

NOTICE

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2026 IL App (5th) 260554-U

NO. 5-26-0554

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Wabash County.
	)	
v.	)	No. 26-CF-24
	)	
JONATHAN E. ACORD,	)	Honorable
	)	William C. Hudson,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Justices Sholar and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's orders granting the State's verified petition to deny pretrial release, finding that defendant's continued detention was necessary, and denying defendant's motion for relief are affirmed.

¶ 2 Defendant, Jonathan E. Acord, appeals the Wabash County circuit court's April 30, 2026, order granting the State's petition to deny pretrial release, and the June 23, 2026, denial of his motion for relief. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On April 30, 2026, defendant was charged with possession of more than 15 but less than 100 grams of a substance containing methamphetamine, with intent to deliver a Class X felony. 720 ILCS 646/55(a)(1) (West 2024). The State filed a verified petition to deny pretrial release the same day, alleging that the proof was evident or presumption great that defendant committed a

detainable offense, that he posed a real and present threat to the safety of any person or persons or the community, and he had a high likelihood of willful flight to avoid prosecution. 725 ILCS 5/110-6.1(a) (West 2024).

¶ 5 The matter proceeded to a hearing the same day. Defendant's hearing was conducted at the same time as his co-defendant, Sally J. Spivey. The State proffered that on April 28, 2026, Deputy Michael Kumala of the Wabash County Sheriff's Department conducted a traffic stop in Mt. Carmel, Illinois. Spivey was the driver of the vehicle and defendant was in the passenger seat. Following a search of the vehicle, officers located 91.6 grams of methamphetamine in separate, individual bags, as well as a black digital scale. When interviewed, Spivey told officers that the methamphetamine "was not theirs, and they were just dropping it off to someone else for some gas money." Defendant told officers that they went to a house in Oaktown and provided the name of the woman who lived there. He indicated that "he was aware it was also picked up."

¶ 6 Defense counsel proffered that defendant was a passenger in the vehicle and all the methamphetamine and paraphernalia were discovered in Spivey's purse. Counsel stated that there was not anything that "connects [defendant] to that possession." Counsel argued that while defendant did know they were going to a woman's house, that did not connect him to the methamphetamine because he was not the driver and it was not his vehicle. Defense counsel asked for defendant to be released. Defendant's pretrial report did not show that defendant was a flight risk either. He did have a criminal history of mostly older cases, but with one 2018 battery case in White County. Defendant lived with his girlfriend, her two children, and his children. He could reside there on home confinement.

¶ 7 The State responded, further proffering that near defendant in the vehicle was "a broken [m]eth pipe," and "15 grams of [m]eth in two separate baggies within reach of him on the passenger

seat floorboard.” The remainder of the methamphetamine and paraphernalia were in Spivey’s purse. The pretrial report for defendant included the results of the Virginia Pretrial Risk Assessment Instrument-Revised (VPRAI-R). Defendant scored 9 out of a possible 14 points, placing him at Level 5. This meant that there was a 29.3% risk that pretrial conditions would fail. Defendant was under an order of conditional discharge in White County and had a history of felony convictions, including possession of methamphetamine and possession of a weapon. The State asserted that the methamphetamine was intended for distribution to the community. The State asked for defendant to be detained pending trial.

¶ 8 Defense counsel stated that the additional 15 grams of methamphetamine discovered near defendant were located inside a cigarette box in the back seat area, not in the front seat where defendant sat. Counsel asked for defendant’s release.

