

**THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED
DISPOSITION UNDER RULE 604(h)**

No. 132703

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS	)	On Appeal from the Appellate Court of Illinois, Fifth Judicial District, No. 5-25-0741
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	There on Appeal from the Circuit Court of the Second Judicial Circuit, Jefferson County, Illinois, No. 2025-CF-199
	)	
JOHN W FINNEY,	)	The Honorable
	)	Jerry E. Crisel,
Defendant-Appellant.	)	Judge Presiding.

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TABLE OF CONTENTS

NATURE OF THE ACTION	1
ISSUES PRESENTED FOR REVIEW.....	1
STATEMENT OF JURISDICTION	2
STATEMENT OF FACTS	2
I. The Circuit Court Orders Defendant Detained Pending Trial. .	2
II. The Circuit Court Denies Defendant’s Motion for Relief.	5
III. The Appellate Court Affirms.	8
IV. Defendant Is Tried and Found Guilty.....	9

POINTS AND AUTHORITIES

STANDARDS OF REVIEW	10
<i>Beggs v. Bd. of Educ. of Murphysboro Cmty. Unit Sch. Dist. No. 186,</i> 2016 IL 120236	10
<i>People v. Morgan</i> , 2025 IL 130626	10
ARGUMENT	11
<i>People v. Morgan</i> , 2025 IL 130626	12
I. The Court Should Dismiss this Appeal and Decline Defendant’s Invitation to Issue an Advisory Opinion on an Abstract Question in a Moot Case.....	12
<i>Berlin v. Sarah Bush Lincoln Health Ctr.</i> , 179 Ill. 2d 1 (1997)	12
<i>In re Alfred H.H.</i> , 233 Ill. 2d 345 (2009)	12
<i>In re J.T.</i> , 221 Ill. 2d 338 (2006)	12
<i>In re V.S.</i> , 2025 IL 129755	12
A. The Court should decline to issue an advisory opinion on a question that the case does not present.	13
<i>Barth v. Reagan</i> , 139 Ill. 2d 399 (1990).....	14

<i>In re Marriage of Peters-Farrell</i> , 216 Ill. 2d 287 (2005).....	13
<i>In re Mary Ann P.</i> , 202 Ill. 2d 393 (2002).....	14
<i>People v. Washington</i> , 2023 IL 127952.....	13, 14
725 ILCS 5/110-6.1.....	14
Ill. S. Ct. R. 604.....	14
B. The Court should dismiss this appeal because the case is moot.	15
<i>In re Andrea F.</i> , 208 Ill. 2d 148 (2003)	15
<i>In re Shelby R.</i> , 2013 IL 114994	15
<i>People v. Morgan</i> , 2025 IL 130626	15
<i>People v. Seymore</i> , 2025 IL 131564	15
1. Defendant presents no issue of a substantial public nature.	16
<i>In re A Minor</i> , 127 Ill. 2d 247 (1989)	16
<i>In re Marriage of Peters-Farrell</i> , 216 Ill. 2d 287 (2005).....	17
<i>In re Randall M.</i> , 231 Ill. 2d 122 (2008).....	17, 18
<i>People ex rel. Partee v. Murphy</i> , 133 Ill. 2d 402 (1990).....	16, 17
<i>People v. Harvey</i> , 2018 IL 122325	16
705 ILCS 405/5-410.....	17
2. The circumstances are unlikely to recur, and no authoritative determination is needed for future guidance.	18
<i>Commonwealth Edison Co. v. Ill Com. Comm’n</i> , 2016 IL 118129	20
<i>People v. Carter</i> , 208 Ill. 2d 309 (2003)	18
<i>People v. Coleman</i> , 2025 IL App (1st) 251472-U.....	20
<i>People v. Davis</i> , 2025 IL App (5th) 250715-U	19

<i>People v. Ganaway</i> , 2025 IL App (5th) 250706-U	19
<i>People v. Kelly</i> , 2026 IL App (4th) 260002-U	20
<i>People v. Nabors</i> , 2025 IL App (5th) 250720-U	19
<i>People v. Marshall</i> , 2026 IL 132129	19
<i>People v. Ryan</i> , 2026 IL App (5th) 250975-U	19
<i>People v. Seymore</i> , 2025 IL 131564	19, 20
<i>People v. Williams</i> , 2024 IL App (1st) 241013	19, 20
<i>People v. Yarborough</i> , 2025 IL App (4th) 250915-U	19
II. If This Court Were to Render an Advisory Opinion, the Court Should Affirm the Appellate Court’s Judgment.	20
A. Under the circumstances presented in this case, the appellate court correctly reviewed the judgment under the manifest weight standard.	21
<i>Carnes v. HMO La., Inc.</i> , 114 F.4th 927 (7th Cir. 2024)	22
<i>People v. Morgan</i> , 2025 IL 130626	21
<i>People v. Washington</i> , 2023 IL 127952.....	22
<i>Zurich Ins. Co. v. Raymark Indus.</i> , 213 Ill. App. 3d 591 (1st Dist. 1991)	22
1. Ordinarily, the circuit court should not consider new evidence at a motion for relief hearing.	22
<i>Chi. Tchrs. Union, Local No. 1 v. Bd. of Educ.</i> , 2012 IL 112566	23
<i>People v. Farah</i> , 2025 IL App (4th) 250322-U	22
<i>People v. Shunick</i> , 2024 IL 129244.....	23
<i>People v. Walton</i> , 2024 IL App (4th) 240541	23
725 ILCS 5/110-6.1.....	23
Ill. S. Ct. R. 604.....	22, 23

