



## TABLE OF CONTENTS AND POINTS AND AUTHORITIES

	Page
Nature of the Case. . . . .	1
Issues Presented for Review. . . . .	2
Statutes and Rules Involved. . . . .	3
Statement of Facts . . . . .	4
Argument . . . . .	11
<b>I. The Proper Standard of Review of Orders Appealed from Continued Detention Hearings Should Follow the Framework Set Forth by this Court in <i>Morgan – De Novo</i> When Parties to a Pretrial Detention Hearing Proceed Solely by Proffer and Manifestly Erroneous When Live Witness Testimony Is Presented. . . . .</b>	<b>11</b>
<i>People v. Morgan</i> , 2025 IL 130626 . . . . .	10
<i>People v. Whitaker</i> , 2024 IL App (1st) 232009 . . . . .	11
<b>A. The <i>Morgan</i> standard of review. . . . .</b>	<b>11</b>
<i>People v. Morgan</i> , 2025 IL 130626 . . . . .	11
<i>People v. Peterson</i> , 2017 IL 120331 . . . . .	12
<b>B. <i>Morgan’s</i> standard of review is applicable to both initial and continued detention hearings. . . . .</b>	<b>12</b>
<i>People v. Morgan</i> , 2025 IL 130626 . . . . .	<i>passim</i>
<i>People v. Radojcic</i> , 2013 IL 114197 . . . . .	13
<i>People v. Wells</i> , 2024 IL App (1st) 232453 . . . . .	13
<i>United States v. Salerno</i> , 481 U.S. 739 (1987) . . . . .	13
<i>Stack v. Boyle</i> , 342 U.S. 1 (1951). . . . .	13
<i>People v. Pitts</i> , 2024 IL App (1st) 232336 . . . . .	13

*Beggs v. Bd. of Educ. of Murphysboro Cmty. Unit Sch. Dist. No. 186*,  
2016 IL  
120236. . . . . 13

*Cleeton v. SIU Healthcare, Inc.*, 2023 IL 128651 . . . . . 13

*State Bank of Clinton v. Barnett*, 250 Ill. 312 (1911) . . . . . 13

*Best v. Best*, 223 Ill. 2d 342 (2006). . . . . 14

*In re C.N.*, 196 Ill. 2d 181 (2001). . . . . 14

*In re A.P.*, 179 Ill. 2d 184 (1997) . . . . . 14

*People v. Whitaker*, 2024 IL App (1st) 232009 . . . . . 14

*In re Marriage of Fatkin*, 2019 IL 123602. . . . . 15

*People v. Thomas*, 2024 Il App (1st) 240479 . . . . . 16

750 ILCS 60/205(a), 214(a) (2004). . . . . 14

750 ILCS 50/1(D)(m) . . . . . 14

705 ILCS 405/2-18(1) . . . . . 14

725 ILCS 5/110-6.1(e). . . . . 15

725 ILCS 5/110-6.1(j) . . . . . 16

**C. The abuse of discretion standard of review should not be  
utilized in reviewing a detention order entered pursuant  
to section 110-6.1. . . . . 16**

*Post*, 2025 IL App (4th) 250598 . . . . . 16

*People v. Morgan*, 2025 IL 130626 . . . . . 17, 20, 21

*People v. Mansoori*, 2025 IL App (1st) 250481-U . . . . . 17

*People v. Inman*, 2023 IL App (4th) 230864 . . . . . 17

*People v. Simmons*, 2019 IL App (1st) 191253 . . . . . 17

*People v. Whitaker*, 2024 IL App (1st) 232009 . . . . . 17, 18, 20

<i>In re D.T.</i> , 212 Ill. 2d 347 (2004) . . . . .	18
<i>Jacksonville Sav. Bank v. Kovack</i> , 326 Ill. App. 3d 1131 (4th Dist. 2002) . . . . .	18, 19
<i>U.S. v. Salerno</i> , 481 U.S. 739 (1987) . . . . .	19
<i>Baldwin v. New York</i> , 399 U.S. 66 (1970) . . . . .	19
<i>U.S. v. Delker</i> , 757 F.2d 1390 (3rd Cir. 1985) . . . . .	19
<i>People v. Wells</i> , 2024 IL App (1st) 232453 . . . . .	19
<i>Stack v. Boyle</i> , 342 U.S. 1 (1951) . . . . .	19
<i>U.S. v. Motamedi</i> , 767 F.2d 1403 (9th Cir. 1985) . . . . .	20
<i>People v. Brito</i> , 2025 IL App (1st) 242601-U . . . . .	20
<i>People v. Rice</i> , 2025 IL App (3d) 250262 . . . . .	20
<i>People v. Mosley</i> , 2025 IL App (3d) 250164-U . . . . .	20
<i>People v. Thomas</i> , 2024 Il App (1st) 240479 . . . . .	20
Ill. Rev. Stat. 1987, ch. 38, ¶ 110-6.1(b) . . . . .	17
Ill. Rev. Stat. 1988, ch. 38, ¶ 110-5 . . . . .	17
725 ILCS 5/110-6.1(g) . . . . .	21
725 ILCS 5/110-6.1(i-5) . . . . .	21
<b>D. Conclusion.</b> . . . . .	<b>21</b>
<b>II. The Appellate Court Erred Where it Affirmed the Circuit Court’s Order That Jesse Post Remain Detained Because He Had Not Demonstrated a Change of Circumstances or Presented New Facts That Would Allow the Circuit Court to Revisit His Detention.</b> . . . . .	<b>23</b>
<i>People v. Rice</i> , 2025 IL App (3d) 250262 . . . . .	23, 24
<i>People v. Walton</i> , 2024 IL App (4th) 240541 . . . . .	24

<i>People v. Thomas</i> , 2024 Il App (1st) 240479 . . . . .	24
<i>People v. Burnett</i> , 237 Ill. 2d 381 (2010) . . . . .	25
<i>Martinez v. River Park Place, LLC</i> , 2012 IL App (1st) 111478 . . . . .	26
<i>People v. Patterson</i> , 2025 IL App (1st) 250510 . . . . .	26
<i>People v. Watts</i> , 181 Ill. 2d, 133 (1998) . . . . .	27
<i>Sandstrom v. Montana</i> , 442 U.S. 510 (1979) . . . . .	27
725 ILCS 5/110-6.1(i-5) . . . . .	23
725 ILCS 5/110-5(f-5) (West 2025) . . . . .	24
Ill. S. Ct. Rule 604(h)(2) . . . . .	26
Ill. S. Ct. R. 604(h)(2) . . . . .	26, 27
St. David and Peoria, Illinois as detailed on MapQuest. <a href="https://www.mapquest.com/">https://www.mapquest.com/</a> (Last visited Dec. 18, 2025) . . . . .	<b>30</b>
<b>Conclusion</b> . . . . .	<b>31</b>
<b>Appendix to the Brief</b> . . . . .	<b>A-1</b>

**NATURE OF THE CASE**

Following a continued detention hearing, the circuit court ordered Jesse Post to remain detained. The appellate court affirmed, holding that the circuit court did not abuse its discretion in ordering Post detained. Post appealed. No question is raised as to the State's petition to detain.

## ISSUES PRESENTED FOR REVIEW

I. Whether the proper standard of review for orders appealed from continued detention hearings should follow the framework set forth by this Court in *Morgan* – *de novo* when parties to a pretrial detention hearing proceed solely by proffer and manifestly erroneous when live witness testimony is presented.

II. Whether the appellate court erred where it affirmed the circuit court's order that Jesse Post remain detained after the appellate court found that he had not demonstrated a change of circumstances or presented new facts that would allow the circuit court to revisit his detention.

**STATUTE INVOLVED**

725 ILCS 5/110-6.1(i-5) (2025): At each subsequent appearance of the defendant before the court, the judge must find that continued detention is necessary to 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, or to prevent the defendant's willful flight from prosecution.

