Illinois Official Reports

Appellate Court

People v. Davis, 2024 IL App (2d) 230557

Appellate Court Caption	THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. SAMUEL J. DAVIS, Defendant-Appellant.
District & No.	Second District No. 2-23-0557
Filed	March 4, 2024
Decision Under Review	Appeal from the Circuit Court of Lake County, No. 23-CF-2139; the Hon. Daniel B. Shanes, Judge, presiding.
Judgment	Appeal dismissed.
Counsel on Appeal	Gran M. McKerlie, of Northbrook, for appellant. Patrick Delfino and David J. Robinson, of State's Attorneys Appellate Prosecutor's Office, of Springfield, for the People.
Panel	JUSTICE BIRKETT delivered the judgment of the court, with opinion. Justice Schostok concurred in the judgment and opinion. Justice Kennedy dissented, with opinion.

OPINION

¶ 1 Defendant, Samuel J. Davis, challenges the order of the circuit court of Lake County denying his verified petition for pretrial release under Public Acts 101-652 and 102-1104 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act).[1] See 725 ILCS 5/110-6.1 (West 2022) (pertaining to denial of pretrial release). Because defendant filed a premature notice of appeal, we are without jurisdiction and dismiss defendant's appeal.

¶ 2 On December 7, 2023, the trial court orally pronounced its judgment denying defendant's verified petition for pretrial release. On that same date, defendant filed his notice of appeal. On December 11, 2023, the court entered its written judgment order denying defendant's petition.

¶ 3 Defendant appeals under Illinois Supreme Court Rule 604(h)(2) (eff. Dec. 7, 2023), which provides that a defendant must file a notice of appeal "within 14 days of the entry or denial of the order from which review is being sought." Defendant filed his notice of appeal after the trial court's oral pronouncement of its judgment, but before the entry of the written judgment order. The questions presented by these facts are (1) what constitutes "the entry or denial of the order from which review is being sought"—the oral pronouncement or the entry of the written order, and (2) what is the effect of filing a notice of appeal after the oral pronouncement but before the entry of the written order. The answers to these questions are key because the failure to timely file a notice of appeal is jurisdictional, meaning that this court is deprived of jurisdiction over the appeal in such a case. *People v. Maynard*, 393 Ill. App. 3d 605, 607 (2009).

¶ 4 The written judgment order represents the order from which review is being sought. Illinois Supreme Court Rule 271 (eff. Jan. 1, 2018) provides that, when the trial court "rules upon a motion other than in the course of trial, the attorney for the prevailing party shall prepare and present to the court the order or judgment to be entered, unless the court directs otherwise." This rule has been held to be applicable to criminal cases. *People v. Jones*, 104 Ill. 2d 268, 276 (1984). Rule 271, therefore, requires that the judgment order be in writing "unless the court directs otherwise." Ill. S. Ct. R. 271 (eff. Jan. 1, 2018). In addition, section 110-6.1(h)(1) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1(h)(1) (West 2022)) clearly states that the court "shall, in any order for detention: *** make a written finding summarizing the court's reasons for concluding that the defendant should be denied pretrial release." Therefore, section 110-6.1(h)(1) also requires that the detention order be in writing. Thus, both Rule 271 and the statutory language of the Act require a written order.

¶ 5 In turn, Rule 604(h)(2) states that appellate review "shall be by Notice of Appeal filed in the circuit court within 14 days of the entry or denial of the order from which review is being sought." Ill. S. Ct. R. 604(h)(2) (eff. Dec. 7, 2023). The "order" referred to in Rule 604(h)(2) is the "order for detention" (725 ILCS 5/110-6.1(h)(1) (West 2022)), which is necessarily a written order. Thus, we follow the clear language of the Act and the supreme court rules, and these lead to but one conclusion: the written order of detention is appealable, and the oral pronouncement of judgment does not constitute such a written order of detention. In this case, it means that the appealable order is the December 11, 2023, written judgment order denying

[1]The Act has also been referred to as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act. Neither name is official, as neither appears in the Illinois Compiled Statutes or public acts.

defendant's petition for release, which leads us next to consider the effect of filing a notice of appeal before the entry of the judgment order affects our jurisdiction.[2]