2.	Because defendant asked the court to consider new evidence when adjudicating his motion for relief, the appropriate standard of review is manifest weight.....	24
	<i>People v. Burries</i> , 2022 IL App (5th) 241033	27
	<i>People v. Carter</i> , 208 Ill. 2d 309, 319 (2003)	24, 25, 27, 28
	<i>People v. Cooksey</i> , 2024 IL App (1st) 240932	27
	<i>People v. Kleutgen</i> , 359 Ill. App. 3d 275 (2d Dist. 2005).....	28
	<i>People v. Minor</i> , 2019 IL App (3d) 180171	27
	<i>People v. Morgan</i> , 2025 IL 130626	25, 29
	<i>People v. Nettles</i> , 2024 IL App (4th) 240962	26
	<i>People v. Ratliff</i> , 2024 IL 129356.....	26
	Ill. S. Ct. R. 604.....	26, 27
	Ill. S. Ct. Pretrial Release Appeals Task Force, Report and Recommendations (2024)	27
B.	Under any standard, the appellate court correctly affirmed the circuit court’s finding that defendant posed an unmitigable danger to the community.....	29
	<i>In re Abdullah</i> , 85 Ill. 2d 300 (1981)	30
	<i>People v. Williams</i> , 2024 IL App (1st) 241013	31
	725 ILCS 5/110-5.....	29, 30
	CONCLUSION	32
	RULE 341(c) CERTIFICATE	
	CERTIFICATE OF FILING AND SERVICE	

NATURE OF THE ACTION

Defendant was charged with the first degree murder of his wife, Amy Jo Finney, C5-6, and detained pending trial, C17-18.¹ Defendant filed a motion for relief, which the circuit court denied. C14-16; R58. Defendant appeals from the appellate court's judgment affirming his pretrial detention. A2, ¶ 1. Since the appellate court issued the decision under review, defendant has been tried and found guilty of murder. No question is raised on the pleadings.

ISSUES PRESENTED FOR REVIEW

1. Whether this Court should dismiss this appeal and decline to render a purely advisory opinion, particularly because defendant's challenge to the circuit court's decision to detain him pending trial is now moot.

2. Whether the circuit court's decision to detain defendant pending trial is reviewed under the manifest weight of the evidence standard and, in any event, whether the circuit court correctly ordered defendant detained under either the manifest weight standard or de novo review.

STATEMENT OF JURISDICTION

This Court allowed leave to appeal on February 13, 2026. Jurisdiction thus lies under Supreme Court Rules 315 and 612(b)(2).

¹ "C" refers to the common law record on appeal, "R" refers to the report of proceedings, and "Def. Br." and "A" refer to defendant's opening brief and appendix.

STATEMENT OF FACTS

In September 2025, defendant was charged with the first degree murder of his wife of six months, Amy Jo Finney. C5-6, 15. That same day, the People petitioned to detain defendant pending trial. C7-11.

I. The Circuit Court Orders Defendant Detained Pending Trial.

At defendant's initial detention hearing on September 3, 2025, the People proffered evidence establishing that defendant fatally shot his wife. R5-10. The Jefferson County Sheriff's Office received a call from Collin Bradham, who reported that defendant had confessed to him that he had shot and killed Amy. R5-6. Bradham further reported that he had seen Amy's body, wrapped in a blanket, in the back of defendant's car. *Id.* Law enforcement officers learned from Bradham that defendant intended to dispose of Amy's body in a lake. *Id.*; R11. When officers later stopped defendant's car, they discovered Amy's body wrapped in a blanket in the back of his car, as well as a concrete block and some extension cords. R9. A search of defendant's house produced a fired bullet, a blood stain on the carpet, and three pistols, including a 9mm Smith & Wesson. R9-10.

In a recorded interview at the Sheriff's Office, after waiving his *Miranda* rights, defendant told detectives that he had "fucked up" and fatally shot his wife. R7. He explained that he and Amy had started arguing on the morning of the murder. *Id.* Amy was angry that Bradham had come over to their home that morning (as she disliked him) and had argued with defendant about it all day while she and defendant drank alcoholic beverages

to the point of intoxication. R7-10. Around 9:00 p.m., defendant (now intoxicated) overheard Amy speaking to someone on the phone. R8-9. When he asked whom she was talking to, she replied that it was “none of [his] fucking business,” then told the person on the phone, “it’s just my piece of shit husband.” *Id.* At that, defendant lost his temper and, after Amy finished her call, he shot her in the back with a 9mm Smith & Wesson pistol. *Id.* After shooting Amy, defendant went to bed. R9. The next morning, defendant woke up around 4:00 a.m., moved Amy’s body from the living room to the porch, wrapped her body in a blue blanket, and then placed it in his car. *Id.*

Bradham corroborated defendant’s account, telling police that he had visited defendant on the morning of the shooting and Amy had been upset at his arrival so early in the morning. *Id.* Defendant complained to Bradham throughout the day that Amy remained upset. *Id.* The next evening, defendant came over to Bradham’s home, told him that Amy had been “on him all day” about Bradham’s visit, and admitted that he shot her. R10-11. After defendant showed Bradham Amy’s body in the back of his car and left to dispose of the body in the lake, Bradham contacted the Sheriff. *Id.*

Based on this proffer, the People argued that the proof was evident or the presumption great that defendant had murdered his wife. R12. And, given the high likelihood that defendant would be convicted as well as the long mandatory prison sentence he faced, he posed a high risk of flight. R10.

In addition, defendant had a criminal record, including a 2010 conviction for domestic battery, a 2008 court supervision for disorderly conduct, and a 2004 court supervision for DUI. *Id.*

Defendant proffered that he was 51 years old, had completed high school, and had lived in southern Illinois for his entire life. R12-13. His family ties to Jefferson County included his mother and three children from a previous relationship. R13, 15. At the time of his arrest, he was employed by a trucking company, where he had worked for 18 years. R13. He was not on probation, pretrial release, parole, or bond. *Id.* He had never had a conviction that resulted in a prison sentence. *Id.* If released, he would live alone in his Mt. Vernon home and surrender his FOID card and firearms. *Id.* Defendant argued that home confinement and electronic monitoring would suffice to ensure the safety of the community and his appearance at future court dates. R13-14. In response to court questioning, he acknowledged that he had a \$25,000 life insurance policy on his wife through his employer. R16.

The circuit court granted the People's motion. R20. The court first found that there was a "high probability of conviction if the case went to trial," R17, and that no set of conditions could mitigate the threat defendant would pose to the community if released pending trial, R20. Although the court considered defendant's lack of a felony criminal record and ties to the community as factors weighing in his favor, R17, the court found that the seriousness of the charged offense and defendant's multiple prior criminal

charges weighed against him, *id.* The court further found that the nature of the crime — “flying off the handle” during an argument and shooting someone from behind — indicated that the defendant was sufficiently volatile that he was a danger to the community. R19. Because of this volatility, the court found that no condition or combination of conditions could mitigate the threat to the community that defendant posed. R20.