## STATEMENT OF FACTS

On November 7, 2023, Jesse Post was charged with three counts of predatory criminal sexual assault of a child (C.10-12). Each charge involved a different alleged victim: C.W., F.W, and E.W. (C.10-12). Post was arrested on May 28, 2024 (C.23). The same day, the State filed a petition to detain Post (C.16-18). After a hearing, the State's petition to detain was granted and Post appealed (C.19-21). In *People v. Post*, 2024 IL App (4th) 241002-U, the Fourth District Appellate Court found that the circuit court failed to state on the record that there were no less restrictive means other than detention to mitigate any danger that Post may have posed, and the appellate court further found that the circuit court abused its discretion by failing to make an adequate record. *Post*, 2024 IL App (4th) 241002-U, ¶¶ 28-29. The court remanded the case and ordered the circuit court to hold a new detention hearing where the State could present evidence and the court could make express findings. *Id.*

On remand, at a hearing held on November 13, 2024, the State proffered that L.G. (D.O.B. 10-25-2012) had said during an interview to authorities that when she was four years old, Post had licked her butt (R.43). Post denied the allegations and no charges were brought in that case (R.43).

The State also proffered that the charges in the current case were filed after E.W. (D.O.B. 3-25-2016) made a statement to her mother where E.W. claimed that in 2020 Post had licked his penis multiple times while E.W. lived with his father and Post (R.44-46). F.W. (D.O.B. 2-4-2013), E.W.'s sibling, made a statement to investigators that Post had touched her on her vagina when she was not wearing pants when she was of elementary school age (R.49-50). C.W. (D.O.B. 6-27-2014), another sibling of E.W., made a statement to investigators that Post had licked

her vagina in the kitchen of her father's home when she was six (R.52-53).

E.W., F.W., and C.W.'s father was also interviewed (R.54). He said that he lived in an apartment with Post and Post would sometimes supervise the children if he went to bed early (R.54). The State proffered that Post now lived at 802 East Corrington Street in Peoria, Illinois (R.55).

B.L., the mother of E.W., F.W., and C.W., testified that their father lived with Post for three months during 2020 in Canton, Illinois (R.57). B.L. was shown a Google map that listed Post's current address in Peoria, which was only half a mile from the home where B.L. and her children presently resided. (R59-60).

Over defense objection, B.L. said that she had learned of other victims that accused Post of sexual misconduct (R.61). B.L. said that S.R. told B.L. that she was a victim of Post (R.64). S.R. said that she rode the bus with Post when they were in 7th grade and inappropriate acts occurred, but B.L. did not know the details of those acts (R.67). B.H. told B.L. that when B.H. was 16 years old, and Post was 20, Post "forced" himself on her and she felt "coerced, manipulated, and violated" (R.67-68),

B.L. testified she observed Post being "extremely inappropriate" with M.M, who was 16 years old and lived next door to B.L. (R.68). M.M. told B.L. that Post had exposed himself to M.M. in person and in photographs (R.68).

B.L. felt that Post was following her by moving close to her (R.69-70). During cross-examination, B.L. admitted that Post had not contacted her from 2020 to 2024 (R.71).

Post testified that while he lived in Peoria at the time of the hearing, if he were released, he would live with his mother in St. David, Illinois (R.73-74). Post said he would abide by an order to stay away from Peoria (R.74). Post was

unemployed, was a stay-at-home father, and said that he provided financially for his four children (R.74-75). He said that he would abide by all court orders (R.75-77). Post did not know where three of his children lived and has not seen them since 2020 (R.77-80). His youngest child lived in Peoria with Post and the child's mother (R.80).

The State argued that Post was a danger to the community and the victims (R.81). The State was concerned that Post lived so close to the alleged victims in this case (R.82). The State also argued that there were multiple victims that had come forward accusing Post of sexual misconduct (R.82-83). The State argued that Post was a sexual predator and that no set of conditions could ensure that Post would not victimize someone again (R.81-84).

Defense counsel argued that B.L.'s testimony about the other victims was hearsay and that no criminal charges had been filed in those cases (R.84-85). There was no evidence of any alleged sexual misconduct since 2020 (R.85). Defense counsel noted that Post's criminal history of retail theft and battery was from 2017 (R.86). Also, there was no evidence that Post knew he was living near the alleged victims and he had not tried to contact them the whole time he had been living there (R.87). Counsel argued that Post should be released with conditions (R.87-89).

The court noted that the proffer of the 2017 incident involving L.G. was not considered by the court at the initial hearing and that conduct corroborated conduct what occurred in this case (R.93-94). The court also found Post incredible where he said that he provided financially for his children, but he did not know where three of those children lived (R.94). The court found that the community was at risk should Post be released from custody (R.94-95). The court noted that Post lived near the victims in this case (R.95). The court found that there was

no set of circumstances at the present time that supported Post's release (R.95). Post was ordered to be detained (R.95; C.57-59).

On November 14, 2024, counsel filed a motion for relief arguing that the court erred by considering the hearsay evidence of other allegations and the 2017 interview of L.G. that did not result in criminal charges (C.61-62). Counsel also argued the court erred where it determined that no conditions could mitigate any danger that Post posed (C.61-62). After a hearing on the motion, the circuit court denied the motion (R.102).

Post appealed and the Fourth District Appellate Court affirmed the circuit court's detention order. *See People v. Post*, 2025 IL App (4th) 241527-U, ¶¶ 49-52.

On April 23, 2025, Post's attorney filed a motion to review pretrial detention pursuant to section 110-6.1(i-5) of the Criminal Code of Procedure of 1963 (C.79-80). Counsel argued that circumstances had changed and that Post would reside with his parents in St. David, Illinois, who would provide constant direct supervision of Post, and Post would be willing to wear an electronic monitoring device (C.79).

At a hearing on the motion, Post testified that he would live at his parents' home in St. David, Illinois if he were released (R.115-16). Post was willing to be ordered to confined to the home and was willing to wear a GPS monitor (R116-17). Post's mother did not work and could supervise him (R.117). Post also testified that he needed to be released to secure information that would help his defense (R.117).

On cross-examination, Post said he had lived with his parents previously at a different house that had been foreclosed upon (R.118). Post's father was 67 and in good health; his mother was 64 and had heart issues where she needed ongoing medical care (R.120)

Defense counsel argued that because it was now clear that Post could live with his parents and he was also willing to be monitored via GPS, there was a change in circumstances that warranted Post's release with conditions (R.123-24).

The State argued that Post stated at a prior hearing that he would live with his mother if released, so the court had already considered that possibility and the court found that conditions would not mitigate the dangerousness that Post posed (R.124-26). The court recognized that Post had presented new information, but denied the motion, finding that there had not been substantial changes in Post's circumstances to warrant his release (C84; R.127-29). Defense counsel filed a motion for relief, asking the circuit court to reconsider its decision to deny Post's pretrial release because there were less restrictive means to protect the public other than detention (C.85-86). That motion was denied (R.134-35). Post filed a notice of appeal (C.92-93).

On appeal, the Fourth District Appellate Court found that to assess the issue of continued detention under section 110-6.1(i-5), a circuit court must find a change in circumstances has occurred before altering an existing detention order under that provision. *People v. Post*, 2025 IL App (4th) 250598 ¶ 26.

In addressing the standard of review, the appellate court noted that the majority of the appellate courts held prior to *People v. Morgan*, 2025 IL 130626, that a circuit court's order following a continued detention hearing pursuant to section 110-6.1(i-5) was reviewed for an abuse of discretion. *Post*, 2025 IL App (4th) 250598, ¶ 27. The appellate court noted that this Court's decision in *Morgan* resolved the conflict regarding the standard of review to be employed at an initial pretrial detention hearing. *Id.*

*Morgan* held that the standard of review to be employed when the parties

to a pretrial detention hearing proceed solely by proffer is *de novo* and, when live testimony is heard, the standard is manifest weight of the evidence. *Morgan*, 2025 IL 130626, ¶ 54. The appellate court noted that *Morgan* involved an initial petition for detention and that this Court did not suggest that abuse of discretion was not the standard of review in continued detention hearings. *Post*, 2025 IL App (4th) 250598 ¶ 27. The appellate court noted that two appellate districts held since *Morgan* that the *Morgan* standard of review applies to continued detention hearings, while other districts have applied an abuse of discretion standard of review or declined to decide the question of the standard of review, finding instead that the circuit court's decision was not erroneous under either abuse of discretion or against the manifest weight of the evidence standard of review. *Id.* The appellate court concluded that the appropriate standard of review in this case was the abuse of discretion standard. *Id.*, ¶ 29.

The appellate court determined that the circuit court did not abuse its discretion by concluding that Post's continued detention was necessary to avoid a real and present threat to the safety of any person or persons or the community. *Id.*, ¶ 30. The court ruled that Post failed to present any new information or demonstrate a change in circumstances to justify changing the court's decision to order his pretrial detention. *Id.* The appellate court held that although it determined that the proper standard of review for a continued detention determination is abuse of discretion – and that the circuit court's decision here was not an abuse of discretion – the result would be the same under the manifest weight of the evidence standard *Id.*, ¶ 32. The appellate court affirmed the circuit court's decision denying Post's motion for relief and ordering that Post remain detained. *Id.*, ¶ 32.