¶ 6 It has long been held that the filing of a notice of appeal before the entry of a judgment order does not confer jurisdiction on this court to consider the appeal. *Maynard*, 393 Ill. App. 3d at 607 (the trial court's memorandum of judgment given before the written judgment order was filed was "not an order from which an appeal could be taken"); *People v. Deaton*, 16 Ill. App. 3d 748, 749 (1974) (the "notice of appeal was [filed] at a time when there was not in existence a judgment order").[3] Here, on December 7, 2023, the trial court orally pronounced its judgment denying defendant's petition, and that same day, defendant filed his notice of appeal. On December 11, 2023, the court entered its written judgment as required by section 110-6.1(h)(1) of the Code and Rule 271. Accordingly, the "notice of appeal was [filed] at a

[2]The dissent makes two relevant arguments about the written order. First, the dissent notes that the purpose of Rule 271 is to alleviate confusion over when an appealable order is entered. We agree. This case typifies the sort of confusion arising over a delay between the trial court's pronouncement of its judgment and the entry of an order from which a party may then appeal. The dissent, however, ignores the language of the rule requiring the order to be in writing and erroneously concludes that the court's oral pronouncement of its judgment constitutes the written order required by Rule 271.

Next, the dissent kludges together various unrelated written orders and records and transforms them into a December 7, 2023, written order. Specifically, the dissent attempts to claim that the clerk's minute record of the day's proceedings, coupled with the order remanding defendant into the sheriff's custody, coupled with an order allowing Angela Davis to retrieve certain items of defendant's personal property, when mashed together, constitute a sufficient written order for purposes of Rule 604(h)(2) and establish our jurisdiction. The clerk's minute record does not constitute the entry of the trial court's judgment—instead, it notes that the court made a judgment granting the pending motion. However, the only pending motion was defendant's petition for pretrial release, which the trial did not grant; rather, the trial court ordered that defendant continue to be detained pending trial. Thus, the minute record is incorrect in at least one respect. Next, the order remanding defendant to the sheriff's continued custody may represent the effectuation of the trial court's judgment, but that order is not itself the written order of detention required by the Act and the supreme court rules—that order was filed on December 11, 2023. Finally, the property order has nothing to do with defendant's detention, but it is simply one of the manifold occurrences during the December 7, 2023, hearing. These orders and records do not constitute a sufficient written order to confer jurisdiction upon this court. The order that *does* constitute a sufficient written order to confer jurisdiction upon this court is the December11, 2023, written "continued order for detention."

[3]The dissent attempts to distinguish *Maynard* with *People v. Harper*, 2012 IL App (4th) 110880. In *Harper*, "the trial court [expressly] stated its oral pronouncement would 'stand as the ruling of the Court.' " *Id.* ¶ 20. In *Maynard*, however, the court provided a written memorandum of judgment that expressly directed the defendant to prepare a conforming written order. *Maynard*, 393 Ill. App. 3d at 607. Here, we have neither an expression that the trial court's oral pronouncement of judgment would constitute the court's order, nor an expression that the State was required to prepare a conforming order. We do, however, have the clear direction from the Act that any order of detention is required to be a written order. Thus, we infer that the trial court was attempting to follow the statutory directives, and this in turn suggests that the trial court could not have intended that its oral pronouncement would stand as a written order, because that would have been squarely contrary to the statutory requirements. *Maynard*, therefore, provides guidance while *Harper*, with the trial court's express statement that its oral pronouncement would stand as the judgment of the court, is inapposite.

time when there was not in existence a judgment order" from which defendant could appeal. *Deaton*, 16 Ill. App. 3d at 749. Defendant's notice of appeal, therefore, was premature.

¶ 7 Where a notice of appeal is premature in a criminal case, jurisdiction does not vest in the appellate court, and the defendant has the prescribed amount of time after the judgment order has been entered to file a notice of appeal. *Maynard*, 393 Ill. App. 3d at 608; *cf.* Ill. S. Ct. R. 606(b) (eff. Dec. 7, 2023) (a premature notice of appeal is without effect, and the defendant has 30 days from the entry of order disposing of the last timely postjudgment motion in which to file a new notice of appeal). Because defendant filed his notice of appeal before the judgment order was entered in this case, it is without effect. Defendant did not file a notice of appeal within 14 days after the entry of the December 11, 2023, judgment order from which he was eligible to appeal under Rule 604(h)(2). Because there is no timely notice of appeal, we are without jurisdiction over this matter. *Maynard*, 393 Ill. App. 3d at 607 (failure to file a notice of appeal is a jurisdictional defect). Accordingly, we must dismiss defendant's appeal.