The court also found that defendant posed a flight risk. R19. Because he was 51 years old, defendant would likely die in prison if he were convicted, due to the lengthy minimum sentence for a murder committed with a firearm. R18-19. The court noted that defendant’s efforts to conceal the crime were indicative of his attempts to avoid prosecution. R19. The court found that no condition or combination of conditions could mitigate the risk of flight. R20. Based on defendant’s unmitigable risks of danger to the community and flight, the court ordered him detained pending trial. C17-18.²

II. The Circuit Court Denies Defendant’s Motion for Relief.

The next day, September 4, 2025, defendant filed a motion for relief pursuant to Supreme Court Rule 604(h)(2), arguing that the circuit court erred by finding that (1) the proof was evident or the presumption great that he had murdered his wife, (2) his detention was warranted due to the danger

² The record reflects that the court signed a copy of this order on September 3, 2025, after the initial detention hearing. R26-28. But that copy was never entered onto the docket. *Id.* The court signed a new version of the order on September 10 and entered it nunc pro tunc. *Id.*

he posed to the community, and (3) no condition or combination of conditions could mitigate that risk. C14-16. In particular, defendant argued that the court had failed to fully consider defendant's ties to the community, his willingness to abide by the terms of pretrial release, his employment, and his lack of criminal history. *Id.* The motion for relief made no argument that the circuit court erred by finding that defendant posed an unmitigable flight risk. *Id.*

On September 10, 2025, the court held a preliminary hearing and a hearing on defendant's motion for relief. R25, 29. At the preliminary hearing, the People called the detective who had arrested and interviewed defendant. R30. The detective testified that he received a call informing him that a witness had called 911 and reported that defendant admitted to the witness that he shot his wife, and the witness had seen her body wrapped in a blue blanket in the back of defendant's car. R31-32. The detective then learned that law enforcement had stopped defendant's car in Perry County. R32.

When defendant's car was searched, "Amy Finney's deceased body, wrapped in a blue blanket, was found in the rear of the vehicle," along with a concrete block and at least one extension cord. R38. Amy had died from a gunshot wound. R45.

The detective drove to Perry County and took defendant into custody. R33. Defendant was placed in the front of a squad car, was read the *Miranda*

warnings, and agreed to speak with the detective. R33-34. During that interview in the squad car, defendant stated, “I fucked up” and admitted that “he’d had enough” and had shot his wife with a 9mm gun during an argument. R34. Law enforcement later recovered a 9mm Smith & Wesson from defendant’s residence, as well as a bullet from the wall directly behind where Amy had been sitting when defendant shot her. R34-35.

During a second interview at the Jefferson County Sheriff’s Office, defendant told the detective that he and Amy had been arguing all day because his friend had come over early that morning. R37. Both defendant and Amy had been drinking heavily and were “very intoxicated.” *Id.* Amy received a phone call, and the “words exchanged” angered defendant. *Id.* Defendant had “had enough,” retrieved his Smith & Wesson 9mm handgun, and shot her in the back. *Id.* He then went to sleep. *Id.* He woke up around 4:00 a.m., moved the body to his car, and drove around until evening, when he went to speak to Bradham, who ultimately called the police. R37-38. Defendant further admitted that he had driven to Perry County because he was “considering dumping” Amy’s body. R40.

On cross examination, defendant elicited the detective’s testimony that defendant had been unarmed and cooperative when taken into custody. R39-40.

Defendant offered no argument regarding probable cause, and the court found probable cause to believe that defendant had committed first degree murder. R46.

The court then proceeded to the hearing on defendant's motion for relief. *Id.* Defendant proffered the same biographical details he had proffered in the initial detention hearing. R46-48. He then referred the court to the detective's testimony from the preliminary hearing. R47. He asked the court to take into account the detective's testimony that he had been cooperative upon arrest and had remained in southern Illinois even while he drove around with the intent to dispose of Amy's body. *Id.* Finally, defendant proffered that, if released, he could stay with his sister under home confinement and electronic monitoring, which he emphasized was new evidence that the court should consider. R48, 53.

The People's argument noted that the preliminary hearing testimony had newly demonstrated that defendant had twice confessed to the police (the People had proffered one confession at the initial detention hearing). R48-49. The People maintained that defendant posed a flight risk and a danger to the community and that no combination of conditions could mitigate those risks. R50-52.

The court noted that "this is in essence a — a repeat of the original [hearing] on the People's Petition to Deny Pretrial Release" except that it had heard "even more information" from the detective. R53. The court denied the

motion for relief for reasons similar to those it has set forth at the initial detention hearing, noting, among other things, that defendant posed an unmitigable danger to the public, as well as a “possible” danger to himself and “to the fella that turned [him] in, Collin Bradham.” R54-58. The court also again found that defendant was an unmitigable flight risk R57. In making its ruling, the court took into account evidence from the preliminary hearing, including that defendant had confessed not just once but twice to the police. R56.

III. The Appellate Court Affirms.

On appeal from the circuit court’s detention decision, defendant argued in his memorandum that the People had failed to prove that he posed a danger that could not be mitigated by any condition or combination of conditions or that he was a flight risk. A2, ¶ 1.

The appellate court affirmed the circuit court’s decision to detain defendant. *Id.* The appellate court held that defendant had waived any challenge to the circuit court’s finding that he posed a flight risk by omitting the issue from his motion for relief. A8, ¶ 17 (applying Ill. S. Ct. R. 604(h)(2)). And he had waived any challenge to the circuit court’s finding that the proof was evident or the presumption great that he had committed a qualifying offense by failing to argue the issue in his memorandum on appeal. *Id.*

As for defendant’s arguments regarding the circuit court’s finding that he posed an unmitigable danger to the community, the appellate court

followed this Court's guidance in *People v. Morgan*, 2025 IL 130626, which instructs that a circuit court's pretrial detention decision is reviewed under the manifest weight standard where the circuit court heard live testimony and de novo where the parties proceeded solely by proffer. A9, ¶ 19. The appellate court noted that, at the motion for relief hearing, both parties had relied upon the detective's live testimony and, therefore, applied the manifest weight standard. A9, ¶¶ 19-20. Under that standard, the appellate court found, the evidence was sufficient to carry the People's burden. A10, ¶¶ 21-22.