Post did not file a petition for rehearing. On November 24, 2025, this Court granted Post's petition for leave to appeal.

## ARGUMENT

### I. **The Proper Standard of Review of Orders Appealed from Continued Detention Hearings Should Follow the Framework Set Forth by this Court in *Morgan – De Novo* When Parties to a Pretrial Detention Hearing Proceed Solely by Proffer and Manifestly Erroneous When Live Witness Testimony Is Presented.**

In *People v. Morgan*, this Court rejected an abuse of discretion standard for detention hearing appeals and held the standard of review is *de novo* when the parties proceed by proffer and manifest weight of the evidence when live testimony is presented. *Morgan*, 2025 IL 130626, ¶ 54. On appeal below, the appellate court held that the *Morgan* framework did not apply to continued detention hearings, which, instead, should be reviewed for an abuse of discretion. This holding is erroneous because both initial and continued detention hearings require the court to examine specific facts presented either by proffer or live testimony and the ultimate determination of the detention of an individual presumed to be innocent should not be reviewed under the overly deferential abuse of discretion standard. *People v. Whitaker*, 2024 IL App (1st) 232009, ¶ 119 (Ellis, J., specially concurring). Accordingly, this Court should hold that the framework set forth in *Morgan* applies to the review of continued detention hearings, vacate the circuit court’s order that Post remain detained, and remand the matter to the circuit court for a hearing on conditions of release.

#### A. **The *Morgan* standard of review.**

In *Morgan*, this Court was asked to determine what standard of review should be utilized when reviewing a circuit court’s ultimate detention decision under section 110-6.1 of the Code of Criminal Procedure of 1963 (“Code”) 725 ILCS 5/art. 110 (2022); *Morgan*, 2025 IL 130626, ¶ 18. This Court held that when the circuit court has not heard live witness testimony and the evidence instead consists

solely of depositions, transcripts, or evidence otherwise documentary in nature, the circuit court's factual findings are not entitled to deference and the reviewing court applies a *de novo* standard. *Id.*, ¶ 21. However, when live testimony is presented at a detention hearing, a circuit court's factual finding is reviewed as to whether or not it is against the manifest weight of the evidence where "the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented" *Id.*, ¶¶ 21, 43, quoting *People v. Peterson*, 2017 IL 120331, ¶ 39. This is the appropriate standard in such circumstances because "(1) having heard and observed the live witnesses' testimony, the circuit court is in a superior position to resolve alleged inconsistencies and conflicts in the witnesses' testimony, as well as to weigh the testimony and determine the credibility of the witnesses, and (2) the reviewing court never has the full benefit of hearing and observing the live witnesses' testimony." *Morgan*, ¶ 21.

**B. *Morgan's* standard of review is applicable to both initial and continued detention hearings.**

At issue in *Morgan* was the review of an initial detention hearing held under section 110-6.1, whereas, here, the question presented below was whether Post's continued detention under 110-6.1(i-5) of the Code "is necessary to 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, or to prevent the defendant's willful flight from prosecution." *Morgan*, 2025 IL 130626, ¶¶ 3-9, 18; (R126-27). This Court did not expressly state in *Morgan* that the standard of review that applies to initial detention hearings under section 110-6.1 applies in equal force to continued detention hearings under section 110-6.1(i-5). However, the *Morgan* framework should apply to section 110-6.1(i-5) hearings because, while it is not completely

analogous to section 110-6.1 hearings, both require the circuit court to review either documentary evidence or live testimony and to determine whether the defendant should be released with conditions or detained prior to trial.

“The standard of review identifies the degree of deference a reviewing court will give to the decision below.” *People v. Radojic*, 2013 IL 114197, ¶ 33. The debate of which standard of review to employ on appeal from an order where a defendant is subjected to continued detention is not trivial or without consequence. *See People v. Wells*, 2024 IL App (1st) 232453, ¶ 36 (Lampkin, J., specially concurring). “[L]iberty is the norm, and detention prior to trial is the carefully limited exception.” *Id.* (quoting *United States v. Salerno*, 481 U.S. 739, 750 (1987) (quotation marks omitted). Pretrial release “permits the unhampered preparation of a defense and serves to prevent the infliction of punishment prior to conviction.” *Stack v. Boyle*, 342 U.S. 1, 4 (1951). On the other hand, “pretrial detention wreaks havoc on familial relationships, employment, and educational pursuits while the individual is still cloaked in the presumption of innocence.” *People v. Pitts*, 2024 IL App (1st) 232336, ¶ 27.

The determination of the proper standard of review is a question of law and reviewed *de novo*. *Beggs v. Bd. of Educ. of Murphysboro Cmty. Unit Sch. Dist. No. 186*, 2016 IL 120236, ¶ 52.

For over 100 years, this Court has reviewed *de novo* “where the circuit court only considered documentary evidence[.]” *Cleeton v. SIU Healthcare, Inc.*, 2023 IL 128651, ¶ 26; see *State Bank of Clinton v. Barnett*, 250 Ill. 312, 315 (1911) (*de novo* review where the lower court had “no better means of judging the relative candor, fairness, and credibility of the respective witnesses than we have”). “[T]he vast majority” of pretrial detention hearings “consist solely of proffers—documents

such as police reports and criminal histories and oral presentation by counsel[.]” *People v. Whitaker*, 2024 IL App (1st) 232009, ¶ 116 (Ellis, J., specially concurring). *Morgan* affirmed more than century of precedent and held that where the evidence before a circuit court consists of depositions, transcripts, or evidence otherwise documentary in nature, a reviewing court is not bound by the circuit court’s findings and may review the record *de novo*. *Morgan*, 2025 IL 130626, ¶ 51.

In this case, Post testified at his continued detention hearing, so the circuit court’s ultimate determination that he remain detained should be reviewed under the against the manifest weight of the evidence standard, and not for an abuse of discretion as was done by the appellate court. *Morgan*, 2025 IL 130626, ¶¶ 51, 54. As *Morgan* noted, numerous questions requiring the circuit court to make a factual finding are reviewed under the manifest weight of the evidence standard. *Morgan*, 2025 IL 130626, ¶ 20. For example, this Court has applied the manifest weight of the evidence standard when reviewing a circuit court’s factual finding that a petitioner established by a preponderance of the evidence that she had been abused under the Illinois Domestic Violence Act of 1986 (750 ILCS 60/205(a), 214(a) (2004)). *Id.*, citing *Best v. Best*, 223 Ill. 2d 342, 348-49 (2006). Similarly, the factual findings as to whether the State met its burden of proving a parent’s unfitness under section 1(D)(m) of the Adoption Act (750 ILCS 50/1(D)(m)) has been subject to review under the manifest weight of the evidence standard: *Morgan*, ¶ 20, citing *In re C.N.*, 196 Ill. 2d 181, 208 (2001). The same standard has been used to review the factual findings as to whether the State established by a preponderance of the evidence that a child had been abused as defined by the Juvenile Court Act of 1987 (705 ILCS 405/2-18(1)). *Morgan*, ¶ 20, citing *In re A.P.*, 179 Ill. 2d 184, 204, 227 (1997). Additionally, the manifest weight of the evidence standard is

utilized in reviewing a circuit court's factual finding regarding what is in the best interest of a minor with respect to a parent's relocation petition. *Morgan*, ¶ 20, citing *In re Marriage of Fatkin*, 2019 IL 123602, ¶ 32.

All of these cases involved the circuit court viewing live testimony. *Morgan*, ¶ 20. Here, Post was sworn in as a witness, testified about where and with whom he would live if released, his willingness to wear an electronic monitoring device, and his need to be released so that he could secure information necessary in the preparation of his defense (R.114-117). He was then subjected to both cross-examination by the State and examination by the court (R.117-119).