¶ 8 We also note, however, that defendant is not bereft of all recourse. Section 110-2 of the Code (725 ILCS 5/110-2(b) (West 2022)) contemplates that, at every pretrial hearing, the issue of conditions of pretrial release may be revisited, with the burden on the State to demonstrate that any condition remains necessary. Defendant may thus file another petition seeking pretrial release as the facts may warrant. In addition, the trial court invited defendant to file another petition for release as more information is learned through the investigation: "[F]or today, I am detaining you. As the investigation continues, you can re-address this issue." Our determination that jurisdiction is lacking does not mean that defendant is foreclosed from pretrial release altogether, only that we may not consider the merits of this appeal. If the facts and circumstances support his view, defendant remains free to file another petition in the trial court seeking pretrial release, and with the timely filing of a notice of appeal, we will then have jurisdiction to address the merits of the court's order on any such future petition for release.

¶ 9 To sum up, we are without jurisdiction to consider the merits of defendant's appeal, absent a supervisory order from our supreme court instructing us to review the merits. Should such an order be secured, we could then consider whether defendant's detention was warranted under the specific and articulable facts of this case. Without such an order, however, we lack jurisdiction and must dismiss this appeal.

¶ 10 Appeal dismissed.

¶ 11 JUSTICE KENNEDY, dissenting:

¶ 12 I disagree with the majority's opinion that the trial court did not enter an appealable order on December 7, 2023, and that we therefore lack jurisdiction to hear defendant's appeal of his pretrial detention. I believe we should reach the merits of defendant's appeal and reverse the trial court's detention order. I therefore respectfully dissent.

¶ 13 This was not an instance of the trial court making an oral pronouncement and later entering a final written order prepared by counsel. Rather, the record supports that an order was indeed entered at the detention hearing. The "minute record" of the court, dated December 7, 2023, clearly states "Order Entered" as to the detention hearing. Additionally, the minute record stated that not only was a hearing held, but that the State's petition was granted, that defendant was advised of his right to appeal, and "Defendant Detained" and remanded to the custody of Lake County Jail. The transcript of the hearing itself reveals that the trial court ordered "I am

detaining you," adding "so that's the ruling there." Immediately after ordering defendant's detention, the trial court specifically advised defendant, "You do have 14 days in which you can appeal it if you choose." The court did not direct any party to prepare any further order, nor did it indicate that any such order would be prepared or entered at some future time.

¶ 14 Then, for some unknown reason, four days later, the trial court filed a form "Continued Order for Detention." See 19th Judicial Cir. Ct., *Order for Detention*, https://www.lakecountycircuitclerk.org/docs/default-source/criminal-traffic/order-for-detention---12-22-22-fillable.pdf?sfvrsn=58afa43b_5 (last visited Mar. 12, 2024) [https://perma.cc/NP8X-VXCV]. The order, file stamped December 11, 2023, is electronically signed by the court, but the space labeled "Entered: Date: _____" was left blank. The form order is, but for the signature and date line, identical to the previous order entered by a different judge and file stamped on November 13, 2023 (and in which the date line next to the judge's signature was completed as "11/13/2023," the date of the prior detention hearing). Neither of these form orders listed any factual basis for the courts' conclusions that defendant should be detained pending trial, nor did either of those orders list any reasons why no release conditions could mitigate any danger to a person or the community.[4] Further, the order is merely a "check the box" form with no space for elaboration, not a memorandum order or any other form of narrative that might have taken time to draft.

¶ 15 Under these circumstances, I believe the December 7, 2023, minute record stating "Order Entered"—along with the separate written order remanding defendant into custody entered the same day—constitutes a writing sufficient to constitute a judgment on the detention hearing from which defendant is entitled to appeal. See 725 ILCS 5/110-6.1(j) (West 2022) ("Rights of the defendant. The defendant shall be entitled to appeal *any* order entered under this Section denying his or her pretrial release." (Emphasis added.)). The court's order of December 7, 2023, was entered with the order remanding defendant into custody and allowing his family to take possession of some of defendant's personal property being held by the jail. I believe that this was "an order denying [defendant's] pretrial release" under the Code.

