Illinois Official Reports

Appellate Court

People v. Brooks, 2024 IL App (4th) 240503

Appellate Court Caption	THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. DALTON J. BROOKS, Defendant-Appellant.
District & No.	Fourth District No. 4-24-0503
Filed	May 28, 2024
Decision Under Review	Appeal from the Circuit Court of Fulton County, No. 24-CF-54; the Hon. Thomas B. Ewing, Judge, presiding.
Judgment	Affirmed.
Counsel on Appeal	James E. Chadd, Carolyn R. Klarquist, and Eric E. Castañeda, of State Appellate Defender's Office, of Chicago, for appellant. Patrick Delfino and David J. Robinson, of State's Attorneys Appellate Prosecutor's Office, of Springfield, for the People.
Panel	JUSTICE HARRIS delivered the judgment of the court, with opinion. Justices Lannerd and DeArmond concurred in the judgment and opinion.

OPINION

¶ 1 Defendant, Dalton J. Brooks, appeals the trial court's order denying him pretrial release. He contends his charged offenses were not detainable offenses and the evidence otherwise failed to establish that his detention was warranted. We affirm.

¶ 2 I. BACKGROUND

¶ 3 On March 18, 2024, the State charged defendant with aggravated battery (720 ILCS 5/12-3.05(c) (West 2022)) and mob action (*id.* § 25-1(a)(2)). The charges were based on allegations that defendant "assembled" with an individual named Elijah Blagden for the purpose of committing a battery and that defendant struck the victim, Sawyer Hoyle, with his hands in "a public place of accommodation," causing Hoyle "bodily harm." *Id.* § 12-3.05(c).

¶ 4 The same day, the State filed a petition to deny defendant pretrial release under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2022)), hereinafter as recently amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). It alleged defendant was eligible for pretrial detention pursuant to section 110-6.1(a)(1.5) of the Code (725 ILCS 5/110-6.1(a)(1.5) (West 2022)), in that the proof was evident or the presumption great that he committed a forcible felony offense and his pretrial release posed "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."

¶ 5 Also on March 18, 2024, the trial court conducted a hearing on the State's petition. The State relied on evidence showing that around midnight on March 15, 2024, Hoyle approached a police officer and reported that defendant and Blagden "jumped" him at a J.C. Penney's parking lot and that there was a video of the incident. The officer noticed Hoyle "had multiple injuries, including blood on the right side of his face and blood coming from his mouth as well as multiple teeth [that were] broken or missing." The officer was able to view the video footage, which showed defendant and Blagden attacking Hoyle. The officer observed that defendant and Blagden "struck [Hoyle] multiple times while at the parking lot." Following the incident, Hoyle was "evaluat[ed]" and found to have "multiple chipped teeth." He was further "diagnosed with a concussion and later had a CT scan done by the hospital."

¶ 6 The State also proffered that defendant was "just released" from custody the previous week in connection with Fulton County case No. 23-CF-187, wherein he was charged with aggravated criminal sexual abuse and criminal sexual abuse. The State asserted defendant had pleaded guilty in that case and was "released for the purpose of getting a [Sex Offender Management Board (SOMB)] evaluation."

¶ 7 At the hearing, defendant testified on his own behalf that, when not in custody, he resided with his sister and her children in Canton, Illinois. He stated he was not employed but had a couple of job interviews "lined up." It was his intention to gain employment upon his release. Defendant also agreed that, if released, he would "stay in touch" with his defense attorney and abide by all conditions the trial court imposed. He acknowledged that he "messed up," but asserted he needed "to get out, get a job, and get [his] life together." Defendant also suggested that he could not get the evaluation he needed in connection with his prior case if he remained in jail. Further, he asked the court to consider that he received "a 3" on "the Pretrial Risk

Assessment Instrument," indicating he posed a low or moderate risk for reoffending or failing to appear in court in the future.

¶ 8 In response to defendant's testimony, the State proffered that defendant could complete "the SOMB evaluation" if he remained in custody, asserting the "the evaluators [did] visit the jail."