¶ 9 The circuit court stated that while defense counsel argued that the “bulk” of the methamphetamine was in Spivey’s purse, at least 15 grams of it were within defendant’s area and reach at the time. The circuit court found the proof was evident or presumption great that defendant committed a detainable offense. The circuit court also addressed defendant’s real and present threat, stating that the case was for distribution of methamphetamine into the community, which was a “dangerous offense” because the drug is “extremely and uniquely harmful.” Further, no condition or combination of conditions would mitigate that threat because of defendant’s pretrial report assessment of a “high-risk” category, as well as his criminal history. Defendant’s criminal history included driving on a revoked license, unlawful possession of cannabis by a passenger, possession of methamphetamine, aggravated battery, violation of a protective order, reckless driving, battery, possession of a weapon by a felon, possession of methamphetamine manufacturing chemicals, burglary, criminal damage, and theft. Defendant was on court

supervision and conditional discharge in two cases, and he had a history of one failure to appear. The circuit court found that no condition or combination of conditions would mitigate the real and present threat posed to the community. A written order was entered on May 1, 2026.

¶ 10 On May 29, 2026, defense counsel filed a motion for pretrial release for in-patient drug treatment and rehabilitation. The motion stated that defendant wished to engage in treatment for his substance abuse and was approved for treatment at the Lighthouse Recovery Center. A hearing was held on June 16, 2026. Defense counsel stated that treatment for defendant pending trial would be beneficial for defendant and house arrest provisions could be implemented at Lighthouse. The State responded, asserting that at the time of his arrest, defendant was already under court supervision. The circuit court stated that defendant's criminal history was serious and that he had "numerous opportunities" to seek treatment previously. The court denied the motion for release.

¶ 11 On June 16, 2026, defense counsel filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h) (eff. Apr. 15, 2024). The motion stated that defendant asked for relief from his initial detention finding on April 30, 2026, because:

"A. Defendant has been accepted to the Lighthouse Christian Recovery program for in-patient substance abuse treatment and rehabilitation.

B. This Honorable Court denied Defendant's Motion for Pretrial Release for In-Patient Drug Treatment and Rehabilitation in a hearing on the same on June 16, 2026.

C. The State's Attorney has provided discovery to the Defendant herein and based on the review of this information, the charge of Possession of Methamphetamine With Intent to Deliver will be denied by and disputed by Defendant, as the contraband was found pursuant to a traffic stop in a vehicle that did not belong to the Defendant and in which he was a passenger."

Further, defendant would agree to any terms of pretrial release, including house arrest and home confinement with electronic monitoring while at the Lighthouse Recovery Center.

¶ 12 The circuit court held a hearing on the motion for relief on June 23, 2026. Defense counsel asserted that defendant’s pretrial release should be reconsidered because defendant was accepted into the Lighthouse Christian Recovery Program for treatment and rehabilitation. Defendant was willing to go and would benefit from it. The State said that defendant’s initial pretrial detention was based on the pretrial report and the State’s proffer, which included that defendant had a high risk of violating pretrial release conditions, 16 criminal convictions—10 of which were felonies, and that defendant was discovered to possess a large amount of methamphetamine for distribution into the community. As to release to the recovery center, the State said that defendant was already on conditional discharge at the time of this offense. The State asked for the motion to be denied.

¶ 13 The circuit court stated that it reviewed defendant’s initial order for detention and noted that “Lighthouse is not a secure facility. [Defendant] could come and go as he pleases.” The court denied the motion for relief and found that defendant’s continued detention was necessary to prevent the real and preset threat to the community, and no combination of conditions would prevent such a threat. Defendant appealed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, defendant argues that (1) the State failed to prove at the initial detention hearing that the proof was evident or presumption great that defendant committed a detainable offense and (2) the State failed to prove that continued detention was necessary, “in light of new evidence that [defendant] had been accepted into an in-patient drug treatment program.” The State responds, arguing that defendant waived all arguments not included in his original motion for relief, and that defendant’s detention should be upheld because all elements were satisfied.

¶ 17 We first must address the State’s argument that defendant waived all issues on appeal. A motion for relief must request “the same relief to be sought on appeal and the grounds for such relief.” Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). “Upon appeal, any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived.” *Id.* Defendant filed a memorandum on appeal, which presented the arguments addressed above.