This Court determined in *Morgan* that when there is live testimony presented at a hearing on the State's petition to detain a defendant, any underlying factual findings supporting the decision will not be disturbed on review unless found to be contrary to the manifest weight of the evidence. *Morgan*, ¶ 38. At a hearing on a State's petition to detain, the State has the burden to prove by clear and convincing evidence that: (1) the proof is evident or the presumption great that the defendant committed the detention-eligible offense; (2) the defendant poses a real and present threat to the safety of any person, persons, or the community, based on the specific, *articulable facts of the case*; and (3) no condition or combination of conditions of pretrial release. 725 ILCS 5/110-6.1(e)(emphasis added). This Court explained in *Morgan* that:

Each statutory burden of proof requirement set forth in section 110-6.1(e) presents a unique factual question that the circuit court must resolve based on an individualized assessment of the evidence, the credibility of the live witnesses, and a careful analysis of the relevant statutory factors and conditions provided in sections 110-6.1(g) and 110-10(b). As discussed above, when confronted with such factual questions, the circuit court is in a superior position to resolve alleged inconsistencies and conflicts in the live witnesses' testimony, as well as to weigh the testimony and determine the

credibility of the witnesses in conjunction with the relevant statutory factors and conditions. Moreover, the reviewing court never has the full benefit of hearing and observing the witnesses' testimony. Accordingly, we adhere to our historical approach of applying the manifest weight of the evidence standard to such a scenario.

*Morgan*, ¶ 38. The same standard should apply here.

Post was ordered to remain detained under section 110-6.1(i-5). While this section does not express a specific burden of proof of the State, the State's original burdens necessarily encompass the continued detention finding. *See People v. Thomas*, 2024 IL App (1st) 240479, ¶ 14. Further, similar to section 110-6.1(g), which is applicable in initial detention hearings, section 110-6.1(i-5) requires that the circuit court's determination of whether continued detention is necessary be based on the specific articulable facts of the case. Additionally, a defendant is entitled to appeal any order entered under section 110-6.1. 725 ILCS 5/110-6.1(j). This right to appeal, including an order entered after a section 110-6.1(i-5) hearing, confirms that the circuit court's individualized assessment as to whether a defendant should be continually detained "is not one of discretion, nor is it one of law." *Morgan*, ¶ 36. "Instead, the individualized assessment of evidence in conjunction with any relevant statutory factors and conditions is a factual exercise." *Id.* Thus, any underlying factual findings supporting the circuit court's continued detention order will not be disturbed on review unless found to be contrary to the manifest weight of the evidence. *Id.*, ¶¶ 36-43.

**C. The abuse of discretion standard of review should not be utilized in reviewing a detention order entered pursuant to section 110-6.1.**

Here, the appellate court specifically rejected the holding of *Morgan* as inapplicable to continued detention hearings held under section 110-6.1(i-5). *Post*, 2025 IL App (4th) 250598, ¶ 29. The appellate court reasoned that because

proceedings under section 110-6.1(i-5) “do not require the specific findings required at the initial pretrial detention hearing and, in fact, the section contains no standard of proof or burden of proof,” that it is “logical that the legislature intended the finding required by [this section] \*\*\* to be discretionary in nature.” *Id.*, ¶ 28, *citing People v. Mansoori*, 2025 IL App (1st) 250481-U, ¶ 32. But the *Morgan* framework should apply to continued detention hearings as well, because both hearings require the circuit court to make a factual finding about a defendant’s liberty.

While the setting of bail and conditions of release have historically been reviewed for an abuse of discretion, the denial of pretrial release has never been reviewed for an abuse of discretion. Ill. Rev. Stat. 1987, ch. 38, ¶ 110-6.1(b); Ill. Rev. Stat. 1988, ch. 38, ¶ 110-5; *Morgan*, ¶ 30; *People v. Whitaker*, 2024 IL App (1st) 232009, ¶¶ 97-99 (Ellis, J., specially concurring). “There is not a single published decision that has ever discussed the standard of review for *detention orders* under the previous version of the Illinois detention statute.” *Whitaker*, 2024 IL App (1st) 232009, ¶ 95 (citing *People v. Inman*, 2023 IL App (4th) 230864), ¶ 99 (emphasis in the original). The concurrence in *Whitaker* outlines “[t]he genesis of this myth”: *People v. Simmons*, 2019 IL App (1st) 191253, a case cited by many in support of the abuse of discretion standard, actually analyzed “the statute governing the setting of bail and other conditions of release,” not the earlier detention statute. *Id.* ¶ 99 (emphasis in the original). The *Whitaker* concurrence summarized as follows:

[N]o court has ever held, under the previous system of pretrial release, that an order detaining a defendant – that is, denying him release under any condition whatsoever, not even a high monetary bail – was reviewed for an abuse of discretion. So to the extent that our appellate decisions have relied on history as a guide, that reliance is misplaced.

*Id.* ¶ 109. The circuit court’s order in this case denied Post pretrial release and the abuse of discretion standard is not appropriate.

One of the reasons an abuse of discretion standard should not apply to the review of a continued detention hearing is because of the importance of the question involved. As Justice Ellis explained in his *Whitaker* concurrence, “We cannot lose sight of the fact that a decision to detain an individual, to deprive someone of his or her freedom indefinitely before they have been convicted of anything and remain presumptively innocent, is a momentous one.” *Id.* ¶ 119. At a continuing detention hearing, the circuit court is tasked with determining whether a defendant should continue to be detained, despite the fact that he has not been convicted of anything and still carries a presumption of innocence. The highly deferential abuse of discretion standard is not appropriate for a decision of this magnitude.

This Court has stated that “[a]buse of discretion’ is the most deferential standard of review – next to no review at all – and is therefore traditionally reserved for decisions made by a trial judge in overseeing his or her courtroom or in maintaining the progress of a trial.” *In re D.T.*, 212 Ill. 2d 347, 356 (2004). “In Illinois, the abuse of discretion standard applies to the type of courtroom administrative or managerial matters that are most closely associated with the exercise of an individual trial judge’s discretion.” Timothy J. Storm, *The Standard of Review Does Matter: Evidence of Judicial Self-Restraint in the Illinois Appellate Court*, 34 S. Ill. U.L.J. 73, 110–11 (2009) [hereinafter “Storm”]. Among those matters are the decision of whether to grant a continuance, whether to grant an extension of time for filings, whether to grant finality language under Illinois Supreme Court Rule 304(a), and whether to stay the proceedings. *Id.*, citing *Jacksonville Sav. Bank v. Kovack*, 326 Ill. App. 3d 1131, 1135 (4th Dist. 2002).

The abuse of discretion standard also applies to less administrative instances that still involve the management of individual cases and so can be comfortably accommodated within the concept of judicial discretion. *Storm*, 34 S. Ill. U.L.J. at 111. Those instances include correcting misnomers, joinder of plaintiffs, joinder of defendants, intervention as of right or by permission, allowing amendments to the pleadings, granting voluntary dismissal, setting aside a default judgment, granting a protective order, the scope of cross-examination during trial the propriety of remarks during opening statements or closing arguments and responding to questions from the jury. *Id.*

A determination regarding a defendant's liberty, whether made at an initial detention hearing or a continuing detention hearing, is not like administrative or case management decisions reviewed for an abuse of discretion. The right to freedom must be protected, otherwise "the presumption of innocence, secured only after centuries of struggle, would lose its meaning." *Stack v. Boyle*, 342 U.S. 1, 4 (1951). The U.S. Supreme Court has stressed "the importance and fundamental nature" of an "individual's strong interest in liberty." *U.S. v. Salerno*, 481 U.S. 739, 750 (1987). "[T]he prospect of imprisonment for however short a time will seldom be viewed by the accused as a trivial or 'petty' matter and may well result in quite serious repercussions affecting his career and his reputation." *Baldwin v. New York*, 399 U.S. 66, 73 (1970). "[P]retrial detention has the potential to devastate familial relationships, employment, and educational pursuits, despite the individual being shielded by the presumption of innocence." *People v. Wells*, 2024 IL App (1st) 232453, ¶ 36 (Lampkin, J., specially concurring). The government also has a strong interest in an accurate and fair decision in order to ensure the safety of the community and to secure a defendant's appearance in court. *See U.S.*

*v. Delker*, 757 F.2d 1390, 1399 (3rd Cir. 1985). Therefore, wider and more encompassing review ensures that constitutional and statutory rights are respected. *See U.S. v. Motamedi*, 767 F.2d 1403, 1405-06 (9th Cir. 1985).