¶ 9 Ultimately, the trial court granted the State's petition. In its written order entered the same day, the court found (1) defendant was charged with a detainable offense under section 110-6.1(a) of the Code (*id.* § 110-6.1(a)), (2) the proof was evident or the presumption great that defendant committed a qualifying offense, (3) defendant posed a real and present threat to the safety of any person, persons, or the community, and (4) no condition or combination of conditions could mitigate the safety threat that defendant posed. In summarizing its reasons for detention pursuant to section 110-6.1(h)(1) of the Code (*id.* § 110-6.1(h)(1)), the court stated its decision was based on the following: "the nature of the allegations[,] the injuries to the alleged victim[,] the possible punishments for defendant, as well as the other pending cases [*sic*] *** and the short timing from his prior release from custody and current incarceration."

¶ 10 This appeal, filed pursuant to Illinois Supreme Court Rule 604(h) (eff. Dec. 7, 2023), followed.

¶ 11 II. ANALYSIS

¶ 12 A. Detention-Eligible Offense

¶ 13 On appeal, defendant has filed a Rule 604(h) memorandum, arguing he was not eligible for pretrial detention because the State did not charge him with a detainable offense under the Code. In particular, he argues that aggravated battery is only a detainable offense when it is alleged to have resulted "in great bodily harm or permanent disability or disfigurement." See 725 ILCS 5/110-6.1(a)(1.5) (West 2022). Defendant notes the State charged him with aggravated battery based on the location of the offense and allegations that he caused only "bodily harm" to Hoyle. Further, he complains that the State did not argue, and the trial court did not make a finding, of great bodily harm.

¶ 14 Initially, defendant acknowledges that he failed to preserve this issue for appellate review. In an appeal taken pursuant to Rule 604(h), "issues not fairly raised through a liberal construction of [the] defendant's notice of appeal are forfeited." *People v. Gatlin*, 2024 IL App (4th) 231199, ¶ 13 (citing *People v. Martin*, 2023 IL App (4th) 230826, ¶ 19). Issues are also forfeited for purposes of review when they are not first raised with the trial court. *People v. Cruz*, 2013 IL 113399, ¶ 20. Here, defendant failed to argue that he was not charged with a detainable offense either before the trial court or in his Rule 604(h) notice of appeal. Accordingly, the issue has been forfeited. Nevertheless, defendant argues we may overlook his forfeiture based upon either (1) the occurrence of second-prong plain error or (2) because his defense counsel provided ineffective assistance by failing to preserve the issue for review.

¶ 15 Unpreserved errors may be considered under the plain-error doctrine when "a clear or obvious error" has occurred and either (1) "the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error" or (2) the "error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Radford*, 2020 IL 123975, ¶ 23. Additionally, to establish an ineffective-assistance-

of-counsel claim, the defendant must show that (1) "counsel's performance fell below an objective standard of reasonableness" and (2) "there is a reasonable probability that the result of the proceeding would have been different but for counsel's unprofessional errors." *People v. Jones*, 2023 IL 127810, ¶ 51 (citing *Strickland v. Washington*, 466 U.S. 668, 694 (1984)).

¶ 16 "Absent a clear or obvious error ***, neither the doctrine of plain error nor a theory of ineffective assistance affords any relief from the forfeiture." *People v. Jones*, 2020 IL App (4th) 190909, ¶ 179. In this instance, we find no clear or obvious error.

¶ 17 The Code provides that all defendants are presumed eligible for pretrial release. 725 ILCS 5/110-6.1(e) (West 2022). However, the trial court may deny release where the State files a verified petition for denial of release and, relevant to the circumstances presented here, proves by clear and convincing evidence that (1) the proof is evident or the presumption great that the defendant committed a detainable offense, (2) the defendant poses a real and present threat to the safety of any person based on the specific articulable facts of the case, and (3) no condition or combination of conditions can mitigate the real and present safety threat that the defendant poses. *Id.* § 110-6.1(a), (e).

¶ 18 "On appeal following a detention hearing, we apply the abuse-of-discretion standard of review to the trial court's evaluation of the evidence presented." *People v. Minssen*, 2024 IL App (4th) 231198, ¶ 17. A court abuses its discretion if its decision is arbitrary, fanciful, or unreasonable or when no reasonable person would agree with the position it has adopted. *People v. Inman*, 2023 IL App (4th) 230864, ¶ 10. Additionally, to the extent a defendant's appeal raises an issue of statutory construction, our review is *de novo*. *Minssen*, 2024 IL App (4th) 231198, ¶ 17. The primary goal when construing a statute "is to ascertain and give effect to the legislative intent as evidenced by the plain and ordinary meaning of the statutory language." *People v. Washington*, 2023 IL 127952, ¶ 27. Further, "[i]n construing a statute, we may consider the reason and necessity for the law, the evils it was intended to remedy, and its ultimate aims." (Internal quotation marks omitted.) *Minssen*, 2024 IL App (4th) 231198, ¶ 17.