IV. Defendant Is Tried and Found Guilty.

Defendant filed a petition for leave to appeal (PLA) arguing that this Court should resolve a split in the appellate court regarding the standard of review applicable to a circuit court's adjudication of a motion for relief where the People proceeded by proffer at the initial detention hearing and the circuit court later considered live testimony in adjudicating the motion for relief. PLA at 4. This Court allowed the PLA, and the day after defendant filed his opening brief on appeal, he was tried before a jury and found guilty as charged; the jury further found that he had used a firearm to commit the murder. He was sentenced on June 4, 2026.

STANDARDS OF REVIEW

Determining the applicable standard of review presents a legal question that this Court considers de novo. *Beggs v. Bd. of Educ. of Murphysboro Cmty. Unit Sch. Dist. No. 186*, 2016 IL 120236, ¶ 52. Where, as

here, the circuit court considered live testimony, the Court reviews the circuit court's detention decision under the manifest weight of the evidence standard. *Morgan*, 2025 IL 130626, ¶ 54.

ARGUMENT

This Court should dismiss this appeal without reaching the standard of review issue that defendant raises because any ruling on that issue would be purely advisory. First, defendant presents the question of the proper standard of review as a purely abstract question, for defendant does not argue that the appellate court was wrong to affirm the circuit court's finding of unmitigable dangerousness; he seeks only an advisory opinion that the appellate court applied the wrong standard of review in doing so. Def. Br. 21. Indeed, any opinion on the standard of review issue would be advisory even if defendant *did* challenge the merits of the appellate court's dangerousness ruling, for the circuit court found that defendant's pretrial detention was also warranted because he posed a flight risk, C17-18, and, as the appellate court held, defendant waived any challenge to this alternative basis for his detention, A8, ¶ 17. Therefore, an opinion holding that the appellate court applied the wrong standard of review when adjudicating an issue that was not necessary for its judgment would be advisory.

Second, even if the standard of review question defendant presented did bear on the correctness of the pretrial detention order, or on the denial of defendant's motion for relief from that order, any challenge to those orders is now moot, for defendant is no longer in custody pursuant to the circuit court's

decision to detain him pending trial. He is instead in custody pursuant to his conviction and sentence. This Court should decline defendant's request to render a purely advisory opinion on an abstract question in a moot case and should dismiss this appeal.

If the Court were to address the standard of review question, the Court should affirm the appellate court's judgment because it applied the correct standard. Here, defendant invited the circuit court to consider new evidence at the motion for relief hearing — including the detective's live testimony. Accordingly, the circuit court's order is reviewed under the manifest weight standard. *Morgan*, 2025 IL 130626, ¶ 54. And under that standard — or any other standard, for that matter — the appellate court correctly affirmed the circuit court.

I. The Court Should Dismiss this Appeal and Decline Defendant's Invitation to Issue an Advisory Opinion on an Abstract Question in a Moot Case.

"It is a basic tenet of justiciability that reviewing courts will not decide moot or abstract questions or render advisory opinions." *In re V.S.*, 2025 IL 129755 (quoting *In re J.T.*, 221 Ill. 2d 338, 349 (2006)) (alteration removed). Accordingly, this Court generally "do[es] not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009). Nor does this Court "review cases merely to set precedent or guide future litigation." *Id.* at 353 (quoting *Berlin v. Sarah Bush Lincoln Health Ctr.*, 179 Ill. 2d 1, 8 (1997)). The Court should decline defendant's

invitation to opine on the propriety of the standard of review applied by the appellate court in this case because, not only is the case moot, but the standard of review question he presents is abstract, such that any opinion would be purely advisory. The Court should instead dismiss this appeal.

A. The Court should decline to issue an advisory opinion on a question that the appeal does not present.

Any ruling on the standard of review question defendant presents would be purely advisory, for defendant has never presented an actual controversy before this Court. *See In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 291 (2005) (“The existence of a real dispute is not a mere technicality but, rather, is a prerequisite to the exercise of this court’s jurisdiction.”). Defendant did not request any relief in his PLA, and he does not request any relief in his opening brief. PLA 8-10; Def. Br. 21. That is, he does not argue before this Court that the circuit court erred in any of its rulings under any standard of review. Def. Br. 8-20. He does not argue before this Court that the People failed to bear their burden of proving that his detention was warranted because he posed either an unmitigable flight risk or an unmitigable danger to community. *Id.* Nor does he argue that the appellate court should not have affirmed the circuit court’s order. *Id.*

Rather, defendant seeks a purely abstract ““clarif[ication] that only the evidence presented at the initial detention hearing controls what the standard of review should be on appeal.” *Id.* at 21. But the standard of review is not at issue because defendant presents the Court with no

underlying question to be reviewed under the disputed standard. *See People v. Washington*, 2023 IL 127952, ¶ 47 (noting that the Court need not resolve the standard of review unless the standard affects the outcome of a merits question). This Court generally does not issue purely advisory opinions or answer questions in the abstract without the benefit of adversarial presentation by parties with a stake in the outcome, *In re Mary Ann P.*, 202 Ill. 2d 393, 401 (2002), and it should decline to do so here.

Moreover, even if defendant had raised before this Court the same claim that he raised in the appellate court — that the People had not proved that defendant posed an unmitigable danger to the community, A2, ¶ 1 — any resolution of that question (or its standard of review) would still be an advisory opinion, for regardless of whether defendant posed an unmitigable danger, the circuit court also found that he was an unmitigable flight risk, R19-20, and defendant waived any challenge to that alternative basis for detention by failing to raise it in his motion for relief. Ill. S. Ct. R. 604(h)(2); A8, ¶ 17. Because defendant’s status as a flight risk is an independent ground for affirmance, any decision regarding defendant’s dangerousness will have no bearing on the outcome of the case. 725 ILCS 5/110-6.1(e)(3)(ii) (allowing detention in the absence of unmitigable danger where defendant presents an unmitigable flight risk). Therefore, the Court should decline to address it (or its standard of review). *See Barth v. Reagan*, 139 Ill. 2d 399, 421 (1990) (declining to “consider issues that are not essential to the

disposition of the cause or where the result will not be affected regardless of how the issues are decided”).