This Court explicitly found that the abuse of discretion standard was inapplicable to a circuit court’s ultimate detention decision under section 110-6.1 – a section that encompasses section 110-6.1(i-5). *Morgan*, ¶ 32. Further, two appellate districts have held that *Morgan*’s standard of review, and not the standard of abuse of discretion, is applicable when reviewing a continued detention hearing. *See People v. Thomas*, 2025 IL App (1st) 250251-U, ¶ 23; *see also People v. Brito*, 2025 IL App (1st) 242601-U, ¶ 45; *People v. Rice*, 2025 IL App (3d) 250262, ¶ 10; *People v. Mosley*, 2025 IL App (3d) 250164-U, ¶ 11. Yet, here, the appellate court noted the holding in *Morgan*, as well as all the cases that recognized that holding, and then rejected those cases as inapplicable. *Post*, 2025 IL App (4th) 250598, ¶¶ 28-29. But detention orders have not been historically reviewed for an abuse of discretion, and this Court found that an abuse of discretion standard was inappropriate in detention hearings held after the State has filed its petition to deny a defendant pretrial release. *Morgan*, ¶¶ 26-32; *Whitaker*, 2024 IL App (1st) 232009, ¶ 109 .

This Court noted that to detain a defendant under section 110-6.1, the circuit court must find that the State satisfied its burden of proof on all three statutory requirements set forth in section 110-6.1(e) by clear and convincing evidence. *Morgan*, ¶¶ 28. These three requirements “contemplate unique factual questions that the circuit court must resolve based on an individualized assessment of the evidence presented at the detention hearing and a careful review of the statutory ‘dangerousness’ factors and pretrial release conditions listed in sections 110-6.1(g)

and 110-10(b).” *Id.* Whether the State has supplied the requisite proof of these requirements is a binary question which dictates whether a defendant is to be detained or placed on pretrial release. *Id.* It is a binary question of fact and not one of discretion. *Id.*

Those requirements do not vanish simply because the circuit court is contemplating a defendant’s continued detention rather than his or her initial detention. One of the requirements the State must prove in order to have defendant detained is whether the defendant poses a real and present threat to the safety of any person or persons or the community, and that proof must be based on the specific, articulable facts of the case 725 ILCS 5/110-6.1(g). At a continuing detention hearing, the circuit court must find that continued detention is necessary to 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. 725 ILCS 5/110-6.1(i-5). Thus, similar to an initial detention hearing, a continued detention hearing presents a question of fact that the court must consider and not a question of discretion. Therefore, the abuse of discretion standard of review should not be applied to review orders of continuing detention under section 110-6.1(i-5).

#### **D. Conclusion.**

When live testimony is presented at a continued detention hearing, the circuit court’s factual findings and its ultimate decision should be reviewed under the manifest weight of the evidence standard. Where both parties proceed by proffer, the standard of review should be *de novo*. Additionally, contrary to the appellate court’s decision below, review for an abuse of discretion is improper where detention orders have not been historically reviewed for an abuse of discretion and this Court found that the reviewing court cannot use that standard when reviewing detention

orders entered under section 110-6.1. Finally, because live testimony was presented at Jesse Post's continued detention hearing, under the manifest weight of the evidence standard, this Court should find that his continued detention was erroneous for the reasons addressed in Argument II and vacate the circuit court's detention order and remand for a conditions of release hearing.

**II. The Appellate Court Erred Where it Affirmed the Circuit Court's Order That Jesse Post Remain Detained Because He Had Not Demonstrated a Change of Circumstances or Presented New Facts That Would Allow the Circuit Court to Revisit His Detention.**

Jesse Post testified at his continued detention hearing, presenting new facts regarding with whom he would live if released and that he could be closely supervised by his parents and through electronic monitoring (R.114-117). Even acknowledging these new facts, the circuit court ordered Post to remain detained (R.126-27). The appellate court though, not only incorrectly found that he did not present new information, but it also erroneously concluded that he was *required* to show a change in circumstances or new information to justify changing the court's decision to order his pretrial detention. *People v. Post*, 2025 IL App (4th) 250598, ¶¶ 30-31 (emphasis added). This constitutes reversible error because the plain language of section 110-6.1(i-5) does not require Post to demonstrate a change in circumstances or present new information before his detention can be revisited. Accordingly, where Post presented information that was sufficient for the circuit court to order his release, this Court should reverse the appellate court's order affirming the circuit court's continued detention order and should remand this matter to the circuit court for a conditions of release hearing.

Section 110-6.1(i-5) provides that "at each subsequent appearance of the defendant before the court, the judge must find that continued detention is necessary to 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, or to prevent the defendant's willful flight from prosecution." 725 ILCS 5/110-6.1(i-5). As recognized by the Third District Appellate Court in *Rice*, section 110-6.1(i-5) does not require "a change of circumstances to revisit detention because the court is *required* at

every subsequent court date” to determine the necessity of continued detention. *Rice*, 2025 IL App (3d) 250262, ¶ 12 (emphasis in the original). It correctly added that, “To the extent other decisions of the appellate court have concluded that a change in circumstances is necessary to revisit the threat/continued detention question (citing *People v. Thomas*, 2024 IL (1st) 240479, ¶¶ 14, 16), we disagree in that this engrafts an additional conditions at odds with the plain language of section 110-6.1(i-5).” *Rice*, 2025 IL App (3d) 250262, ¶ 12.

Here, instead of following *Rice*, the appellate court below relied on its prior decision in *People v. Walton*, 2024 IL App (4th) 240541, where it found that when no new information or change in circumstances is presented at a continued detention hearing “it makes little sense to think that court would reverse its prior ruling for no particular reason.” *Post*, 2025 Ill App (4th) 250598, ¶ 26; citing *Walton*, 2024 IL App (4th) 240541, ¶ 26. *Post*’s reliance on *Walton* is misplaced.

In *Walton*, the appellate court held that a defendant is required to present new information before the circuit court can revisit detention under section 110-6.1(i-5) because section 110-5(f-5)<sup>1</sup>, which outlines the procedures for reviewing the continued necessity of conditions of a defendant previously granted pretrial release, explicitly states that the circuit court “is not required to be presented with new information or a change in circumstance to remove pretrial conditions,” whereas section 110-6.1(i-5) does not contain that exclusion. *Walton*, 2024 IL App (4th)

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<sup>1</sup> 725 ILCS 5/110-5(f-5) (West 2025) provides that: “At each subsequent appearance of the defendant before the court, the judge must find that the current conditions imposed are necessary to reasonably ensure the appearance of the defendant as required, the safety of any other person, and the compliance of the defendant with all the conditions of pretrial release. The court is not required to be presented with new information or a change in circumstance to remove pretrial conditions.”

240541, ¶ 28. The court's reasoning is contrary to the plain language of section 110-6.1(i-5), which does not state that a defendant must present new information to revisit detention. In fact, it states that at every subsequent appearance the circuit court must find that continued detention is necessary. This places an affirmative duty on the court and does not require the defendant to present any evidence at all. Accordingly, section 110-5(f-5) should not be read to infer a requirement in section 110-6.1(i-5) that is not in the plain language.

Requiring a court to be presented with new information or a change in circumstances before revisiting a pretrial detention order could lead to defendants being unjustly detained. For instance, if the circuit court misapplied the law at the initial section 110-6.1 detention hearing, it should have discretion to revisit that decision. Similarly, the court should have the discretion to release a defendant if the case has been subject to an untenable, unjust delay thorough no fault of the defendant. There could also be instances where the court believes that its initial detention order was misguided or made in haste and that release with conditions was actually warranted in the case, and should, in fact, be ordered following a continued detention hearing.

A court must often revisit its prior decisions despite there being no change in circumstances or new information presented. For instance, the purpose of a motion to reconsider sentence is not to conduct a new sentencing hearing. *See People v. Burnett*, 237 Ill. 2d 381, 387 (2010). While a motion to reconsider sentence can be used to bring to the circuit court's attention to changes in the law, or newly discovered evidence that was not available at the time of the hearing, it can also be used to bring to the circuit court's attention "errors in the court's previous application of existing law." *Id.* Indeed, the court is permitted to grant a motion

to reconsider on previous ruled on matter based on its determination that it erred in its previous application of existing law. *Martinez v. River Park Place, LLC*, 2012 IL App (1st) 111478, ¶ 23.