¶ 19 Here, in seeking the denial of defendant's pretrial release, the State proceeded under section 110-6.1(a)(1.5) of the Code (725 ILCS 5/110-6.1(a)(1.5) (West 2022)). That section provides for the denial of pretrial release when

> "the defendant's pretrial release poses 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, and the defendant is charged with a forcible felony, which as used in this Section, means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated robbery, robbery, burglary where there is use of force against another person, residential burglary, home invasion, vehicular invasion, aggravated arson, arson, aggravated kidnaping, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement or any other felony which involves the threat of or infliction of great bodily harm or permanent disability or disfigurement[.]" *Id.*

¶ 20 Clearly, for a defendant to be denied release under section 110-6.1(a)(1.5), he or she must be charged with a forcible felony, *i.e.*, an offense specifically listed in that section or "any other felony which involves the threat of or infliction of great bodily harm." *Id.* Under the circumstances presented, we agree with defendant that his aggravated battery charge was not a detainable offense under the Code. Specifically, defendant was charged with a form of

aggravated battery that was based solely on the location of the conduct at issue (720 ILCS 5/12-3.05(c) (West 2022)). However, as he correctly points out on appeal, only an aggravated battery that results in great bodily harm or permanent disability or disfigurement (*id.* § 12-3.05(a)) is explicitly identified as a forcible felony offense under section 110-6.1(a)(1.5).

¶ 21 Defendant is also correct that his aggravated battery charge does not fall under the residual clause of section 110-6.1(a)(1.5), which refers only to "any felonies other than those listed" in that section. *People v. Grandberry*, 2024 IL App (3d) 230546, ¶ 12. "As the statute specifically enumerated a subset of aggravated battery as a forcible felony (aggravated battery resulting in great bodily harm or permanent disability or disfigurement), 'other felony' must refer to felonies other than aggravated battery, not different subsets of aggravated battery ***." (Emphasis omitted.) *Id.*; see *People v. Brookshaw*, 2023 IL App (4th) 230854-U, ¶ 13 ("Since aggravated battery resulting in certain categories of injuries was identified [as a forcible felony in section 110-6.1(a)(1.5)], an aggravated battery not resulting in such injuries cannot fall under the 'other felony' language.").

¶ 22 Significantly, however, defendant ignores that he was also charged in the present case with mob action as a Class 4 felony offense (720 ILCS 5/25-1(a)(2), (b)(3) (West 2022)). Although not explicitly listed in section 110-6.1(a)(1.5) as a forcible felony, defendant's mob action charge is an "other felony" offense that may fall within the language of the residual clause of that section so long as it also involved "the threat of or infliction of great bodily harm or permanent disability or disfigurement." 725 ILCS 5/110-6.1(a)(1.5) (West 2022). We note "the specific facts and details of the charged offense matter when determining whether a defendant's conduct implicates the residual clause of section 110-6.1(a)(1.5) of the Code." *Minssen*, 2024 IL App (4th) 231198, ¶ 23; see *People v. Rodriguez*, 2023 IL App (3d) 230450, ¶ 10 (relying on the facts of the case to show that the charged felony offense of resisting or obstructing a peace officer involved the threat of great bodily harm for purposes of section 110-6.1(a)(1.5)). Here, defendant's felony mob action charge was based on allegations that he "assembled with another person *** for the purpose of *** committing a battery." At the detention hearing, the State identified facts pertinent to the charges against defendant, including the mob action charge. Such facts included that defendant and another individual attacked Hoyle, the victim in the case, striking him multiple times. Hoyle reported the attack to a police officer, and the officer observed that Hoyle was bleeding and had "multiple injuries." Evidence showed that, as a result of the attack, Hoyle had "multiple teeth [that were] broken or missing" and was diagnosed with a concussion.