“If a memorandum is filed, it must identify which issues from the motion for relief are being advanced on appeal. Whether made in the motion for relief alone or as supplemented by the memorandum, the form of the appellant’s arguments must contain sufficient detail to enable meaningful appellate review, including the contentions of the appellant and the reasons therefore and citations of the record and any relevant authorities.” Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024).

¶ 18 Rule 604(h)(7) permits any issue from the motion for relief to be advanced on appeal, which can then be “supplemented by the memorandum” to “contain sufficient detail to enable meaningful appellate review, including the contention of the appellant and the reasons therefore.” *Id.* The State argues that defendant’s arguments on appeal were not “supplemented” from the motion for relief, as they did not directly mention “constructive possession” or any case law to support the arguments.

¶ 19 Both of defendant’s arguments on appeal were initially addressed in the motion for relief. Defendant argues that the State failed to prove he committed a detainable offense, and the motion for relief states that defendant disputed the offense because the “contraband was found pursuant to a traffic stop in a vehicle that did not belong to the [d]efendant and in which he was a passenger.”

While this argument does not explicitly state that defendant was challenging the offense through constructive possession, it raised the issue before the circuit court then advanced the argument further on appeal. Defendant also argues that his continued detention was in error due to the availability of a substance abuse treatment program. The motion for relief addresses that defendant's release was denied after the court held a hearing on release to the program, and that he would agree to any pretrial release terms to participate in treatment. This argument is thus advanced on appeal to argue that his continued detention was in error. We do not find that defendant waived these arguments, as the issues were brought before the circuit court in the motion for relief then supplemented by the memorandum on appeal.

¶ 20 B. Commission of a Detainable Offense

¶ 21 Our standard of review of pretrial release determinations is dependent on whether the circuit court heard live witness testimony or whether the parties proceeded solely by proffer or submission of documentary evidence. Where the parties to a pretrial detention hearing proceed solely by proffer or submission of documentary evidence, this court stands in the same position as the circuit court and may conduct its own independent review of the proffered evidence, thus reviewing the record *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54. Because the parties provided all evidence by proffer, our review is *de novo*. *Id.*

¶ 22 Pretrial release is governed by article 110 of the Code of Criminal Procedure of 1963 (Code), as amended by Public Act 101-652 (eff. Jan. 1, 2023), sometimes referred to as the Pretrial Fairness Act. Under article 110 of the Code, a defendant's pretrial release may only be denied in certain limited situations. See 725 ILCS 5/110-2(a), 110-6.1 (West 2024). If the State files a petition requesting denial of pretrial release,

“the State has the burden to prove by clear and convincing evidence that the proof is evident or the presumption great that a defendant has committed a qualifying offense, that the defendant’s pretrial release poses a real and present threat to the safety of [another] person or the community or a flight risk, and that less restrictive conditions would not avoid a real and present threat to the safety of any person or the community and/or prevent the defendant’s willful flight from prosecution.” *People v. Vingara*, 2023 IL App (5th) 230698, ¶ 7.

See 725 ILCS 5/110-6.1(e), (f) (West 2024). Our supreme court has instructed that “[e]vidence 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; *People v. Stock*, 2023 IL App (1st) 231753, ¶ 12.

¶ 23 Defendant was charged with possession of methamphetamine with the intent to deliver more than 15 grams but less than 100 grams, a Class X felony. 720 ILCS 646/55(a)(2)(c) (West 2024). Defendant was thus eligible for detention because he was charged with a non-probationable offense. 725 ILCS 5/110-6.1(a)(1) (West 2024). Defendant argues on appeal that the State failed to prove defendant knowingly possessed any of the methamphetamine found in the car, as it did not establish actual or constructive possession. *People v. Givens*, 237 Ill. 2d 311, 335 (2010).

¶ 24 At this stage, the State does not need to prove the defendant’s guilt beyond a reasonable doubt. *Stock*, 2023 IL App (1st) 231753, ¶ 13. Instead, the State needs only to show that the proof is evident or the presumption great that the defendant has committed a qualifying offense “by clear and convincing evidence.” 725 ILCS 5/110-6.1(e)(1) (West 2024). At the initial pretrial detention hearing, the State proceeded by proffer to present evidence “based upon reliable information.” *Id.* § 110-6.1(f)(2).

