2026 IL App (2d) 260389-U
No. 2-26-0389
Order filed November 3, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

BRIAN C. COOKS, Defendant-Appellant.

Appeal from the Circuit Court of Kane County.
Honorable Julia A. Yetter, Judge, Presiding.
No. 25-CF-2263

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Hutchinson and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's detention order is affirmed, where the State established by clear and convincing evidence that defendant poses a real and present risk of danger to the community and that less-restrictive conditions, including living with his mother, do not sufficiently mitigate that risk.

¶ 2 On July 11, 2026, the circuit court granted the State's motion to deny defendant, Brian C. Cooks, pretrial release under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2024)), as amended by Public Act 101-652 (Act) (eff. Jan. 1, 2023). See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of Public Act 101-652 (eff. Jan. 1, 2023)). On July 22, 2026, the court denied defendant's motion for relief. Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). He appeals, and we affirm.

¶ 3 I. BACKGROUND

¶ 4 On September 23 and 24, 2025, defendant was charged with attempted first-degree murder (720 ILCS 5/8-4(a), 9-1(a)(1) (West 2024)), three counts of aggravated battery (*id.* §§ 5/12-3.05(a)(1), (c), (f)(1)), and armed violence (*id.* § 5/33A-2(1)). The State filed a petition to deny defendant pretrial release, pursuant to sections 110-6.1(a)(1), (a)(1.5), (a)(6), and (a)(7) of the Code. 725 ILCS 5/110-6.1(a)(1), (a)(1.5), (a)(6), (a)(7) (West 2024). In the petition, the State noted that defendant had a prior felony conviction for aggravated battery, for which he received 30 months' probation. The public safety assessment report rated defendant a three on the new-criminal-activity scale, a two on the failure-to-appear scale, and noted that he had one prior misdemeanor conviction and one prior violent conviction.

¶ 5 On September 24, 2025, the court set a hearing on the State's petition for September 26, 2025. However, the hearing was continued twice by agreement. On October 15, 2025, the court ordered defendant's fitness evaluated. Then, on November 5, 2025, the court found defendant unfit and ordered him placed with the Department of Human Services for custody and treatment.

¶ 6 After treatment, the parties stipulated that defendant had been restored to fitness. Accordingly, on June 11, 2026, the court ordered defendant's return to the Kane County Jail. Further, that same day, the court held a detention hearing. At the hearing, the State proffered a sworn police synopsis drafted by Officer Alondra Ruiz of the Elgin Police Department, which was admitted without objection. The synopsis provided that defendant had stabbed Christian Diaz. Diaz told police that he was walking back from a gas station when defendant approached him and asked what he "said on the microphone." Confused, Diaz began to walk away, but defendant scratched him on the back of the neck. When Diaz turned around, he saw that defendant had a serrated knife with a black handle. Diaz threw a cup he was holding at defendant and pushed

defendant towards a roadway. When defendant ran away, Diaz realized that the knife was in his abdomen. Video surveillance from the area supported Diaz's version of events, and the State also introduced into evidence, without objection, a video that depicted the events in the synopsis.

¶ 7 Defendant told police that he had control of the knife, motioned how he swung the knife toward Diaz, and said he knew it would cause Diaz bodily harm. Defendant called himself "a killer," but knew he would not have been able to kill Diaz because of his weight. The State also proffered that defendant had a 2012 aggravated battery conviction (Class 3 felony) and had received 30 months' probation.

¶ 8 The State argued that the proof was evident and presumption great that defendant committed a detainable offense and, further, that he posed a real and present threat to the safety of any person or the community. It noted that Diaz was trying to disengage from defendant when defendant cut him with the knife in the back of the neck and then stabbed him in the abdomen. The State emphasized that Diaz was stabbed so forcefully that the knife blade was broken and had to be recovered from his abdomen. As such, the State argued, the unprovoked nature of the incident demonstrated that defendant posed a threat to the victim and the community. Moreover, the State noted, defendant admitted to being a "killer" and had demonstrated for police the motion he had used to stab Diaz. Finally, the State argued that, given the circumstances of the crime, the weight of the evidence, defendant's history and characteristics, and the nature and seriousness of the threat posed, no conditions could mitigate the threat posed by defendant's potential release.

