizance, the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the treatment plan. The placement may be ordered either on an inpatient or an outpatient basis." *Id.* § 104-17(a).

When a defendant is found unfit due to a mental disability, "the court may order him placed for secure treatment in the custody of [DHS]." *Id.* § 104-17(b).

¶ 29 As noted above, we will review this issue under the abuse-of-discretion standard. A trial court abuses its discretion where "it fails to understand it has discretion to act or wholly fails to exercise its discretion." *People v. Lovelace*, 2018 IL App (4th) 170401, ¶ 33. "Similarly, where a trial court merely 'rubber stamp[s]' an expert's conclusion and fails to exercise judicial discretion and judgment, it may reflect an abuse of discretion." *Finlaw*, 2023 IL App (4th) 220797, ¶ 57 (quoting *People v. Gillon*, 2016 IL App (4th) 140801, ¶ 21).

¶ 30 This issue also involves a matter of statutory construction, which we review *de novo*. *People v. Kidd*, 2022 IL 127904, ¶ 14. The principal objective of statutory construction is to give effect to the legislature's intent. *Id.* The most reliable indicator of legislative intent is the language of the statute, which must be given its plain and ordinary meaning. *People v. Reynolds*, 2016 IL App (4th) 150572, ¶ 14. "If the language is clear and unambiguous, we must apply the statute without resort to further aids of statutory construction." (Internal quotation marks omitted.) *Id.*

¶ 31 In this case, defendant argues the trial court failed to exercise its discretion in selecting the least physically restrictive form of treatment therapeutically appropriate and consistent with his treatment plan. Specifically, he argues the court acquiesced to Dr. Brownfield's recommendation of inpatient treatment, rather than making its own independent determination. While we agree with defendant the court failed to exercise its discretion, we agree for a different reason. Specifically, the record indicates the court failed to rule on the least physically restrictive form of treatment for defendant or whether he would receive inpatient or outpatient

treatment. Instead, the court deferred to the decision of DHS following its evaluation of defendant.

¶ 32 Relevant to this issue, section 104-17(a) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/104-17(a) (West 2022)) provides, where an unfit defendant is eligible to be or has been released on pretrial release, "the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the treatment plan." Additionally, it states, "The placement may be ordered either on an inpatient or an outpatient basis." *Id.* Under the plain language of section 104-17(a), the trial court, and only the trial court, must select the form of treatment a defendant will undergo following a finding of unfitness. The statute further requires the court, at a minimum, to state whether the treatment will be on an inpatient or outpatient basis.

¶ 33 Here, the trial court failed to exercise its discretion and instead deferred to DHS to make the treatment decision on its behalf. At the fitness hearing, the court told defendant, "Dr. Brownfield's recommendation is inpatient. [DHS's] evaluation will *** tell us whether they concur with that or whether they think some kind of outpatient community-based fitness restoration is available." The court's written order similarly equivocated as to the appropriate form of treatment, stating, "[T]here are compelling reasons why placement in a secure setting may or may not be necessary and that the discretion of [DHS] shall be utilized to determine appropriate placement for therapeutic purposes of fitness restoration." Nowhere in its oral findings or written order did the court specify whether it was ordering inpatient or outpatient treatment. Based on these statements, we find the court improperly deferred its treatment decision to DHS and thus failed to exercise the discretion required of it under section 104-17(a) of the Code.

¶ 34 We therefore remand this matter and instruct the trial court to select the least physically restrictive form of treatment therapeutically appropriate and consistent with defendant's treatment plan and clarify whether the treatment will be on an inpatient or outpatient basis.

¶ 35 III. CONCLUSION

¶ 36 For the reasons stated, we vacate in part and remand for further proceedings to determine the least physically restrictive form of treatment appropriate for defendant and clarify whether the treatment will be on an inpatient or outpatient basis.

¶ 37 Affirmed in part and vacated in part; cause remanded with directions.