Nothing in section 110-6.1(i-5) stipulates, or even suggests, that the circuit court cannot order a defendant released at a continued detention hearing where no new information or a demonstrated change in circumstances has been presented. And, notably, Illinois Supreme Court Rule 604(h)(2) allows the circuit court to reverse its initial detention order without being presented with any new information or a change in circumstances. Ill. S. Ct. Rule 604(h)(2)(eff. April 15, 2024). It provides that as a prerequisite to an appeal by a defendant of any detention order requires the defendant file a motion for relief; a motion which allows a defendant to identify errors in the circuit court's detention decision and give the court the chance to correct any errors and "potentially change its ruling in the [defendant's] favor." *People v. Patterson*, 2025 IL App (1st) 250510, ¶ 18, *citing* Ill. S. Ct. R. 604(h)(2)(eff. April 15, 2024).

When the same evidence and same arguments from an initial detention hearing are presented at a continued detention hearing, a court may be unlikely to reverse course and order the defendant's release, but section 110-6.1(i-5) does not expressly foreclose it from reversing its initial order of detention. Instead, section 110-6.1(i-5) requires the court to revisit detention at every subsequent court date to determine the necessity of continued detention. Requiring a defendant to present new information or demonstrate a change in circumstances places a burden on a defendant that simply does not exist in the statute.

*Post's* conclusion that a court cannot change its decision on a defendant's detention status if no new information has been presented or a change in

circumstances has not been demonstrated is akin to a mandatory presumption. A mandatory presumption is where the fact-finder is not free to reject the proffered presumption. *People v. Hester*, 131 Ill. 2d 91-99-100 (1989). A mandatory presumption may be conclusive, that is an irrebuttable direction, or it may shift the burden of proof. *Id.* “Mandatory, irrebuttable presumptions (or conclusive presumptions) relieve[ ] the State of its burden of persuasion by removing the presumed element from the case entirely if the State proves the predicate facts.” *People v. Watts*, 181 Ill. 2d, 133, 141 (1998)(internal quotations omitted). “Once such a presumption is triggered, the defendant is not allowed to attempt to rebut the connection between the proven and presumed facts.” *Id.* Mandatory presumptions which shift the burden of proof to a defendant are commonly referred to as rebuttable presumptions. *Id.* Those rebuttable presumptions may be further divided into two groups: those that shift the burden of production to the defendant and those that shift the burden of persuasion. *Id.*

Irrebuttable mandatory presumptions in a criminal trial are unconstitutional because they conflict with the presumption of innocence. *Sandstrom v. Montana*, 442 U.S. 510, 521-23 (1979). Mandatory rebuttable presumptions which shift the burden of persuasion to the defendant are unconstitutional because they relieve the State of its burden to prove every element of a crime beyond a reasonable doubt. *Id.* at 524. This Court has also held that “in the area of criminal law, mandatory rebuttable presumptions which shift the burden of production to the defendant are unconstitutional.” *Watts*, 181 Ill. 2d at 147. The *Watts* Court found that a production-shifting presumption places a burden on the defendant to come forward with a certain quantum of evidence to overcome the presumption. *Id.* While *Watts* involved a production-shifting presumption in a criminal trial, the logic of *Watts*

should be applied in this case.

Here, *Post's* holding presumes that a defendant must be continually detained unless a change of circumstances or new information is presented. Since the State is the party that seeks a defendant's detention, it seems unlikely that the State would ever present a change of circumstances or new information that may lead to a defendant being released from pretrial detention. As such, *Post* implicitly shifts the burden of production of such a change or new information to the defendant. Thus, without the defendant meeting their burden, the circuit court could not revisit the defendant's detention. Such burden shifting is improper because the circuit court is required to address a defendant's detention at every subsequent court appearance under section 110-6.1(i-5). Thus, a defendant has no burden at all to convince a court that they should be released from detention.

However, as stated earlier, *Post did* present new information that demonstrated that he should have been released from detention with conditions. Specifically, he testified that he would live at his parents' home in St. David, Illinois if he were to be released, where he could be supervised by his mother, who does not work, or by his father at all times (R.115-16). On cross-examination, *Post* said he had lived with his parents off and on between 2017 and 2020 (R.117-18). During the court's examination, *Post* stated that his father was 67 and in good health, and his mother was 64 and had medical issues (R.120). *Post* also testified at the continued detention hearing that there was "additional information" that was only available to him if he was not in jail, and that this information was necessary for the preparation of his defense (R.116-17). This was new information that had never been presented at any of the earlier detention hearings.

At the prior detention hearing, *Post* testified that he would reside with

his parents in St. David if released and would be willing to wear a GPS monitor, but he did not offer information about his parents' age, health, or ability to constantly supervise him. (R.73-77). Nor did he testify that he could secure information that would assist in the preparation of his defense. The circuit court noted that Post's testimony about living with his mother and father and that Post needed to be released to secure information in order to assist in his defense was new information presented at the continued detention hearing, but the court denied Post's request to be released (R.126-27).

After applying the abuse of discretion standard in reviewing Post's continued detention, and after finding that Post did not present any new information or demonstrate a change in circumstances, the appellate court found that the court's order that Post remain detained was not arbitrary, fanciful, or unreasonable. *Post*, 2025 Ill App (4th) 250598, ¶¶ 30-32. As previously argued, the appellate court should have reviewed whether the circuit court's factual findings and decision to order Post remain detained in this case were against the manifest weight of the evidence. *Supra*. However, the appellate court also found that its ruling that the circuit court did not err in ordering Post remain detained would have been the same had it reviewed the case under the manifest weight of the evidence standard as well. *Id*. The appellate court erred where it affirmed that circuit court's decision to order Post remain detained.

One of the concerns the circuit court had when it ordered Post's initial detention was that he lived near the alleged victims in Peoria before he was arrested (R.95). Post testified at that initial detention hearing that if released, he would reside with his mother in St. David, Illinois, a town 35 miles and a 45 minute

drive from Peoria, Illinois<sup>2</sup> (R.73-74). Post testified at the continued detention hearing that he would live with both his parents at their home in St. David, and because his mother did not work, he could be supervised by one of his parents at all times (R.114-15).

Post's testimony at the continued detention hearing that he would reside 45 minutes from the alleged victims in this case and be constantly supervised by his parents should have alleviated the court's concerns that no conditions could mitigate any danger that Post posed to the alleged victims. This new information regarding Post's living arrangements upon release, coupled with Post's inability to secure information that would help in the preparation of his defense if he were to remain detained, should have persuaded the circuit court to order Post be released with conditions. Thus, the circuit court's continued detention order was against the manifest weight of the evidence, and this Court should vacate the order and remand this matter for a conditions of release hearing.

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<sup>2</sup>This is the time and distance between St. David and Peoria, Illinois as detailed on MapQuest. <https://www.mapquest.com/> (Last visited Dec. 18, 2025).

**CONCLUSION**

For the foregoing reasons, Jesse Post, petitioner-appellant, respectfully requests that this Court hold that the standard of review framework announced in *People v. Morgan* should apply to the review of continued detention hearings held under section 110-6(i-5), vacate the circuit court's order that Post remain detained, and remand the matter to circuit court for a conditions of release hearing.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 31 pages.

/s/ James Wozniak  
JAMES WOZNIAK  
Assistant Appellate Defender

**APPENDIX TO THE BRIEF**

**Jesse Post No.**

Index to the Record ..... A-1  
Appellate Court Decision.....A-3  
Notice of Appeal ..... A-16

**INDEX TO THE RECORD**

<b><u>Common Law Record ("C")</u></b>	<b><u>Page</u></b>
Verified Petition to Deny Defendant's Pretrial Release (May 2, 2024) . . . . .	16
Motion for Relief (July 10, 2024), (November 14, 2024), (May 22, 2025) . . . . .	32, 61, 85
Notice of Appeal (July 19, 2024), (December 3, 2024), (June 12, 2025) . . . . .	42, 67, 92
Motion for Review of Pre-Trial Detention (April 23, 2025) . . . . .	79

<b><u>Report of Proceedings ("R")</u></b>	<b><u>Page</u></b>
<i>May 28, 2024</i>	
Petition to Deny Pretrial Release- Denied	26
<i>July 19, 2024</i>	
Motion for Relief- Denied	34
<i>November 13, 2024</i>	
<b>Pretrial Detention Hearing</b>	
Motion to Reconsider Release - Denied	95
<i>November 26, 2024</i>	
Motion for Relief- Denied	102
<i>May 6, 2025</i>	
Motion for Review of Pretrial Detention- Denied	127

2025 IL App (4th) 250598

NO. 4-25-0598

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

September 22, 2025

Carla Bender

4<sup>th</sup> District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Fulton County
JESSE POST,	)	No. 23CF235
Defendant-Appellant.	)	
	)	Honorable
	)	Thomas B. Ewing,
	)	Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court, with opinion.  
Justices Knecht and DeArmond concurred in the judgment and opinion.

