2026 IL 132652

IN THE

SUPREME COURT

OF

THE STATE OF ILLINOIS

(Docket No. 132652)

THE PEOPLE OF THE STATE OF ILLINOIS, Appellee, v.
JOHNNY WILLIAMS, Appellant.

Opinion filed November 19, 2026.

JUSTICE ROCHFORD delivered the judgment of the court, with opinion.

Chief Justice Neville and Justices Overstreet, Holder White, Cunningham, O'Brien, and Tailor concurred in the judgment and opinion.

OPINION

¶ 1 The defendant, Johnny Williams, was charged with nine counts of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2022)) and four counts of aggravated criminal sexual abuse of a victim under 13 years old (*id.* § 11-1.60(c)(1)(i)). Based upon those charges, the circuit court of Kane County entered an order granting the State's verified petition to deny defendant pretrial release

pursuant to article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2022)), as amended by Public Acts 101-652, § 10-255, and 102-1104, § 70 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act. See *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (setting the effective date of Public Acts 101-652 and 102-1104 as September 18, 2023).

¶ 2 Defendant appealed, arguing that the circuit court erred in refusing to strike the State's petition as untimely. In the alternative, defendant argued that the State failed to meet its burden of proving by clear and convincing evidence that he should be detained. The Appellate Court, Second District, affirmed the trial court. 2025 IL App (2d) 250370.

¶ 3 This court allowed defendant's petition for leave to appeal (Ill. S. Ct. R. 315(a) (eff. Dec. 7, 2023)). For the following reasons, we affirm the judgment of the appellate court.

¶ 4 BACKGROUND

¶ 5 The alleged conduct giving rise to the charges in this case took place between January 1, 2023, and May 12, 2024. At that time, defendant was on mandatory supervised release (MSR) on unrelated charges. Defendant's MSR was revoked on May 15, 2024, and he was returned to the Department of Corrections (IDOC), with a projected release date of August 1, 2025. On December 17, 2024, a grand jury returned an indictment charging defendant with the offenses at issue in this case. The trial court then entered an order setting defendant's arraignment for December 26, 2024. That date was later continued to January 16, 2025.

¶ 6 On January 3, 2025, the State filed a petition for writ of *habeas corpus* to prosecute defendant. On January 16, 2025, defendant was brought by writ to his first court appearance on the new charges. On that date, defendant stated that he was demanding trial and indicated that he did not want counsel. Due to a subsequent outburst, defendant was removed from the courtroom. Defendant returned to the courtroom on January 23, 2025, and was arraigned. Defendant pled not guilty and,

following admonishments from the court concerning self-representation, elected to proceed *pro se*.[1] The case was then continued for jury trial on April 24, 2025.

¶ 7 At a status hearing on February 27, 2025, defendant requested the appointment of a public defender. The case was removed from the April 24, 2025, trial call. On February 28, 2025, defense counsel filed a demand for speedy trial.

¶ 8 On May 22, 2025, the State filed a verified petition to deny defendant pretrial release. The State filed the petition in anticipation of defendant's August 1, 2025, date for release from IDOC custody on his unrelated charges. Defendant moved to strike the petition as untimely under section 110-6.1(c)(1) of the Code (725 ILCS 5/110-6.1(c)(1) (West 2022)), arguing that the State was required to file its petition within 21 days of the date of his first appearance in court on January 16, 2025. Because the State did not file its petition until four months after defendant's first appearance in the case, the petition was not timely and should be stricken.

¶ 9 The State responded that defendant was never arrested nor released on the charges because he was in the custody of the IDOC for the pendency of the case. The State argued that, because defendant was never arrested or released, the 21-day time period for filing a petition to deny pretrial release never started, so its petition was timely. In the alternative, the State argued that the timing requirement in section 110-6.1(c)(1) was directory and that defendant had suffered no prejudice by any delay in filing the petition, so the defendant was not entitled to dismissal of its petition.

¶ 10 At oral argument on defendant's motion to strike, defense counsel agreed that defendant had "never been technically arrested." Defense counsel maintained that, under the unique circumstances of the case, the 21-day clock began to run on January 16, 2025, when defendant first appeared in court, and that the State was not

[1]Although the date for defendant's arraignment was continued to January 23, 2025, due to defendant's outburst on January 16, 2025, the parties and the appellate court have referenced January 16, 2025, as the date of defendant's first appearance in the case. Because our analysis would be the same using either the January 23 or the January 16 date as the date of defendant's first appearance, we will also refer to the January 16, 2025, date as the date of defendant's first appearance.

entitled to unlimited time to file a petition to detain simply because defendant was in the custody of the IDOC on other charges.

