

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

2024 IL App (3d) 230686-U

Order filed February 26, 2024

---

IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2024

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appellate Court No. 3-23-0686 Circuit No. 23-CF-2056
JOHNATHAN NATHANIEL MOSLEY,	)	Honorable Donald DeWilkins,
Defendant-Appellant.	)	Judge, Presiding.

---

JUSTICE HETTEL delivered the judgment of the court.  
Justices Albrecht and Davenport concurred in the judgment.

---

**ORDER**

¶ 1 *Held:* Trial court did not abuse its discretion in granting the State’s petition to deny pretrial release based on defendant’s high likelihood of willful flight.

¶ 2 Defendant, Johnathan Nathaniel Mosley, appeals the trial court’s decision to deny him pretrial release under section 110-6.1(a)(8) of the Code of Criminal Procedure of 1963 (Code 725 ILCS 5/110-6.1(a)(8) (West 2022)) based on his high likelihood of willful flight. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On November 13, 2023, defendant was charged with aggravated battery (Class 3) (720 ILCS 5/12-3.05(c), (h) (West 2022)). The State filed a verified petition to deny pretrial release, alleging defendant was a flight risk under section 110-6.1(a)(8) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-6.1(a)(8) (West 2022)). The petition indicated that defendant had “multiple Failure to Appear Warrants issued” and had a prior incident where he fled the police during arrest. It also stated that defendant had “been put on various sentences where he has been terminated unsatisfactorily which goes to show that the Defendant is not inclined to follow orders of Pretrial Risk.”

¶ 5 The factual basis provided that officers were dispatched to a gas station for a report of a battery and spoke to the victim. The victim told officers an unknown male later identified as defendant asked her for her number, and she would not give it to him. She then walked up to the register, and defendant walked up and shoved her. “Defendant began to call [the victim] a ‘bitch,’ walked up to her again and punched her on the head causing a laceration to her lip.” Defendant then began throwing items from the shelves at her and said he would be back to “shoot (this) place up.” An independent witness corroborated the incident. When driving to the scene, officers observed defendant who matched the description given by the 911 caller. The victim identified defendant as her attacker. While being escorted to the squad car, defendant refused the officer’s orders to stand and walk to the vehicle. Once in the vehicle, he began hitting his head against the partition, screaming, and stating he was being “beat up” by the officers. Defendant continued to exhibit erratic behavior when transported to the hospital and during booking.

¶ 6 Defendant’s pretrial risk assessment indicated that he lived with his aunt and had resided in his current residence for 10 years. He was a Level 2 risk, with Level 6 being the highest level

risk. The assessment indicated that defendant had “[t]wo or more failures to appear.” Both occurred in one of his prior convictions, a misdemeanor driving while suspended license case. He did not appear pretrial on March 1, 2018, and he failed to appear after conviction on July 30, 2018. Defendant had 19 prior convictions, including convictions for burglary, possession of a stolen vehicle, aggravated assault, aggravated battery of a peace officer, retail theft, and domestic battery.

¶ 7 A hearing was held on the petition on November 13, 2023. The State provided the information set forth above and argued that defendant was a flight risk. Defense counsel asserted that defendant was not a flight risk and only had a few missed court dates. He argued that defendant’s “failures to appear” referred to by the State involved one case in which defendant failed to appear for a pretrial and posttrial hearing. In response, the State indicated that, when interacting with defendant, the officers discovered that defendant had multiple failure to appear warrants in cases in 2012, 2014, and 2015. The court granted the State’s petition finding that it met its burden by clear and convincing evidence. In doing so, it stated in part,

“So here is what I have. I have multiple failures to appear in these matters. I have in 17 TR 73234 there was pretrial failures to appear, post-conviction failures to appear. In 18 DV 481, it was terminated unsatisfactorily. 18 CF 1167 terminated unsatisfactorily. The defendant didn’t follow what he was supposed to.”

The court mentioned that defendant fled the scene of the crime in another incident. The court further found that there were no conditions to mitigate the flight. The court’s written decision consisted of a check-the-box form. The court checked the box indicating that there was clear and convincing evidence that defendant had a “high likelihood of willful flight to avoid prosecution” and that no conditions could mitigate the risk of willful flight.