B. This Court should dismiss this appeal because it is moot.

Even were this Court to overlook defendant’s failure to challenge any of the circuit court’s findings undergirding its decision to detain defendant pending trial, the jury’s ensuing guilty verdict forecloses this Court from granting effectual relief. And the case presents no question of a substantial public nature that would warrant the Court’s guidance. *See In re Shelby R.*, 2013 IL 114994, ¶ 16.

“An appeal is moot if no controversy exists or if events have occurred which foreclose the reviewing court from granting effectual relief to the complaining party.” *Id.* ¶ 15. As defendant concedes, the jury’s guilty verdict renders any challenge to defendant’s pretrial detention moot. Def. Br. 17; *see also Morgan*, 2025 IL 130626, ¶ 16. The pretrial detention order detained defendant pending trial. C18. Because defendant has since been tried, found guilty, and sentenced, he is no longer detained pursuant to that pretrial detention order. Thus, it is “impossible” for this Court to “grant [defendant] effectual relief” by vacating the pretrial detention order, rendering this appeal from that order moot. *In re Andrea F.*, 208 Ill. 2d 148, 156 (2003).

Nor has defendant established that this case falls within the narrow public interest exception to mootness. Defendant has not made the necessary “clear showing” that (1) the question at issue is of a substantial public nature; (2) an authoritative determination is needed for future guidance; and (3) the

circumstances presenting the question are likely to recur. *People v. Seymore*, 2025 IL 131564, ¶ 33. The only issue defendant identifies — the appropriate standard of review of a circuit court’s pretrial detention order in cases where the People proceeded solely by proffer at the initial detention hearing but the court considered live testimony in adjudicating the subsequent motion for relief, *see* Def. Br. 17 — is not, in fact, presented by this appeal.

1. Defendant presents no issue of a substantial public nature.

Defendant’s case before this Court presents no issue of a substantial public nature because it does not now present, and in fact has never presented, an actual controversy. Generally, a case becomes moot because the parties have presented a question that, with the passage of time and intervening events, has become moot. *People v. Harvey*, 2018 IL 122325, ¶ 19 (describing a moot case as one that “*no longer* presents an actual controversy” (emphasis added)). In such circumstances, this Court may exercise its discretion to decide the moot issue under the public interest exception to provide guidance to public officials. *See In re A Minor*, 127 Ill. 2d 247, 257-58 (1989).

Here, as discussed above, defendant has *never* presented an actual controversy before this Court — let alone one of a substantial public nature. *See supra* § I.A. This lack of a controversy does not just present a problem in its own right. It also undermines defendant’s ability to meet the first prong of the public interest exception, because this Court does not invoke that

exception to review purely hypothetical questions. *See People ex rel. Partee v. Murphy*, 133 Ill. 2d 402, 410 (1990) (“We have before us a question that has never been involved in the case . . . and we are now requested to give a purely advisory opinion on a hypothetical question. The public interest exception . . . does not require advisory opinions on hypothetical questions.”). “The mootness doctrine stems from the concern that parties to a resolved dispute lack a sufficient personal stake in the outcome to assure the adversarial relationship that sharpens the presentation of issues upon which the court so largely depends for illumination of difficult questions.” *Peters-Farrell*, 216 Ill. 2d at 291 (cleaned up). That concern is even more acute where, as here, the complaining party not only lacks a present stake in the question allegedly presented but never had such a stake in the first place.

For that reason, the Court declined to apply the public interest exception in *In re Randall M*, 231 Ill. 2d 122 (2008). There, the defendant appealed from an order detaining him prior to trial under 705 ILCS 405/5-410. *Randall M*, 231 Ill. 2d at 124-26. The defendant’s intervening conviction rendered the appeal moot. *Id.* at 126. This Court declined the parties’ request to consider their arguments about the proper interpretation of section 410 under the public interest exception, explaining that, apart from the fact that the defendant’s appeal from the pre-trial detention order was mooted by defendant’s conviction, section 410 was inapplicable in the first

place, so any interpretation of that section had no bearing on the controversy presented. *Id.* at 130.

This appeal suffers from the same defect: defendant asks the Court to invoke the public interest exception to consider an issue that could have no bearing on the case before the Court, even if the underlying detention order were still in effect. As in *Randall*, the Court should reject defendant's request to render a purely advisory opinion.

2. The circumstances are unlikely to recur, and no authoritative determination is needed for future guidance.

Even were this Court to overlook the complete lack of a controversy to which the standard of review question would be relevant, this appeal still would not present the issue as framed by defendant: the standard of review applicable to a circuit court's adjudication of a motion for relief when the People proceeded by proffer at the initial detention hearing and the circuit court erred in considering additional live testimony at the hearing on defendant's motion for relief. *E.g.*, Def. Br. 10 ("Subsequent testimony should not alter the standard of review because this testimony is not properly considered."). As discussed below, defendant invited the alleged error by asking the circuit court to rely on the detective's live preliminary hearing testimony in evaluating his motion for relief. R47; *see also infra* § II.A.2. Therefore, he may not now complain that the circuit court should not have considered that testimony for that purpose. *People v. Carter*, 208 Ill. 2d 309, 319 (2003) ("An accused may not request to proceed in one manner and then

later contend on appeal that the course of action was in error.”); *see also infra* § II.A.2.

As a result, stated most favorably to defendant, this case presents the question of the applicable standard of review when a defendant invites error by requesting that the circuit court consider new, live testimony at a motion for relief hearing. Even if that question were of a substantial public nature, it is so unlikely to recur that there is no need for the Court to invoke the public interest exception.