¶ 16 On December 7, 2023, defendant was told he was going to be detained in the Lake County jail during the pendency of his trial, was advised that he had only 14 days to appeal that decision, and then was immediately remanded to the custody of the jail. The order had been pronounced and was immediately effective. To say that defendant needed to wait in jail for some unknown period of time until the court or clerk finally got around to entering another order before he could seek expedited appellate review under the Code would defy basic principles of fairness and logic.

¶ 17 Moreover, the December 11 order was merely duplicative in that it did not add any information necessary to comply with the Code that was not already contained in the December 7 minute record indicating the State's petition had been granted and order remanding defendant into custody. The December 11 "Continued Order for Detention" fails to contain necessary findings to constitute an order that would make it any more final or appealable than that of

[4]The record contains no transcripts from either of defendant's two prior detention hearings. An initial detention hearing was held on October 30, 2023. The written "Order for Detention" was entered that day using the same form used for both subsequent orders and similarly omitted any factual information supporting a dangerousness finding or any reasons why conditions of release would not avoid a real and present threat.

December 7. The majority cites the statutory requirement that a trial court "make a written finding" to support its holding that the December 7 order was an insufficient basis for appeal. See *id.* § 110-6.1(h)(1). However, the order entered on December 11, 2023, did not contain any of the required statutory findings "reasons" and therefore did not comply with the statute anyway.

¶ 18 First, the Code requires that the court enter a written finding "summarizing the court's reasons for concluding that the defendant should be denied pretrial release, including why less restrictive conditions would not 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." *Id.* I am unable to discern any such "reasons" in the form order, which does not contain any preprinted reasons for denial of pretrial release, nor does it contain any space to add any additional language. The order merely contains one check in two of the boxes listing that the State had proven that defendant was charged with detainable offenses and that he poses a real and present threat to the safety of any person or persons or the community. The remaining applicable portions of the form are these preprinted "findings":

> "6. That no condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons for offenses listed in 725 ILCS 5/110-6.1(a)(1) through (7) OR the defendant's willful flight for offenses listed in 725 ILCS 5/110-6.1(a)(8).
>
> 7. That less restrictive conditions would not assure safety to the community."

I do not believe these conclusory statements are sufficient to satisfy the Code because they omit "the court's reasons for concluding that the defendant should be denied pretrial release," they omit any basis for "*why* less restrictive conditions would not avoid a real and present threat" (emphasis added), and they omit any "specific articulable facts of the case." See *id.* The form used for the order does not even allow for the court to fill in such information, as forms from other circuits do. See *People v. Valderama*, 2024 IL App (2d) 230462-U, ¶ 5 n.2 (noting potential problems with the same form detention order as that used here). Indeed, when a statute requires "specific articulable facts," it stands to reason that at least some specific facts should be articulated. None are contained in the December 11 order (nor are they contained in the hearing transcript). In sum, the written order of December 11 fails to meet the Code's requirements and provides no basis for appeal that is not already contained in the December 7 minute record indicating the State's petition had been granted and defendant remanded into custody.

¶ 19 Second, the Code requires three additional elements to a detention order, including that it "direct that the defendant be committed to the custody of the sheriff or confinement in the county jail pending trial" (725 ILCS 5/110-6.1(h)(2) (West 2022)), direct that defendant be given a reasonable opportunity to consult with counsel and communicate with others (*id.* § 110-6.1(h)(3)), and "direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings" (*id.* § 110-6.1(h)(4)). The December 11 order contains the first directive, but so does the December 7 minute record. Neither contains the other directives. Again, no statutory requirement is met by the December 11 order that was not already contained in that of December 7, and we would have nothing more to review in an appeal from the later-filed order than we do here.

¶ 20 The obvious purpose of Rule 271 is to avoid confusion concerning when a final order for judgment is entered. *People v. Dylak*, 258 Ill. App. 3d 141, 143 (1994). Here, the record is

clear that there was no confusion. The court pronounced its ruling, the clerk entered the minute record, and defendant was remanded to custody *instanter*. See *People v. Harper*, 2012 IL App (4th) 110880, ¶ 20 (holding under Rule 271 that the trial court's oral pronouncement would " 'stand as the ruling of the [c]ourt' " and failure to direct the parties to present an order to the court meant "[t]he trial court was essentially informing the parties a written order was not needed").