**OPINION**

¶ 1 Defendant, Jesse Post, was denied pretrial release pursuant to 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, § 10-255 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). See Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023) (amending various provisions of the Act); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (setting the Act’s effective date as September 18, 2023). Subsequently, defendant filed a motion seeking review of his pretrial detention. After a hearing, the trial court determined defendant’s continued detention was necessary to avoid the real and present threat he posed. See 725 ILCS 5/110-6.1(i-5) (West 2024). Defendant filed a motion for relief, which was denied. In accordance with Illinois Supreme Court Rule 604(h)(7) (eff. Apr. 15, 2024), defendant relies upon his motion for relief filed in the trial court as his argument on

appeal. In his motion, defendant argues the court's decision should be reversed because he established a change in circumstances showing there now were less restrictive means of protecting the community from any threat he posed. We affirm.

¶ 2

## I. BACKGROUND

¶ 3

### A. Initial Pretrial Detention Proceedings and First Appeal

¶ 4

On November 7, 2023, defendant was charged by information with three counts of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2020)).

According to the information, from January 1, 2020, through May 28, 2020, defendant, who was over 17 years of age, committed specific acts of sexual contact with C.W., F.W., and E.W., who were all under 13 years of age at the time, for the purpose of his sexual gratification or arousal.

The State filed a verified petition to deny defendant pretrial release, alleging he was charged with a sex offense enumerated in the Code 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. See 725 ILCS 5/110-6.1(a)(5) (West 2024). After a hearing, the trial court denied defendant pretrial release. Defendant's motion for relief pursuant to Rule 604(h)(2) was denied, and he filed a timely appeal. Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024).

¶ 5

On appeal, this court determined the trial court failed to make a record adequate to allow a meaningful review of its decision to deny defendant pretrial release. Therefore, we vacated the order denying defendant's pretrial release and remanded with directions for the trial court to promptly set a new detention hearing, at which the State could present evidence and the court could make express findings, based on defendant's individual circumstances, as to whether any condition or combination of conditions would allow for his pretrial release. *People v. Post*, 2024 IL App (4th) 241002-U, ¶ 29.

¶ 6 B. Proceedings on Remand and Second Appeal

¶ 7 On remand, the trial court held a new detention hearing. The State presented the following evidence: (1) proffered testimony of Sheriff Jonathon Webb regarding a prior unrelated investigation of abuse allegations involving defendant's four-year-old daughter; (2) proffered testimony of Officer Ryan McCabe regarding the abuse allegations involving the three victims in this case (the victims were seven, five, and four years old at the time, and the abuse occurred when defendant was their father's roommate); and (3) testimony of Breitynia L., the mother of the three victims, explaining defendant's alleged abuse of her children as well as what several other people had told her about being victimized by defendant. Defendant testified prior to his arrest he was a "stay-at-home father" to his youngest son living in Peoria and he had no contact with his other three children. If released, he stated he would reside in St. David, Illinois, with his mother, would have no reason to go to Peoria, and would abide by any conditions of release including restrictions on his movement and wearing an ankle monitor. The evidence presented was discussed at length by this court in defendant's second appeal and need not be repeated here. See *People v. Post*, 2025 IL App (4th) 241527-U.

¶ 8 The trial court denied defendant's pretrial release, expressing concerns regarding the victims and the community at large and finding there was no set of circumstances at that time supporting defendant's pretrial release. Defendant's motion to reconsider pursuant to Rule 604(h)(2) was denied.

¶ 9 Defendant appealed, arguing, *inter alia*, the trial court erred in allowing hearsay evidence regarding his danger to the community, considering evidence of a 2017 Child Advocacy Center interview of his child that did not result in any arrest or criminal charges, and

finding the State proved there existed no less restrictive means of protecting the community from the threat he may pose. We affirmed. *Post*, 2025 IL App (4th) 241527-U, ¶ 49.

¶ 10 C. Defendant's Motion for Release Based on Change in Circumstances

¶ 11 On April 23, 2025, defendant filed a motion for review of his pretrial detention order pursuant to section 110-6.1(i-5) of the Code, arguing for his pretrial release. Defendant stated a change in circumstances had occurred since the order to detain was entered and pointed to the following: (1) he had obtained appropriate housing and would reside with his parents, (2) his parents would provide constant and direct supervision, (3) he would agree to wear an ankle monitor, and (4) he would abide by all terms and conditions the court wished to impose upon him. Defendant contended because of these circumstances "there is no longer a real and present threat to the safety of any person, persons or the community" and his continued pretrial detention was no longer necessary.

¶ 12 A hearing was held on May 6, 2025. The court took judicial notice of the evidence presented at the prior detention hearing as well as this court's decision affirming the decision (*Post*, 2025 IL App (4th) 241527-U).

¶ 13 Defendant testified, if he was released, he would reside in St. David, Illinois, at his mother's residence and he would agree to being placed on home confinement. Defendant was willing to wear a GPS ankle monitor to confirm he remained at home, and his parents would be able to provide constant supervision of him. He explained, although his father worked, his mother would be home all the time and he would abide by any conditions imposed by the court.

¶ 14 On cross-examination, defendant admitted he last resided with his parents from 2020 to 2022. The trial court then inquired regarding defendant's parents. Defendant testified his father was 67 years old and his mother was 64 years old. His father was in good health and was

employed, but his mother suffered from a heart condition and an artery disease that required her to receive medical attention on a regular basis.

¶ 15 In arguing there are less restrictive means to protect the community other than continued detention, defense counsel conceded “some of this information may seem to be not very dissimilar” to the information presented at the prior detention hearing. Still, he argued the information presented, notably defendant being “agreeable to house arrest,” “dispels or dissipates some of the concern the Court would have at [defendant’s] free reign to go wherever he wished to or be wherever he wished to.”

¶ 16 In response, the State stood by its previous arguments as to why there was no condition or combination of conditions to protect the community from defendant in this case. The State pointed out defendant’s testimony did not establish a change in circumstances, other than defendant’s assertion that “his mother would watch him 24/7.”

¶ 17 At the close of arguments, the trial court denied defendant’s motion, finding GPS monitoring would not work in this case, noting the testimony regarding defendant’s conduct at the prior hearing was “of significant concern” and given defendant’s mother’s age and health.

¶ 18 Defendant filed a motion for relief pursuant to Rule 604(h)(2), asking the court to reconsider its decision to deny his pretrial release because there were less restrictive means to protect the public other than keeping him in custody. On May 29, 2025, the trial court denied defendant’s motion, finding there was no substantial change in his circumstances or the evidence since his detention and determined there remain no less restrictive means to protect the community other than his continued confinement.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 First, we are obliged to address defendant’s compliance with our supreme court rules in the context of the sufficiency of the presentation of his contentions on appeal.

¶ 22 Defendant relies on his motion for relief filed in the trial court as his argument on appeal in accordance with Rule 604(h)(7), which expressly states “[t]he motion for relief will serve as the argument of the appellant on appeal” and an appellant may, but is not required to, file a memorandum in support. Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). However, the rule also makes it clear, “[w]hether made in the motion for relief alone or as supplemented by the memorandum, the form of the appellant’s arguments must contain sufficient detail to enable meaningful appellate review, including the contentions of the appellant and the reasons therefore and citations of the record and any relevant authorities.” *Id.* It is well settled that all supreme court rules of procedure are mandatory, not mere suggestions. *People v. Garstecki*, 382 Ill. App. 3d 802, 811 (2008). Further, a party may not simply “dump the burden of argument and research” on the reviewing court; rather, a reviewing court is “entitled to have the issues clearly defined and to be cited pertinent authority.” (Emphasis omitted.) *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. Defendant’s motion lacks citation of the record or reference to any relevant authority and has not accurately framed the issue for this court; as such, this court may deem defendant’s claims forfeited. However, we decline to do so and will address the merits of defendant’s claim because his motion, although extremely brief and completely lacking authority, does contain some basic facts and support for the relief he seeks.