Nor is there any indication that the lower courts require this Court’s guidance on this narrow point. “In considering whether an answer to [a moot] question will provide authoritative guidance to state and local officials, this [C]ourt looks to whether the law is in disarray or conflicting precedent exists.” *Seymore*, 2025 IL 131564. ¶ 34; *see also People v. Marshall*, 2026 IL 132129, ¶ 5 (dismissing a moot Pretrial Fairness Act case where the law was not in disarray). The question presented in this case does not implicate the split in the appellate court that defendant identifies. *See* Def. Br. 17; *see also People v. Yarborough*, 2025 IL App (4th) 250915-U, ¶¶ 20-21, 26-27 (evaluating standard of review after circuit court’s consideration of additional evidence at motion for relief hearing without defense invitation); *People v. Nabors*, 2025 IL App (5th) 250720-U, ¶¶ 16-17, 21 (similar); *People v. Davis*, 2025 IL App (5th) 250715-U, ¶¶ 15-17, 20 (similar); *People v. Ganaway*, 2025 IL App (5th) 250706-U, ¶ 32-35, 41-42 (similar); *People v. Ryan*, 2026 IL App

(5th) 250975-U, ¶¶ 14-17, 23-24 (similar); *People v. Williams*, 2024 IL App (1st) 241013, ¶¶ 24-29 (considering whether, in a vacuum, the circuit court should hear additional evidence at a motion for relief hearing); *People v. Kelly*, 2026 IL App (4th) 260002-U, ¶¶ 44-48 (similar). Indeed, defendant cites only one case in which it appears that the defendant urged the circuit court to consider live testimony when deciding a motion for relief — *People v. Coleman* — and that case did not discuss the alleged error or evaluate its effect. 2025 IL App (1st) 251472-U, ¶¶ 12-15, 18. Thus, there exists no appellate split on the question presented by this case, let alone conflicting precedent that might warrant this Court’s intervention notwithstanding mootness. *See Commonwealth Edison Co. v. Ill Com. Comm’n*, 2016 IL 118129, ¶ 17 (second prong of public interest exception not met where issue presented was matter of first impression).

In sum, not only is this appeal moot due to the jury’s intervening guilty verdict, but defendant never presented this Court with any actual controversy in the first place because he does not dispute the correctness of the pretrial detention ruling from which he appeals. Nor is the narrow question defendant presents likely to recur or one on which this Court’s guidance is needed. Defendant thus has not made the “clear showing,” *Seymore*, 2025 IL 131564, ¶ 33, necessary to invoke the public interest exception to mootness.

II. If This Court Were to Render an Advisory Opinion, the Court Should Affirm the Appellate Court's Judgment.

If this Court were to review the appellate court's judgment despite defendant's failure to present any controversy to which the disputed standard of review could apply and the mootness of the case, then the Court should affirm. Under the circumstances of this case, the appellate court correctly applied the manifest weight standard. Moreover, the appellate court would have been correct to affirm defendant's pretrial detention under any standard.

A. Under the circumstances presented in this case, the appellate court correctly applied the manifest weight standard.

In the pretrial detention context, the standard of review turns on the nature of the evidence that was before the circuit court when it rendered its decision. *Morgan*, 2025 IL 130626, ¶ 21. Where the circuit court considered live testimony in making its detention decision, the decision is reviewed under the manifest weight standard. *Id.* ¶ 54. This is because the circuit court, having heard and observed the live witness testimony, is in a superior position to resolve alleged inconsistencies and conflicts, weigh the testimony, and determine the credibility of the witnesses. *Id.* ¶ 21. Where the parties have proceeded solely by proffer, however, review is de novo because the reviewing court is in the same position as the circuit court. *Id.* ¶ 54.

The parties agree that the circuit court considered live testimony at the hearing on defendant's motion for relief. Def. Br. 8. And because the

circuit court did so at defendant's invitation, defendant is now barred from challenging the propriety of its consideration of that testimony, and the appellate court correctly reviewed the circuit court's decision under the manifest weight standard, *see infra* § II.A.2.³

1. Ordinarily, the circuit court should not consider new evidence at a motion for relief hearing.

Under ordinary circumstances, this Court's rules do not contemplate that the circuit court will consider new evidence — live or otherwise — at a hearing on a motion for relief. As defendant notes, Def. Br. 12, the motion for relief is intended to allow the circuit court to address “simple, correctable errors” and thereby to avoid the “much more time-consuming appellate process.” *People v. Farah*, 2025 IL App (4th) 250322-U, ¶ 22 (quoting Report and Recommendations of the Illinois Supreme Court's Pretrial Release Appeals Task Force, p. 6). Rule 604(h)(2) thus directs that “as a prerequisite to appeal, the party taking the appeal shall first present to the trial court a written motion requesting the same relief to be sought on appeal and the grounds for such relief.” Ill. S. Ct. R. 604(h)(2). The motion for relief serves as the argument of the appellant on appeal. Ill. S. Ct. R. 604(h)(7). As

³ The People did not forfeit the proper standard of review by citing the de novo standard in the appellate court. The proper standard of review is not an issue that can be forfeited or waived, *Zurich Ins. Co. v. Raymark Indus.*, 213 Ill. App. 3d 591, 594 (1st Dist. 1991), for the Court, not the parties, is entrusted with determining the proper standard of review, *Carnes v. HMO La., Inc.*, 114 F.4th 927, 929 (7th Cir. 2024); *see also People v. Washington*, 2023 IL 127952, ¶ 71 (Rochford, J., concurring) (“the failure of either party to argue the correct standard does not preclude this court from identifying and applying the correct standard”).

defendant notes, Def. Br. 13-14, the rule thus does not contemplate (much less expressly provide for) the presentation of new evidence at a motion for relief hearing.⁴

Rather, the legislature has provided a different avenue for defendants to present new information bearing on the necessity of their detention: the continued detention hearing. At every hearing after a defendant is initially ordered detained, “the judge must find that continued detention is necessary.” 725 ILCS 5/110-6.1(i-5). These “continued detention hearings” provide the opportunity for a defendant to challenge his detention based on new information. *People v. Walton*, 2024 IL App (4th) 240541, ¶ 28. There is