¶ 21 For these reasons, I believe that the instant case is distinguishable from the facts in *Maynard*, where following the initial hearing on defendant's motion to suppress, the trial court had the parties submit written arguments and then in a letter decision indicated that it was granting the defense's motion and directed the defense to prepare a written order in conformance with the decision to be signed by the court. *Maynard*, 393 Ill. App. 3d at 607. In *Maynard*, a further order of court was explicitly directed by the court to be prepared by the prevailing party, whereas in the instant case the court "was essentially informing the parties a written order was not needed." See *Harper*, 2012 IL App (4th) 110880, ¶ 20. Given the lack of a date next to the judge's signature in this case, it is possible the court's updated order may well have been prepared on December 7, 2023, and merely file stamped later. Regardless, under these circumstances, it would be unreasonable to hold that defendant should have known a separate order would be issued at a later date.

¶ 22 As the majority allows, a supervisory order may well be defendant's only recourse, but he can find cold comfort in the majority's indication that he "remains free" to seek a fourth detention hearing when he is next before the trial court. This ignores the Code's provision of *this* appeal as his recourse for his December 7 detention and overlooks the expedited nature of pretrial detention hearings and appeals. At the time of this writing, it has been 85 days since defendant's notice of appeal was filed. The record indicates defendant filed a speedy trial demand on November 30, 2023. By the time defendant and his counsel can read this dissent, his case may well have already proceeded to trial or run up against the 90-day limit on pretrial detention set forth in section 110-6.1(i) of the Code (725 ILCS 5/110-6.1(i) (West 2022)). These timelines, not to mention the running of the speedy trial deadline, would almost certainly pass before this court would be able to consider a subsequent appeal of defendant's detention. The Code and Rule 604(h) impose an expedited appeals process for pretrial detention in order to ensure that defendants do not remain in jail pretrial if the State has not met its multiple statutory burdens. To deny defendant the right to appeal based solely on the trial court's delay in entering a written order—particularly when defendant was advised by the trial court that he had the right to appeal only if filed within 14 days—or even to delay defendant's appeal by some unknown number of days while waiting for the trial court to enter another written detention order, is contrary to the purpose and policies set forth in the Code and Rule 604(h).

¶ 23 Accordingly, because the trial court had pronounced its judgment and then proceeded to immediately enforce that judgment by placing defendant in custody, I believe that we do have jurisdiction to consider defendant's appeal under the specific facts of this case. Further, I believe the merits of defendant's appeal warrant reversal of the trial court's denial of his pretrial release.

¶ 24 Turning to the merits, as an initial matter, the trial court's written order fails to comply with the requirements of section 110-6.1(h)(1) of the Code, as stated earlier. Lake County's standard form order for pretrial detention is merely a checklist of the most basic elements required to order pretrial detention. It does not provide any space for the court to make the

findings prescribed in section 110-6.1(h) (written findings) or section 110-6.1(g) (dangerousness determinations), nor did the court in the instant case include those details in an attachment or even a note in the margin. See *id.* § 110-6.1(g), (h). This practice does not comport with the requirements of the Code, and I believe warrants reversal on its own. Even looking beyond the glaring omissions of the written order, however, the record does not contain adequate support for the court's findings either.

¶ 25 Defendant's first argument is that the State failed to demonstrate by clear and convincing evidence that the proof was evident or presumption great that defendant committed the charged offenses. At the December 7 detention hearing, the State's proffer was that defendant contacted the alleged victim to purchase a Dyson hairdryer via Facebook Marketplace. The State proffered that defendant arrived with another individual to meet the victim at the Home Depot parking lot in Vernon Hills. According to the victim, he and defendant negotiated a price of $250 for the hairdryer, and defendant asked if he had change for $300. As the victim looked in his car and defendant was inspecting the hair dryer, defendant's "friend who was the passenger grabbed me and pressed something into my side." The victim ran to a Home Depot employee and called the police. The State proffered that, while he was running the victim heard defendant say, "That's what you get." The defendant and the other individual then drove off with the hair dryer, but nothing else was taken.