¶ 9 In response, defendant's counsel proffered that defendant could live with his mother, who had become his legal guardian. Defendant's mother previously worked at the Elgin Mental Health Facility as a technician and certified nursing assistant. If defendant was able to live with her (as well as an adult brother), she would monitor him and ensure that he was taking his medication and

attending doctor appointments. Counsel noted that defendant was in the process of getting Social Security disability income, had graduated high school, and had completed one year of community college.

¶ 10 Moreover, defense counsel argued that defendant was not a *present* threat, since defendant had no further issues in the nine months that had passed since the stabbing. Counsel noted that defendant had no criminal history, except for the aggravated battery conviction relied upon by the State, which was from 2012, when he was only 20 years old. In contrast, counsel argued, in the 13 years that had passed since the 2012 conviction, defendant had been a law-abiding citizen and had managed his mental health. Defense counsel reiterated that the Act required the imposition of conditions if they could *mitigate*, not eliminate, the danger posed, and counsel suggested that the danger could be mitigated if the court ordered defendant placed on electronic home monitoring (EHM) and that he comply with taking his medications and attend all doctor appointments.

¶ 11 The court granted the State's petition to detain. First, it found the State met its burden of demonstrating that defendant committed a detainable offense. Second, the court found that defendant posed a danger to Diaz and the community based on the violent nature of the offense, the use of a weapon, his criminal history, and the randomness of the offense. The court acknowledged that defendant had not been violent since the date of the offense, but it also noted that, during that period, defendant had been placed in a secure environment and, therefore, it did not find his lack of violence in that environment reflected that he would not be a threat if released into the community. Finally, the court found that no conditions would mitigate the threat release posed because the EHM statute allowed some movement, rendering EHM insufficient given the random and unpredictable nature of the incident. It found that, given the seemingly random nature of the incident, it was fairly impossible for it to predict what, if any, situations could trigger another

incident, making it difficult to fashion conditions of release to mitigate the real and present threat defendant posed. Finally, the court recognized that defendant's mother was present in court and that she was clearly supportive and willing to do anything she could to help defendant. However, it could not find that willingness sufficient to mitigate the real and present threat defendant posed.

¶ 12 On June 23, 2026, defendant filed a motion for relief. Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). He argued, generally, that the State failed to meet its burden of demonstrating that he committed a detainable offense, was a real and present danger to Diaz or the community, or that there were no conditions short of detention that could mitigate the risk he allegedly posed.

¶ 13 On July 22, 2026, the court held a hearing on the motion. At that time, defense counsel reiterated that defendant was not a present threat, given the passage of time from the incident to the most recent court date. Further, counsel argued that less restrictive, individualized conditions could mitigate the risk of threat, where defendant's mother was his legal guardian, she had additional qualifications from her work at the Elgin Mental Health Center as a technician and certified nursing assistant to help ensure that defendant takes his prescribed medication, he could live with her, and he could be placed on EHM. The court denied the motion for relief.

¶ 14 Defendant appeals. The Office of the State Appellate Defender filed a memorandum on defendant's behalf pursuant to Illinois Supreme Court Rule 604(h)(7) (eff. Apr. 15, 2024). The State submitted a memorandum opposing defendant's appeal.