⁴ Where this Court’s rules contemplate the submission of new evidence on a motion that presages an appeal, they say so explicitly. For instance, Rule 604(d) includes requirement that, before a defendant may appeal from judgment entered on a plea of guilty, the defendant must file a motion to reconsider sentence or a motion to withdraw guilty plea. Ill. S. Ct. R. 604(d). Like the motion for relief in the Pretrial Fairness Act context, the motion must set forth all the issues the defendant wishes to have considered on appeal, on pain of waiver. *Id.* (any issue not raised in the motion “shall be deemed waived”). Rule 604(d), however, expressly permits a defendant to introduce new evidence. *Id.* (“When the motion is based on facts that do not appear of record it shall be supported by affidavit[.]”). That Rule 604(h) does not include a similar provision indicates that the rule does not contemplate consideration of new evidence in proceedings on motions for relief. *See Chi. Tchrs. Union, Local No. 1 v. Bd. of Educ.*, 2012 IL 112566, ¶ 24 (“When the legislature includes particular language in one section of a statute but omits it in another section of the same statute, courts presume that the legislature acted intentionally and purposely in the inclusion or exclusion, and that the legislature intended different meanings and results.”); *see also People v. Shunick*, 2024 IL 129244, ¶ 22 (Court interprets rules in same manner as statutes).

no reason to suspect that the motion for relief hearing was intended to play a duplicative role.

In short, the motion for relief is merely the mechanism by which the appealing party preserves its objections to the initial detention order, not a means by which a party may expand the record to bolster or develop new objections to the order. Thus, where a party has not invited the error by asking the circuit court to consider new evidence at the motion for relief hearing, defendant is correct that “considering preliminary hearing testimony at the motion-for-relief hearing [is] improper.” Def. Br. 12.

2. Because defendant asked the court to consider new evidence when adjudicating his motion for relief, the appropriate standard of review is manifest weight.

Although a circuit court ordinarily should not consider new evidence when adjudicating a motion for relief, here, the circuit court considered the new evidence at the motion for relief hearing at defendant’s express invitation, R47-48, and he is thus precluded from challenging the court’s action on appeal, *Carter*, 208 Ill. 2d at 319 (“An accused may not request to proceed in one manner and then later contend on appeal that the course of action was in error.”). As a result, that new evidence to which defendant opened the door was properly considered by both the circuit and appellate courts and controls the standard of review.

Defendant was the first to suggest that the court consider new evidence in evaluating the motion for relief. R47. At the motion hearing,

counsel began his argument by proffering new evidence (that defendant could live with his sister in Mount Vernon) and suggesting that the court consider the preliminary hearing testimony it had just heard. R46-48. He directed the court to the testimony he had elicited from the detective at the preliminary hearing. *Id.* Indeed, counsel's purpose in eliciting that testimony seems to have been solely to gain an advantage with respect to the motion for relief, for he made no argument that the People lacked probable cause to believe that defendant had committed the charged murder. R46. And when the People characterized the evidence before the court on the motion for relief as essentially the same as the evidence proffered at the initial detention hearing, defendant reminded the court of the new evidence that was also before it. R52-53. Thus, any error in the court's consideration of the new evidence was invited by defendant, and he may not argue on appeal that the circuit court should not have considered it. *Carter*, 208 Ill. 2d at 319.

Nor may defendant now dismiss the new evidence as "irrelevant" to the motion for relief, the appeal, or the applicable standard of review. *See* Def. Br. 14. When the circuit court denied defendant's motion for relief, it did so after considering the new live testimony that defendant urged it to consider as relevant to that detention decision. Therefore, that new live evidence was also before the appellate court on appeal and relevant in determining the applicable standard of review. *See Morgan*, 2025 IL 130626, ¶ 21.

Defendant mistakes the purpose of a motion for relief and overlooks the consequence of his request that the circuit court consider new live testimony in adjudicating that motion when he argues that his appeal “challenges only the detention order, not the motion-for-relief denial” and that “only the detention order is under review, and so only the detention-order evidence should control the standard of review.” Def. Br. 15. Indeed, issues raised in the motion for relief are the *only* issues considered on appeal. Ill. S. Ct. Rule 604(h) (“Upon appeal, any issue not raised in the motion for relief, . . . shall be deemed waived.”). Thus, although defendant claims to “allege[] no motion for relief errors,” Def. Br. 15, his argument before the appellate court that the People had failed to prove unmitigable dangerousness necessarily raised the same argument he raised in the motion for relief. *See People v. Nettles*, 2024 IL App (4th) 240962, ¶ 33 (“Rule 604(h)(2) is clear that we are to consider waived any arguments not advanced in the motion for relief.”); *People v. Ratliff*, 2024 IL 129356, ¶ 26 (interpreting identical language in rule 604(d) as “unmistakably clear” that any issue not raised in the trial court motion is waived). And the evidence before the appellate court in reviewing defendant’s argument that the People had failed to prove unmitigable dangerousness necessarily is the same evidence that was before the circuit court when it rejected that same argument on the

motion for relief. By defendant's invitation, that evidence included the detective's live testimony from the preliminary hearing.⁵

To allow defendant to make an argument at the motion for relief hearing based on evidence his counsel presented at that hearing and then make the same argument on appeal but limit the evidence to what was presented at the initial detention hearing would not only "offend all notions of fair play," *Carter*, 208 Ill. 2d at 319, it also would defeat the purpose of Rule 604(h)'s requirement of a motion for relief. The purpose of the motion for relief is to "crystallize the issues actually being raised" before they are presented to the appellate court and ensure that "simple, correctable errors [are] quickly addressed in the trial court rather than through the much more time-consuming appellate process." Ill. S. Ct. Pretrial Release Appeals Task Force, Report and Recommendations, at 5 (2024), *available at*

⁵ Proceedings under Rule 604(d), once again, provide a useful analogy. A defendant who has entered a non-negotiated plea of guilty may move the circuit court to reconsider his sentence, and the motion may be "based on facts that do not appear of record" if supported as required by the rule. Ill. S. Ct. R. 604(d). If the circuit court denies the motion, the defendant may appeal from the initial sentence. *Id.* The evidence presented at the hearing on the motion to reconsider sentence is properly before the appellate court on the appeal. *See, e.g., People v. Minor*, 2019 IL App (3d) 180171, ¶¶ 13-14 (reciting facts introduced at the hearing on the motion to reconsider sentence); *id.* ¶¶ 1, 30 (considering those facts on appeal from the initial sentence). As discussed, appeals following a motion for relief under 604(h) typically follow a different pattern because no new evidence should be presented at the motion for relief hearing. *See supra* § II.A.1. In cases like this one however, where irregular circumstances cause new evidence to be introduced at the motion for relief hearing, the appeal following the 604(h) motion should work the same way an appeal following a 604(d) motion does.