¶ 26 Police located defendant alone in his vehicle in a nearby parking lot. They did a show-up, and the victim identified defendant. Defendant was arrested, and police recovered from an unspecified location within the car a firearm with a defaced serial number. There is no indication as to whether the firearm was loaded. Police did not locate the missing hairdryer or the passenger who allegedly battered and threatened the victim. The State represented that part of the altercation was captured on Home Depot's parking lot security cameras, but this was not shown at the hearing or made part of the record on appeal.

¶ 27 Defendant maintains that there was insufficient evidence to show that defendant committed the offenses of armed robbery, aggravated robbery, or robbery. In support, defendant argues that there is no proof the hair dryer was taken, and the State admitted at the hearing that there was no indication that the gun recovered was used during the robbery. The assistant state's attorney, shortly after the court had pronounced its judgment, stated:

> "I mean, I'll be honest. It's charged as an armed robbery. There's not going to be any offer with regards an armed robbery; it'll be more like an offer to a robbery or something significantly less than what the main charge is here because, I mean, there is a gun found in the car, but there's no indication that the gun was used during the course of the robbery. I don't know how that got charged."

I agree with defendant (and the State) that there is little direct evidence at this stage of the proceedings to show that the gun recovered by police, or any other firearm, was used in the robbery. See *People v. Clifton*, 2019 IL App (1st) 151967, ¶ 33 ("We can rely on the eyewitness testimony of a single witness, but that testimony must provide sufficient facts to allow one to objectively conclude that the object used in the robbery meets the statutory definition of a firearm."). Accordingly, the State failed to demonstrate *by clear and convincing evidence* that the proof was evident or presumption great that defendant committed the offenses of armed robbery or aggravated robbery.

¶ 28 However, I believe there was sufficient evidence that the proof was evident or presumption great that defendant committed the offense of robbery under an accountability theory. The

proffer demonstrated that defendant arranged the purchase of the hair dryer in order to confront the victim regarding the prior sale of a similar (and allegedly counterfeit) item to defendant's girlfriend. During the process of the sale, defendant's companion got out of the vehicle and approached the victim and made contact in a manner that caused the victim to flee and call the police. Defendant then yelled, "That's what you get," and he and his companion left the scene, with the hair dryer. Further, as robbery is a forcible felony under section 110-6.1(a)(1.5) of the Code (725 ILCS 5/110-6.1(a)(1.5) (West 2022)), the State demonstrated by clear and convincing evidence that defendant likely committed a detainable offense.

¶ 29 With that, our analysis turns to the trial court's finding of "dangerousness" under section 110-6.1(g) of the Code (*id.* § 110-6.1(g)). I believe the State failed to prove by clear and convincing evidence that defendant posed a real and present threat to the safety of any person or persons or the community. Defendant, at 30 years of age, has no prior criminal history besides a speeding ticket. The State admits that there was "no indication that the gun was used during the course of the robbery." Further, even accepting the State's proffer at face value, it was defendant's companion, and not he, who put the hard object in the victim's side. Defendant also presented several letters from members of the community in support of his character, which the trial court deemed "pretty impressive." While defendant's possession of a defaced firearm at the time of his arrest is a strong factor favoring a finding of dangerousness, there were no other factors favoring such a finding. There was no evidence of threats or other indications of a propensity for violent, abusive, or assaultive behavior; in fact, the letters indicated the opposite. Further, the trial court made no written or oral findings concerning dangerousness factors besides noting the recovery of the firearm in defendant's car.

¶ 30 But even if we were to find the trial court's dangerousness finding was not against the manifest weight of the evidence, we must then address whether its finding that no condition or combination of conditions can mitigate the real and present threat to the safety of any person or persons or the community. I believe the State failed to prove this by clear and convincing evidence. Furthermore, the trial court made no specific findings regarding any potential conditions of release stating merely that its decision was "based upon the nature of the offense and the circumstances attendant to it." There was no consideration or discussion in the record to provide this court with any "reasons *** why less restrictive conditions would not avoid a real and present threat to the safety of *** the community, based on the specific articulable facts of the case." *Id.* § 110-6.1(h)(1).

¶ 31 Accordingly, I would find that we have jurisdiction to consider defendant's appeal, reverse the judgment of the trial court and remand for a hearing on appropriate conditions of pretrial release.

¶ 32 For the foregoing reasons, I dissent.