¶ 15 II. ANALYSIS

¶ 16 Pretrial release is governed by article 110 of the Code. 725 ILCS 5/110 (West 2024). Under the Code, as amended, all persons charged with an offense are eligible for pretrial release, and a defendant's pretrial release may be denied only in certain statutorily limited situations. *Id.* §§ 110-2(a), 110-6.1(e). As relevant here, upon filing a verified petition requesting denial of pretrial

release, the State has the burden to prove by clear and convincing evidence that the proof is evident or the presumption great that the defendant has committed a detainable offense (*id*. § 110-6.1(e)(1)), that the defendant's pretrial release poses a real and present threat to the safety of any person or the community (*id*. § 110-6.1(e)(2)), and that no combination of conditions can mitigate that risk (*id*. § 110-6.1(e)(3)). "Evidence is clear and convincing if it leaves no reasonable doubt in the mind of the trier of fact as to the truth of the proposition in question." *Chaudhary v. Department of Human Services*, 2023 IL 127712, ¶ 74.

¶ 17 We review *de novo* a detention decision where, as here, the parties relied solely on documentary evidence and no live testimony was presented to the court. *People v. Morgan*, 2025 IL 130626, ¶¶ 51, 54.

¶ 18 On appeal, defendant argues first that the court erred in finding that the State satisfied its burden to prove that he poses a real and present threat to the safety of any person or the community. He notes that nine months passed between the attack and the detention hearing, during which time he received inpatient mental health treatment.

¶ 19 In deciding whether a defendant poses a "real and present threat" to safety, based upon the "specific articulable facts of the case," the court may consider several non-exhaustive statutory factors, such as: (1) the nature and circumstances of the offense, including whether it involved a weapon; (2) the defendant's history and characteristics, including evidence of psychological or psychiatric history indicating a violent nature; (3) the identity of any person to whom defendant poses a threat, as well as the nature of the threat; (4) any statements the defendant made and the circumstances surrounding them; and (5) any other factor deemed by the court to have reasonable bearing on the question of defendant's propensity for violence or non-violence. 725 ILCS 5/110-6.1(g)(1)-(5), (9) (West 2024).

¶ 20 Here, the foregoing factors all support the court's finding that the State proved by clear and convincing evidence that the proof is evident or the presumption great that, if not detained, defendant poses a real and present danger to Diaz and/or the community. The nature and circumstances of the event involved a weapon, specifically, a knife, which defendant used to stab a random stranger in a completely unprovoked attack. As to defendant's psychological or psychiatric history reflective of violence, the impounded record reflects, generally, that defendant's condition required inpatient treatment and medication to manage delusions, and he made unprovoked comments of a threatening nature to an evaluator. Further, prior to his restoration to fitness, an evaluator noted, in part, that defendant demonstrated poor insight regarding his mental illness, was a poor personal historian due to the interference of psychotic symptoms, and he had previously stopped taking psychotropic medications. As to statements defendant made, at the time of the incident, defendant described himself to police as a "killer" and demonstrated how he tried to stab Diaz. Finally, the record reflects that the court considered other factors, such as the random and unprovoked nature of the attack, as well as his mother's willingness to support him, in assessing the real and present nature, or lack thereof, of defendant's threat.

¶ 21 Defendant nevertheless emphasizes that the court here found him a danger to the community without properly considering whether he was *presently* a threat. He notes that the detention order cannot arise solely from proof that he committed a detainable offense; rather, it requires that the specific facts of the case demonstrate that he poses a real and *present* threat. Defendant emphasizes that he was arrested nine months prior to the detention order; received treatment and was restored to fitness; had no more violent incidents during that period; and, other than one conviction 12 years prior to this arrest, had been a law-abiding citizen and successfully managed his mental health. Defendant relies on *People v. Morrison*, 2026 IL App (5th) 260063-

U, ¶¶ 37-38, where the court affirmed the pretrial release of a defendant who had committed a violent offense while in an unfit mental state but, after receiving treatment, was restored to fitness. The court stated, "[w]e must consider [the defendant's] mental state during the detention hearing, after he was restored to fitness and received treatment, not his initial mental state immediately after his arrest." *Id.* at ¶ 38.