¶ 25 In this case, the proffered information was based upon law enforcement reports after conducting a traffic stop on a vehicle owned and driven by Spivey, wherein defendant was a passenger. Law enforcement discovered individual bags of methamphetamine and a scale in Spivey's purse, and a broken pipe in the floor board near defendant and two more bags of methamphetamine inside a cigarette box located behind defendant's seat, but within his reach. The State said that defendant "indicated that [he and Spivey] went to a lady's house. He gave the name of the lady in Oaktown, indicated that he was aware it was also picked up." Spivey told law enforcement that the methamphetamine "was not theirs, and they were just dropping it off to someone else for some gas money." All the evidence presented can reasonably be viewed as reliable. *People v. Horne*, 2023 IL App (2d) 230382, ¶ 24.

¶ 26 The record, as summarized above, shows the reliable information provided by the State to prove, by clear and convincing evidence, that the defendant committed a detainable offense of possession of methamphetamine with the intent to deliver. The State's proffer, based upon law enforcement's report and findings, sufficiently meets the State's burden of proof. Defendant was in the vehicle with Spivey, knew where they were going in Oaktown, and stated he was aware "it" was picked up. This matches with Spivey's statements given to law enforcement that she and defendant were delivering methamphetamine to someone for gas money, even though it was not "theirs." As such, we find that the proof is evident or presumption great that the defendant committed a detainable offense.

¶ 27 C. Continued Detention

¶ 28 Defendant argues that the circuit court erred in finding that defendant's continued detention was necessary due to his acceptance into an inpatient drug treatment program. Specifically,

treatment of his methamphetamine problem would “mitigate the court’s concerns” about defendant’s real and present threat.

¶ 29 While the standard of review for initial detention and motion for relief orders has been established by *Morgan*, 2025 IL 130626, ¶ 54, it did not address the standard of review when a subsequent detention finding is also at issue. *People v. Fuller*, 2026 IL App (4th) 251329, ¶ 40. That issue is now before the supreme court. *People v. Post*, 2025 IL App (4th) 250598, *pet. for leave to appeal granted*, No. 132403 (finding that the standard of review on appeals from subsequent detention orders is abuse of discretion). We need not determine the answer to the question of whether the standard of review is different for different detention decisions in the same case because we find that the circuit court’s decision may be affirmed under any standard of review, whether *de novo*, manifest weight, or abuse of discretion.

¶ 30 When a defendant has been denied pretrial release under the dangerousness standard, the Code provides, “[a]t each subsequent appearance of the defendant before the court, the judge must find that continued detention is necessary to 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.” 725 ILCS 5/110-6.1(i-5) (West 2024). A defendant is required to make a showing of new information or a change in circumstance, and the “review of the initial detention decision against the change in circumstances or new information is a necessity in determining whether the defendant’s detention remains appropriate.” *People v. Burries*, 2025 IL App (5th) 241033, ¶ 20 (citing 725 ILCS 5/110-5(f-5) (West 2022)). On review, the appellate court may consider any evidence presented at the initial detention hearing and subsequent court appearances. *Fuller*, 2026 IL App (4th) 251329, ¶ 37.

¶ 31 The court is provided a nonexhaustive list of factors it should consider when determining whether a defendant poses a real and present threat to the safety of any individual(s) or the community. These include the following:

“(1) The nature and circumstances of any offense charged, including whether the offense is a crime of violence, involving a weapon, or a sex offense.

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant’s prior criminal history indicative of violent, abusive, or assaultive behavior, or lack of such behavior. Such evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings.

(B) Any evidence of the defendant’s psychological, psychiatric or other similar social history which tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat.

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them.

(5) The age and physical condition of the defendant.

(6) The age and physical condition of any victim or complaining witness.