<https://perma.cc/LL5Y-R4FN> (last visited June 2, 2026); *see also People v. Burries*, 2022 IL App (5th) 241033, ¶ 30 (similarly describing the purpose of the motion for relief hearing); *People v. Cooksey*, 2024 IL App (1st) 240932, ¶ 16 (same). In other words, the purpose of a motion for relief is to give the circuit court a first pass at the precise arguments that the defendant intends to make on appeal. But the circuit court cannot perform this function if the arguments presented in the circuit court rely on different evidence than the arguments presented on appeal.

People v. Kleutgen, 359 Ill. App. 3d 275 (2d Dist. 2005), cited by defendant, *see* Def. Br. 15-17, does not suggest otherwise. In *Kleutgen*, the appellate court recognized that its review of a circuit court's decision to rescind a statutory summary suspension based on undisputed facts is typically de novo. 359 Ill. App. 3d at 278. Although some facts had been disputed before the circuit court, none were relevant to any issue on appeal; accordingly, the appellate court reviewed the challenged rescission order de novo. *Id.* Here, by contrast, defendant argued at the hearing on the motion for relief that the detective's testimony was relevant to whether the People had proven unmitigable dangerousness and urged the circuit court to consider it, which the circuit court then did. R47, 56. Having successfully urged the circuit court to rely on this new evidence when deciding the unmitigable dangerousness issue, he cannot now argue that it is irrelevant to

the same issue on appeal. *See Carter*, 208 Ill. 2d at 319. Therefore, *Kleutgen* is inapposite.

In sum, because defendant invited the circuit court to consider live testimony at the hearing on his motion for relief, that testimony is part of the record, and properly considered, on appeal. Under the rule set forth by this Court in *Morgan*, therefore, the detention order is properly reviewed under the manifest weight standard. 2025 IL 130626, ¶ 54.

B. Under any standard, the appellate court correctly affirmed the circuit court's finding that defendant posed an unmitigable danger to the community.

The appellate court correctly affirmed the circuit court's decision to detain defendant pending trial under any standard. Regardless of whether the evidence is reviewed de novo or under the manifest weight standard, the circuit court correctly determined that the evidence that defendant fatally shot his wife in the back and in a drunken rage after she insulted him demonstrates that he possesses a violent volatility that is dangerous to the community and that no combination of conditions can mitigate.

The circuit court heard ample evidence at the initial detention hearing to support its conclusions that defendant posed a real and present threat to the community, and no condition or combination of conditions could mitigate that danger. As the court noted, the evidence showed that defendant is capable of committing violent acts with little provocation. R19. Defendant confessed that he fatally shot his wife in the back because he was drunk and

she called him a “piece of shit.” R8. Someone who erupts in deadly violence in response to such little offense poses a danger to those around him.

The circuit court also correctly determined that no set of conditions could mitigate this danger and ensure the safety of the community. *See* 725 ILCS 5/110-5(a). In making this determination, the court was to consider “such matters as” (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; and (4) the nature and seriousness of the specific, real and present threat to any person that would be posed by the defendant’s release. *Id.* The court correctly determined that these factors demonstrated that defendant’s danger to the community could not be mitigated through any set of conditions.

As the circuit court noted, defendant’s murder of his wife was a serious crime. R17. Indeed, murder is “the most serious criminal offense there is.” *In re Abdullah*, 85 Ill. 2d 300, 306 (1981). And the murder that defendant committed was particularly demonstrative of an unmitigable danger to the community. He shot his wife in the back in an impulsive fit of anger and in response to the kind of slight that one would not be shocked to receive during some minor dispute with a stranger. This rightfully raised doubt in the court’s mind as to whether defendant would (or could) abide by any conditions it imposed, particularly given that defendant had a prior (albeit relatively minor) criminal history. R19-20.

Moreover, the fact that defendant took steps after the crime to try to conceal it, including leaving the area and driving to a lake with the intention to dispose of the body with extension cords and a concrete block, rightfully raised doubts in the court's mind as to whether defendant might evade the restrictions of pretrial release. R57. In particular, the court was rightfully concerned that defendant's attempts to cover up the crime showed some degree of forethought about how to do so. R56. The same tendencies might manifest in deliberate noncompliance. And defendant would be further incentivized to attempt to evade the terms of pretrial release and flee because of the high penalties he was likely to face if convicted. R57.

Thus, the circuit court reasonably concluded that conditions like those proposed by defendant — home confinement, electronic monitoring, and surrender of firearms — would be insufficient to protect the community (including Bradham, the friend who reported the murder) from defendant's impulsive acts of violence. R20. Such conditions are fallible, leaving open the possibility that an individual bent on flight or evasion will escape and attain unrestricted movement. *People v. Williams*, 2024 IL App (1st) 241013, ¶ 41 (discussing the risk of a defendant walking away from home confinement and cutting or removing electronic monitoring). Given that defendant was a flight risk, the probability of his doing so was elevated, and given his volatility, the danger to the public of his doing so was high.

Therefore, under any standard of review, the circuit court correctly concluded that no condition or combination of conditions sufficed to mitigate the danger to the community posed by defendant's pre-trial release.

CONCLUSION

For these reasons, the People of the State of Illinois respectfully ask this Court to dismiss this appeal. Alternatively, if the Court does not dismiss, it should affirm the appellate court's judgment.

June 15, 2026

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 32 pages.

/s/ Elizabeth A. Bays
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On June 15, 2026, the **Brief of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, which provided notice to the following registered e-mail address:

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