¶ 22 Here, while there are admittedly several similarities between this case and *Morrison*, there are also some key differences. For example, citing section 110-5(a)(3)(A) of the Code (725 ILCS 5/110-5(a)(3)(A) (West 2022)), the court in *Morrison* noted that "[w]e may consider the defendant's mental condition on the basis of available information," and it determined that, while the defendant's untreated mental illness resulted in a risk of dangerous and violent behavior, he nevertheless had no previous criminal history and had scored a zero on the pretrial risk assessment. *Morrison*, 2026 IL App (5th) 260063-U, ¶ 37. Defendant here, in contrast, scored a three on the risk assessment and had one prior conviction for a violent offense. More significantly, and without divulging all the specifics found within the impounded record, defendant's history revealed that he lacked insight into his mental illness and had previously stopped taking his psychotropic medications in 2022, 2023, and 2024, factors that together operate to elevate the risk of a present danger. In addition, those records reflect that defendant's mother attended appointments with him in 2022 and 2023, and she reported that he had been off his medications, was refusing help, and was not functioning well. As such, the evidence did not reflect that, even with his mother's help, defendant could remain medicated and was not a present danger.

¶ 23 Moreover, the fact that nine months passed after the attack without major incident is not particularly persuasive on the question whether defendant poses a present threat. Namely, we agree with the trial court that, where defendant was in custody or receiving inpatient treatment

during that period, the passage of time without incident is not particularly illustrative of the defendant's risk of threat if released. Further, while, in certain cases, a lapse of time between an alleged crime and detention without further evidence of criminality can be relevant, it certainly does not preclude a dangerousness finding. See, *e.g.*, *People v. Ordonez*, 2025 IL App (2d) 250216-U, ¶¶ 20-25.

¶ 24 Defendant next argues that the court erred where it found the State met its burden to establish less restrictive conditions could not mitigate the risk he allegedly poses. Again, and as was ordered in *Morrison*, defendant urges that his risk can be mitigated by EHM while he lives in his mother's home under orders to attend doctor's appointments and take medication. Defendant reiterates that his mother had worked as a nurse at a mental health hospital, and she would also have help from his adult brother who lives in the home. Defendant notes that a protective order for Diaz could be an additional layer of mitigation, he has no history of disregarding court orders, and that the randomness and unpredictability of the charged offense happened before he had been restored to fitness and placed on medication. Defendant argues there was no evidence that clearly and convincingly proved that he is an unmitigable threat to the community.

¶ 25 In *Morrison*, the charged incident occurred while the defendant was living alone and refusing help, and the court determined that the defendant's threat could be mitigated if he changed environments to live with the support and supervision his family. *Morrison*, 2026 IL App (5th) 260063-U, ¶¶ 23, 39-41. Thus, in *Morrison*, it appears there was no evidence that the defendant's threat of danger could *not* be mitigated by his family. Although the defendant's family had unsuccessfully tried to intervene with the defendant a few months before the event, they simply did not know how and had no resources for doing so. *Id.* at ¶¶ 13, 20-21, 23. Here, in contrast, the impounded record reflects that defendant's mother has worked at a mental health facility, has

attempted to help him for *years*, and that, even leading up to the charged incident, she was attempting to monitor and help him. Specifically, in an interview with the evaluator during his period of unfitness, defendant's mother explained that, prior to his current detainment, defendant had been living in an apartment, was acting distant from her, and had been "isolating in his room," but she had been trying to assist him. We recognize that living in the same home with his mother and with help from an adult brother would be a changed environment, but, as previously mentioned, in 2022 and 2023, defendant's mother also reported to health professionals that defendant was not doing well, was refusing help, and had stopped taking medicine, and it is not clear whether defendant was living with her at the time. Ultimately, the record reflects that defendant's mother's attempts to help him have not necessarily been successful. Accordingly, the record does not reflect that living with his mother could successfully ensure that defendant remains adequately medicated, so as to mitigate the risk of harm to individuals or the community.

¶ 26 III. CONCLUSION

¶ 27 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 28 Affirmed.