(7) Whether the defendant is known to possess or have access to any weapon or weapons.

(8) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, aftercare release, mandatory supervised release, or

other release from custody pending trial, sentencing, appeal, or completion of sentence for an offense under federal or State law.

(9) Any other factors, including those listed in Section 110-5 of this Article deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive, or assaultive behavior, or lack of such behavior." 725 ILCS 5/110-6.1(g)(1)-(9) (West 2024).

No one factor is determinative, and the court must base its decision on an individualized assessment. *People v. Atterberry*, 2023 IL App (4th) 231028, ¶ 15 (citing 725 ILCS 5/110-6.1(f)(7) (West 2022)).

¶ 32 Defendant cites to *People v. Kelly*, 2026 IL App (4th) 260002, ¶ 40, which found that the availability of in-patient treatment weighed in favor of the defendant's release with conditions. While *Kelly* did address a defendant who was released into in-patient treatment with conditions, the present case is distinguishable. In *Kelly*, the appellate court stated, "There is, however, no evidence of defendant's noncompliance with court orders and no evidence of violent, assaultive, or abusive behavior." *Id.* ¶ 38. This is not the case for defendant. His criminal history showed noncompliance with court orders through a violation of his court supervision and conditional discharge in two cases. 725 ILCS 5/110-6.1(g)(8) (West 2024). Further, his criminal history included violent offenses, such as battery, aggravated battery, and possession of a weapon by a felon. *Id.* § 110-6.1(g)(2).

¶ 33 Given the foregoing, we conclude that under the specific, articulable facts of this case, the State proved by clear and convincing evidence that defendant poses a real and present threat to the community, regardless of the standard of review employed.

¶ 34 Defendant also argues that conditions could mitigate his risk, such as electronic monitoring at the in-patient treatment center. Once a court determines that the defendant poses a threat to the safety of any individual or the community, the trial court must determine whether the State has met its burden of proving by clear and convincing evidence what pretrial release conditions, “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.” 725 ILCS 5/110-5(a) (West 2024). In reaching its determination, the trial court must consider (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant;¹ (4) the nature and seriousness of the specific, real, and present threat to any person that would be posed by the defendant’s release; and (5) the nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process. *Id.* § 110-5(a)(1)-(5). The Code lists no singular factor as dispositive. See *id.* § 110-5(a). The nature and circumstances of the underlying offense is “just one factor to consider in determining whether the threat posed can be mitigated by conditions of release.” *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 19.

¶ 35 We find the following factors support the conclusion that no condition or combination of conditions could mitigate the real and present threat posed by defendant. The history and characteristics of defendant include his criminal history, past relating to drug or alcohol abuse, and whether he was on probation, parole, or other release. 725 ILCS 5/110-5(a)(3) (West 2024). While in-patient treatment for substance abuse was available to defendant, treatment alone would not

¹The defendant’s history and characteristics include: “the defendant’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past relating to drug or alcohol abuse, conduct, *** criminal history, and record concerning appearance at court proceedings,” as well as “whether, at the time of the current offense or arrest, the defendant was on probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal law, or the law of this or any other state.” *Id.* §§ 110-5(a)(3)(A), (B).

mitigate defendant's real and present threat because he could "come and go as he pleases," as noted by the circuit court. Defendant argues that electronic monitoring "could ensure his participation in the program," but defendant's history showed his non-compliance with court orders. Presenting the option of in-patient treatment for defendant did not change this fact. Further, defendant had a decades long history of methamphetamine abuse and drug related convictions, which shall be considered as part of his history. Thus, the circuit court did not err in finding that the new information or change in circumstance presented to the court would not mitigate his risk.

¶ 36 Under the specific, articulable facts of this case, we conclude the State proved no condition or combination of conditions exist that could mitigate the danger defendant posed to the community, regardless of the standard of review employed.

¶ 37 III. CONCLUSION

¶ 38 Based on the foregoing reasons, we affirm the circuit court.

¶ 39 Affirmed.