¶ 23 We note "Illinois law recognizes 'that a physical beating may qualify as such conduct that could cause great bodily harm.' " *People v. Kinnerson*, 2020 IL App (4th) 170650, ¶ 70 (quoting *People v. Costello*, 95 Ill. App. 3d 680, 684 (1981), and citing *People v. Lopez-Bonilla*, 2011 IL App (2d) 100688, ¶ 18). On review, defendant does not contend that the above factual circumstances—showing the attack on Hoyle resulted in bleeding to his face and mouth, multiple chipped or missing teeth, and a concussion—fail to rise to the level of great bodily harm for purposes of section 110-6.1(a)(1.5) of the Code. We find the trial court could have relied on such specific facts and details to find defendant's felony mob action charge "involve[d] the *** infliction of great bodily harm." 725 ILCS 5/110-6.1(a)(1.5) (West 2022). Such a determination would not be arbitrary, fanciful, or unreasonable. *Inman*, 2023 IL App (4th) 230864, ¶ 10.

¶ 24 As noted, defendant complains that the State did not specifically argue that Hoyle sustained great bodily harm, and the trial court made no such explicit finding. However, the record also indicates that, below, defendant did not dispute the State's allegation that he was eligible for detention under the Code. Moreover, in its written order, the court clearly found that defendant had been charged with a detainable offense. We note section 110-6.1(h) of the Code (725 ILCS 5/110-6.1(h) (West 2022)) requires a trial court to make written findings that summarize its "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." Here, in setting forth its written findings under that section, the court stated its decision to deny defendant pretrial release was based, in part, on "the injuries to the alleged victim." Again, based on Hoyle's injuries as proffered by the State, the court would not have abused its discretion in finding defendant's mob action charge was an "other felony" offense that "involve[d] the *** infliction of great bodily harm." *Id.* § 110-6.1(a)(1.5).

¶ 25 In this instance, the record reflects no clear or obvious error. Accordingly, defendant cannot establish that reversal of the trial court's detention order is warranted, based on either the occurrence of plain error or ineffective assistance of counsel.

¶ 26 B. Additional Issues

¶ 27 In his notice of appeal, defendant identified four additional claims of error upon which he sought reversal of the trial court's detention order, and which were not contained in his Rule 604(h) memorandum. Specifically, he alleged (1) the State failed to prove the proof was evident or the presumption great that he committed the charged offenses, (2) the State failed to prove he posed a real and present threat to the safety of any person or the community, (3) the State failed to prove no condition or combination conditions could mitigate the threat he posed, and (4) the court erred in finding that no condition or combination of conditions would reasonably ensure his appearance for later hearings or prevent him from being charged with a subsequent felony or Class A misdemeanor offense.

¶ 28 The record shows defendant used a Rule 604(h) form notice of appeal that directs an appellant to check boxes that correspond to his alleged grounds for relief and to describe those grounds "in detail." See Ill. S. Ct. R. 606(d) (eff. Dec. 7, 2023). Defendant checked boxes identifying the above claims of error but effectively provided no detail to support any of his claims. Rather, in the space provided for elaboration underneath each claim, defendant essentially restated the form language describing the ground for relief and provided no facts or argument specific to his case. For example, defendant checked a box next to form language that stated: "The State failed to meet its burden of proving by clear and convincing evidence that the proof is evident or the presumption great that defendant committed the offense(s) charged." In the space for elaboration on that claim, defendant then stated as follows: "The evidence presented in court did not prove by clear and convincing evidence that defendant committed the charged offense."

¶ 29 We note that, as an appellant, the defendant bears the burden of persuasion on review. See, *e.g.*, *Insurance Benefit Group, Inc. v. Guarantee Trust Life Insurance Co.*, 2017 IL App (1st) 162808, ¶ 44 ("[D]efendant, as the appellant, bears the burden of persuasion as to its claims of error."). That burden cannot be satisfied by relying solely on boilerplate language taken directly from the Act. At a minimum, a defendant must point to some specific facts or aspect

of the case that supports his requested grounds for relief. See *Inman*, 2023 IL App (4th) 230864, ¶ 13 ("[I]t is reasonable to conclude the Illinois Supreme Court, by approving the notice of appeal form, expects appellants to at least include some rudimentary facts, argument, or support for the conclusory claim they have identified by checking a box."). Here, because defendant has not provided any supporting facts or argument for his additional claims of error, he has not met his burden of persuasion and has failed to establish an abuse of discretion by the trial court with respect to those claims.

¶ 30 III. CONCLUSION

¶ 31 For the reasons stated, we affirm the trial court's judgment.

¶ 32 Affirmed.