¶ 11 The trial court denied defendant's motion to strike, noting that there was no specific law addressing the timing situation. The trial court found that the timely filing requirement was directory, not mandatory, and that defendant was not prejudiced by the four-month delay in filing the petition. The trial court then found by clear and convincing evidence that the proof was evident, or the presumption great, that the defendant had committed a detainable offense and that no condition or combination of conditions could mitigate the real and present threat to the physical safety of any person or persons or to the community at large. The trial court therefore granted the State's petition to deny defendant pretrial release and ordered defendant detained pending trial.

¶ 12 On August 18, 2025, defendant filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024). Defendant argued that the trial court erred in finding that section 110-6.1(c)(1)'s filing requirements are directory. Defendant also argued that the trial court erred in granting the State's petition to deny pretrial release because the State failed to prove by clear and convincing evidence that he committed the charged offenses; that he posed a real and present threat to the safety of any person, persons, or the community; and that no condition or combination of conditions could mitigate the risk of threat he posed if granted pretrial release. Following a hearing on defendant's motion, the trial court denied defendant's motion for relief. Defendant then appealed the trial court's order denying his motion to strike the State's petition to deny pretrial release.

¶ 13 On appeal, the appellate court first agreed with defendant that the petition was untimely. The appellate court noted that, although defendant was never formally arrested in this case, he was brought before the trial court pursuant to a writ of *habeas corpus* on the charges at issue and was arraigned on those charges. 2025 IL App (2d) 250370, ¶ 35. The appellate court concluded that the January 16, 2025, appearance constituted defendant's first appearance under the Code, which began the 21-day clock for the State to file a petition to deny pretrial release. *Id.* The State's May 22, 2025, petition was therefore untimely. *Id.*

¶ 14 The appellate court next determined that the timing requirement of section 110-6.1(c)(1) of the Code was directory, not mandatory. *Id.* ¶ 42. The appellate court

observed that section 110-6.1(c)(1) did not specify a consequence for noncompliance with the timing requirement, which demonstrated a legislative intent that the provision was directory. *Id.* In addition, a directory reading of section 110-6.1(c)(1) would not defeat a defendant's right to an individualized assessment of dangerousness, but a mandatory reading of the statute would defeat the community expectation that public safety would always be considered in determining whether pretrial release is appropriate. *Id.* ¶ 44.

¶ 15 Having found that section 110-6.1(c)(1) was directory, the appellate court next considered whether defendant could show that the violation of section 110-6.1(c)(1) prejudiced him. The appellate court found no prejudice, observing that defendant was in IDOC custody for parole violations on other charges throughout the State's four-month delay in filing the petition and when the State filed its petition. *Id.* ¶ 46. The appellate court therefore found that the trial court did not err when it denied defendant's motion to strike the State's petition to deny defendant pretrial release. *Id.* ¶ 47.

¶ 16 Finally, the appellate court rejected defendant's claim that the trial court erred in granting the State's petition to detain. *Id.* ¶ 58. The appellate court found that the State had met its burden of proving by clear and convincing evidence that no condition or combination of conditions would mitigate the real and present threat defendant posed to the victim and the community. *Id.* Defendant does not challenge that finding in this court.

¶ 17 ANALYSIS

¶ 18 On appeal, defendant argues that, although the lower courts correctly found that the State's petition was not timely, the lower courts erred in finding that the 21-day filing period in section 110-6.1(c)(1) was directory rather than mandatory.

¶ 19 The State responds that its petition to deny pretrial release was timely under the plain language of section 110-6.1(c)(1) because defendant was neither arrested nor released on the relevant charges, so the 21-day filing period never began to run. In the alternative, the State argues that section 110-6.1(c)(1) is directory and that defendant cannot establish that he was prejudiced by the late filing of its petition to deny pretrial release.

¶ 20 We first address whether the State violated the timing requirements of section 110-6.1(c)(1). In construing a statute, this court's primary goal is to ascertain and give effect to the legislature's intent. *People v. Cooper*, 2025 IL 130946, ¶ 27. The best indicator of the legislature's intent is the language of the statute, given its plain and ordinary meaning. *Id.* If the plain and ordinary meaning of that language is clear, this court's inquiry ends. *People v. Seymore*, 2025 IL 131564, ¶ 38. On issues of statutory interpretation, this court applies *de novo* review. *Id.*

¶ 21 The plain language of section 110-6.1(c)(1) sets forth two instances when the State can file a petition to deny pretrial release. Section 110-6.1(c)(1) states:

> "A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained." 725 ILCS 5/110-6.1(c)(1) (West 2022).

¶ 22 The first instance does not apply in this case because the State did not file a petition at defendant's first appearance before the judge. Therefore, we must determine whether defendant was arrested and released, thus triggering the 21-day time period for filing a petition to deny pretrial release.