¶ 8 II. ANALYSIS

¶ 9 On appeal, defendant contends that the court abused its discretion in granting the petition to detain. Specifically, he argues that the State failed to meet its burden of proving willful flight and that there were conditions to mitigate any risk of flight he posed. We consider factual findings for the manifest weight of the evidence, but the ultimate decision to grant or deny the State’s petition to detain is considered for an abuse of discretion. *People v. Trottier*, 2023 IL App (2d) 230317, ¶ 13. Under either standard, we consider whether the court’s determination is arbitrary or unreasonable. *Id.*; see also *People v. Horne*, 2023 IL App (2d) 230382, ¶ 19.

¶ 10 Everyone charged with an offense is eligible for pretrial release, which may only be denied in certain situations. 725 ILCS 5/110-2(a), 110-6.1 (West 2022). The State must file a verified petition requesting detention. *Id.* § 110-6.1. The trial court may deny pretrial release if defendant “has a high likelihood of willful flight to avoid prosecution and is charged with \*\*\* a felony offense other than a Class 4 offense.” *Id.* § 110-6.1(a)(8)(B). When, as here, a petition is filed pursuant to section 110-6.1(a)(8)(B) of the Code, the State has the burden of proving by clear and convincing evidence that (1) the proof is evidence or presumption great that defendant committed a qualifying offense under section 110-6.1(a)(8)(B), and (2) no condition or combination of conditions can mitigate the risk of defendant’s “willful flight.” *Id.* § 110-6.1(e)(1), (3).

¶ 11 The Code defines “willful flight” as:

“intentional conduct with a purpose to thwart the judicial process to avoid prosecution. Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight. Reoccurrence and patterns of intentional conduct to evade prosecution, along with any affirmative steps to communicate or remedy

any such missed court date, may be considered as factors in assessing future intent to evade prosecution.” *Id.* § 110-1(f).

In addition, section 110-3 of the Code provides that for the purpose evaluating future risk of willful flight “a nonappearance in court cured by an appearance in response to a summons shall not be considered as evidence of future likelihood of appearance in court.” *Id.* § 110-3(c). Based on the plain language of these two sections, we conclude that courts can consider recurring, uncured failures to appear as evidence of a high likelihood of willful flight under the Code, but not an “isolated nonappearance.” See *People v. Perez*, 2024 IL App (4th) 230967-U, ¶ 12 (reversing denial of pretrial release based on one isolated failure to appear); see also Ill. S. Ct. R. 23(e)(1) (eff. Feb. 1, 2023) (“a nonprecedential order entered on or after January 1, 2021, may be cited for persuasive purposes).

¶ 12 In determining which conditions of pretrial release, if any, will “reasonably ensure” defendant’s appearance and “the likelihood of compliance by the defendant,” the Code provides a nonexhaustive list of factors the trial court can use. *Id.* § 110-5(a). Relative to this case, the court may consider defendant’s criminal history and record concerning appearances in prior court proceedings. *Id.* § 110-5(a)(3).

¶ 13 Here, we cannot say the trial court’s finding of willful flight was against the manifest weight of the evidence. The pretrial risk assessment revealed that defendant failed to appear twice in 2018 on charges of driving on a suspended license, and the State indicated at the hearing that officers discovered that he failed to appear multiple times in other cases—in 2012, 2014, and 2015. Defendant challenges the reliability of the evidence presented by the State, further stating that the State did not present enough information as to this evidence. However, the rules of

evidence do not apply to pretrial detention hearings (*id.* § 110-6.1(f)(5)) and the reliability of the evidence is up to the court to determine (see *People v. Tomei*, 2013 IL App (1st) 112632, ¶ 59).

¶ 14 Further, the trial court’s finding that there were no conditions to mitigate defendant’s flight risk was not against the manifest weight of the evidence. As stated above, the statute sets forth a list of factors the court can consider to determine whether any conditions of release will reasonably ensure defendant’s appearance and the likelihood of his compliance with those conditions. See 725 ILCS 5/110-5(a) (West 2022). Here, the evidence presented showed that defendant had an extensive criminal history, which included the unsatisfactory termination of some of his sentences, and he failed to appear in multiple court proceedings in the past. It was not against the manifest weight of the evidence for the court to believe that defendant was unlikely to comply with any conditions it imposed. Moreover, while defendant challenges the court’s written order, we find that it is sufficient to facilitate our review. See *People v. Hodge*, 2024 IL App (3d) 230543, ¶ 11. Therefore, the trial court did not abuse its discretion in granting the State’s petition to deny pretrial release.

¶ 15 III. CONCLUSION

¶ 16 The judgment of the circuit court of Will County is affirmed.

¶ 17 Affirmed.