¶ 23 Defendant argues that the 21-day filing period was triggered because he was "arrested" when he was brought to the Kane County circuit court via writ of *habeas corpus* for prosecution in this case and was "released" when he was returned to IDOC custody without an order denying pretrial release in this case. The State responds that the 21-day filing period does not apply in this case because defendant was never arrested and released, so that the filing period never began to run. Therefore, the State claims that its petition was filed well before the 21-day deadline.

¶ 24 We agree with the State that defendant was never arrested and released in this case. At the hearing on the State's petition to deny defendant pretrial release, defense counsel stated that "this case is a little bit unique in that [defendant] has never technically been arrested." Defense counsel later repeated that it "may be true

that there hasn't been a formal arrest" in the case. The appellate court also stated that defendant was "never formally arrested." 2025 IL App (2d) 250370, ¶ 35.

¶ 25 It does not follow, however, that because defendant was never arrested and released on the charges in this case, the State's petition was timely. Section 110-6.1(c)(1) does not provide the State with unlimited time to file a petition to deny defendant pretrial release. As noted, section 110-6.1(c)(1) sets forth two time periods for filing a petition: at the defendant's first appearance before a judge or within 21 calendar days after the arrest and release of the defendant. Because defendant was never arrested and released on the charges in this case, the 21-day filing period was unavailable to the State. The only relevant time period in this case is the first time period—defendant's first appearance before the judge on January 16, 2025.

¶ 26 The State's interpretation of the statute would transform the 21-day filing period into an unlimited filing period. This is contrary to the plain and ordinary statutory language. Section 110-6.1(c)(1) expressly states that it is the arrest and release of a defendant that triggers the 21-day filing period. Because defendant was never arrested and released on the charges at issue in this case, the alternative 21-day filing period did not apply. The State therefore was required to file its petition at defendant's first appearance on January 16, 2025, rendering the May 22, 2025, petition untimely.

¶ 27 Having found that the State's petition to deny pretrial release was untimely, we next must determine whether the lower courts correctly denied defendant's motion to strike the State's petition despite the untimely filing. In denying defendant's motion to strike, the lower courts found that section 110-6.1(c)(1)'s timing requirement was directory, rather than mandatory, and that defendant was not prejudiced by the untimely filing.

¶ 28 This court recently examined the mandatory-directory distinction in *Cooper*, 2025 IL 130946. *Cooper* explained that, once a timing requirement has been violated, a court must determine the consequence of such violation. *Id.* ¶ 29. To do so, the court must determine whether the timing requirement is "mandatory" or "directory." *Id.* A timing requirement is mandatory "if its underlying intent dictates a particular consequence for failure to comply." *Id.* ¶ 32. A timing requirement is directory, and no remedy is automatic, if no specific consequence is triggered. *Id.*

When a timing requirement is directory and no remedy is automatic, a defendant must show that the violation of the timing requirement prejudiced him. *Id.*

¶ 29 The law presumes that statutory language issuing a procedural command to a government official is directory, rather than mandatory. *Id.* ¶ 33. In other words, the "failure to comply with a particular procedural step does not invalidate the governmental action to which the procedural requirement relates." *Id.* The presumption that a provision is directory is overcome "only if (1) negative language in the statute or rule prohibits further action in the case of noncompliance or (2) the right the statute or rule is designed to protect would generally be injured under a directory reading." *People v. Geiler*, 2016 IL 119095, ¶ 18. Whether a statute is mandatory or directory presents an issue of statutory construction that is subject to *de novo* review. *Cooper*, 2025 IL 130946, ¶ 33.

¶ 30 In determining whether the second exception applies, courts must consider the statute's purpose. *Id.* ¶ 35. In *Cooper*, this court considered whether the failure to follow the timely hearing requirement in section 110-6.1(c)(2) of the Code caused injury to the right the statute was designed to protect. *Id.*

¶ 31 *Cooper* noted that the Pretrial Fairness Act aimed "to reform pretrial practices by eliminating cash bail and focusing on individualized assessments to ensure *both* public safety and fair outcomes, while ensuring that defendants are released pretrial unless there is clear and convincing evidence that they pose a risk of flight or a threat to others." (Emphasis in original.) *Id.* ¶ 37. The court emphasized that, under the statute, both the defendant's rights and the community's rights are of significant concern. As a result, "courts *always* have the obligation to consider the danger that a defendant poses to others and the community when deciding whether pretrial release is appropriate." (Emphasis in original.) *Id.* ¶ 38. *Cooper* found that a strict mandatory reading of the time requirement would not serve the statute's purpose where even a minor delay would result in the mandatory release of dangerous persons without regard to public safety. *Id.* ¶ 39.

¶ 32 *Cooper* determined that "reading section 110-6.1(c)(2) as directory properly balances the dual purposes of the statute." *Id.* Because neither exception applied in the case before it, the timing provision of section 110-6.1(c)(2) would be construed as directory with no specific consequence flowing from noncompliance. *Id.* ¶ 40.

As a result, violation of the provision "does not result in automatic dismissal of the petition for pretrial detention." *Id.*

¶ 33 In this case, defendant concedes that the first exception does not apply because section 110-6.1(c)(1) does not impose a consequence for failure to comply with the timing requirement, nor does it contain any negative language prohibiting detention or further action in the case of noncompliance. Defendant, however, argues that the second exception applies because the failure to comply with the 21-day filing requirement would generally injure the right the statute is designed to protect. Defendant argues that section 110-6.1(c)(1)'s timing requirement protects a defendant's interest in avoiding an ongoing state of uncertainty regarding his detention status prior to trial. Section 110-6.1(c)(1) also incentivizes the State to act expeditiously against defendants who are potentially dangerous or who pose flight risks. The statute also safeguards a defendant against the potential for abusive practices by the State.

¶ 34 We disagree. A strict mandatory reading of the time periods in section 110-6.1(c)(1) would result in the release of dangerous individuals without regard to public safety. A directory reading of section 110-6.1(c)(1) would achieve the dual purposes of the statute to balance the interests of defendants with the safety of the community. The State is incentivized to act expeditiously against defendants who are dangerous or who pose a flight risk. It is in the interest of the State, as well as the public, to ensure that a dangerous or flight-prone accused is detained as quickly as possible. It does not benefit the State, nor is it in the interest of public safety, to allow a dangerous or flight-prone accused to remain at liberty. For the same reason, it is difficult to see how a directory reading would lead to abusive tactics when the State still must prove by clear and convincing evidence that a defendant should be denied pretrial release.

¶ 35 We also find no merit to defendant's claim that a directory reading of section 110-6.1(c)(1) would create uncertainty regarding his detention status prior to trial. First, defendant remained in IDOC custody on an unrelated matter throughout the period of delay. The State's untimely filing therefore did not itself prolong defendant's confinement during that period. Second, as the State has argued, even defendants granted pretrial release are not guaranteed continued liberty. A defendant granted pretrial release might be subject to a petition to detain based upon

facts not previously known (725 ILCS 5/110-6.1(d)(2) (West 2022)), a petition to revoke pretrial release under section 110-6 (*id.* § 110-6(a)), or imprisonment for violation of conditions of release (*id.* § 110-6(f)(2)).

¶ 36 As in *Cooper*, a mandatory reading of section 110-6.1(c)(1) would frustrate the statute's goal of protecting the public by requiring the release of dangerous persons charged with qualifying felonies without regard to public safety. A directory reading of the statute balances the right of a defendant entitled to release to be timely released from custody with the safety of individuals and the community. Neither of the exceptions to the presumption that a provision is directory is present in this case. The lower courts correctly determined that section 110-6.1(c)(1)'s timing requirement is directory, so that the State's failure to timely file its petition to deny defendant pretrial release did not automatically require the trial court to strike the State's petition.

¶ 37 Defendant, however, may still be entitled to relief if he can establish that he was prejudiced by the statutory violation. *Cooper*, 2025 IL 130946, ¶ 41. Based upon the facts of the case before us, we find that defendant cannot establish prejudice. Defendant remained imprisoned in the IDOC throughout the State's four-month delay. He has identified no additional confinement attributable to that delay, nor has he identified any other resulting injury. On this record, defendant has failed to establish prejudice from the State's untimely filing.

¶ 38 As a final matter, we caution that our conclusion that the timing requirements for filing petitions to deny pretrial release in section 110-6.1(c)(1) are directory should not be understood as permitting the State to disregard those requirements. The State should not assume that an untimely petition to deny pretrial release will be excused. The timely filing provisions in section 110-6.1(c)(1) promote the orderly resolution of detention issues and afford defendants a meaningful opportunity to prepare for and contest the State's petition. Although we find that defendant did not establish prejudice under the unique circumstances of this case, our holding is limited to the facts of this case and does not establish that an untimely petition to deny pretrial release will always be excused on the basis that section 110-6.1(c)(1) is directory.

¶ 39 CONCLUSION

¶ 40 For all the foregoing reasons, we find that the State's petition to deny defendant pretrial release was untimely. We further find that section 110-6.1(c)(1)'s timing provision is directory, that neither exception to the presumption that the statute is directory applies in this case, and that defendant was not prejudiced by the State's delay in filing its petition. The trial court therefore did not err in denying defendant's motion to strike the State's petition to deny pretrial release. We therefore affirm the judgment of the appellate court, which affirmed the judgment of the trial court.

¶ 41 Judgments affirmed.