¶ 23 Importantly, we caution defendants relying upon a Rule 604(h)(2) motion for their argument on appeal to be more mindful of the requirements of the rule and the potential consequences of failing to comply. The appellate court is being pushed to engage in an ever-

increasing amount of advocacy for criminal defendants—a position that is not acceptable. As we have previously stated, “[e]ven without the application of [Illinois Supreme Court Rule 341 (eff. Oct. 1, 2020)], we doubt Rule 604(h) now requires the appellate court to act as an advocate or seek error on the appellant’s behalf—something heretofore expressly forbidden.” *People v. Inman*, 2023 IL App (4th) 230864, ¶ 13. In these instances, however, the appellate court is regularly being put in the position to do so due to the insufficiency of the motions for relief being relied upon by these defendants on appeal. This is unacceptable. As such, defendants must endeavor to present a more complete analysis of the issues in their motions for relief or, as the rule allows, file a supplemental memorandum in support of the appeal rather than relying on the appellate court to do the work for them. See *id.* (discussing the truncated procedures set forth in Rule 604(h) as compared to Rule 341, stating the appellate court “cannot be expected to formulate an argument for defendant out of whole cloth,” and concluding appellants still must present “some rudimentary facts, argument or support for the conclusory claim[s]”); *People v. Hill*, 2024 IL App (2d) 240436-U, ¶ 26 (declining to find forfeiture of claims in a motion for relief relied upon for appeal under Rule 604(h)(7) because, “[w]hile defendant’s motion for relief may be rather brief, it does contain at least some rudimentary facts and support for the relief he seeks”); *People v. Arroyo*, 2025 IL App (2d) 250058-U, ¶ 30 (finding claims in motion for relief relied upon pursuant to Rule 604(h)(7) forfeited for failing to develop argument or cite pertinent authority but, forfeiture aside, deciding the merits). The consequences for failing to comply with Rule 604(h)(7) by presenting arguments “with sufficient detail to enable meaningful appellate review, including the contentions of the appellant and the reasons therefore and citations of the record and any relevant authorities,” (Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024)) will be forfeiture of the claim of error on appeal. See *In re D.S.*, 2025 IL App (1st) 241635, ¶ 49 (finding

bare contentions without citation of authority do not merit consideration on appeal and are forfeited).

¶ 24 In his one-paragraph, run-on sentence motion for relief, defendant contends he showed a change in circumstances had occurred establishing there were less restrictive means to protect the victims and the community other than his continued confinement. In support he points to the following to justify his release with conditions: (1) he secured housing in Fulton County with his parents, who would be able to provide 24 hour supervision of him, (2) he would wear an ankle monitor and abide by the conditions of house arrest, (3) he would be able to assist his mother with her health issues, (4) he would have no contact with the alleged victims or their family, and (5) he would abide by any other conditions the court wished to impose of him.

¶ 25 When a defendant has been denied pretrial release under the dangerousness standard, the Code provides, “[a]t each subsequent appearance of the defendant before the court, the judge must find that continued detention is necessary to 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.” 725 ILCS 5/110-6.1(i-5) (West 2024). There is a fundamental difference between an order of detention and an order of *continued* detention. When issuing an order of detention, the trial court begins with the presumption a defendant should be granted pretrial release unless certain criteria are met and the State meets its burden of proving the necessity for pretrial detention. See *id.* §§ 110-2(a), (b), 110-6.1(a)(1), (8). When issuing an order of continued detention, however, the detention decision has already been made and often already subjected to appellate review—as occurred twice in this case—so the question relating to whether the State proved each of the three propositions for pretrial detention by clear and convincing evidence during the initial hearing is not before the court. See *People v. Mulbrandon Casey*, 2024 IL App (3d) 230568,

¶ 13. In fact, the Code sets forth no standard of proof or burden of proof for a finding regarding a defendant's continued detention. See *People v. Thomas*, 2024 IL App (1st) 240479, ¶ 14.

¶ 26 In *People v. Walton*, 2024 IL App (4th) 240541, ¶ 28, this court addressed the method by which trial courts must assess the issue of continued detention under section 110-6.1(i-5) and determined a trial court must find a change in circumstances has occurred before altering an existing detention order under this provision. In doing so, we compared the language of the three provisions of the Code governing the process of reviewing pretrial detention or conditions of detention, which is required at every subsequent court appearance. *Walton*, 2024 IL App (4th) 240541, ¶¶ 23-29; see 725 ILCS 5/110-5(f-5) (West 2024) (stating procedures for reviewing the continued necessity of conditions of a defendant previously granted pretrial release); 725 ILCS 5/110-6(j) (West 2024) (stating procedures for review of continued detention when a defendant was initially released but later detained after that release has been revoked); *id.* § 110-6.1(i-5) (stating procedures for reviewing the necessity of continued detention of a defendant who was detained at the initial hearing). We concluded as follows: “Because only section 110-5(f-5) *specifically excludes* the requirement to show ‘new information or a change in circumstance’ [citation], we conclude that such a showing *is required* for relief under section 110-6(j) or section 110-6.1(i-5).” (Emphases added.) *Walton*, 2024 IL App (4th) 240541, ¶ 28. We explained, “[i]f a court has found that a defendant qualifies for detention and no new information or change in circumstances is presented, it makes little sense to think that court would reverse its prior ruling for no particular reason.” *Id.* ¶ 29; accord *Thomas*, 2024 IL App (1st) 240479, ¶ 14.

¶ 27 The next question we must address is what standard of review should be applied on appeal. The majority of the district courts have previously held a trial court's decision at

subsequent hearings regarding continued detention pursuant to section 110-6.1(i-5) of the Code is reviewed for an abuse of discretion. *Thomas*, 2024 IL App (1st) 240479, ¶ 16; *People v. Harris*, 2024 IL App (2d) 240070, ¶ 42; *Mulbrandon Casey*, 2024 IL App (3d) 230568, ¶ 14; *Walton*, 2024 IL App (4th) 240541, ¶ 40; *People v. Long*, 2023 IL App (5th) 230881, ¶ 16 (applying the abuse of discretion standard to an appeal of a continued detention order). But see *People v. Alcantara*, 2024 IL App (5th) 240195-U, ¶ 33 (declining to apply abuse of discretion standard for a continued detention issue and reviewing the trial court’s factual findings under the manifest weight standard). We pause to consider this matter because of our supreme court’s recent decision in *People v. Morgan*, 2025 IL 130626, wherein the court resolved the conflict regarding the standard of review to be employed at a pretrial detention hearing. In *Morgan*, the court held the standard of review to be employed when the parties to a pretrial detention hearing proceed solely by proffer is *de novo* and, when live testimony is heard, the standard is manifest weight of the evidence. *Id.* ¶ 54. However, it is important to note *Morgan* involved an initial petition for detention, not a determination of whether continued detention was appropriate, and did not suggest that *Thomas*, *Casey*, *Harris*, or *Walton* were no longer good law.

¶ 28 After *Morgan*, one decision has continued the reasoning set forth in *Thomas*, *Casey*, *Harris*, and *Walton*, concluding that, because proceedings under section 110-6.1(i-5) of the Code do not require the specific findings required at the initial pretrial detention hearing and, in fact, the section contains no standard of proof or burden of proof, it is “logical that the legislature intended the finding required by [this section] \*\*\* to be discretionary in nature.” *People v. Mansoori*, 2025 IL App (1st) 250481-U, ¶ 32. In contrast, two districts have determined the reasoning in *Morgan* “applies equally to hearings on continued detention.” *People v. Thomas*, 2025 IL App (1st) 250251-U, ¶ 23 (applying *Morgan* and utilizing *de novo*

review because the parties proceeded solely by proffer); see *People v. Brito*, 2025 IL App (1st) 242601-U, ¶ 45 (applying *de novo* review where the parties proceeded by proffer); *People v. Rice*, 2025 IL App (3d) 250262, ¶ 10 (citing *Morgan* for the standard of review in continued detention hearing); *People v. Mosley*, 2025 IL App (3d) 250164-U, ¶ 11 (citing *Morgan* for the standard of review in continued detention hearing). Still, other panels of the court have declined to decide the question of the standard of review, finding instead that the trial court’s decision was not erroneous under either applicable standard of review. See *People v. Martinez*, 2025 IL App (1st) 250730-U, ¶ 17; *People v. Triplett*, 2025 IL App (2d) 250246, ¶ 22; *People v. Washington*, 2024 IL App (1st) 240894-U, ¶ 40.

¶ 29 We are aligned with the line of cases distinguishing a trial court’s initial pretrial detention decision from its continued detention decisions, thus distinguishing *Morgan*, and conclude the appropriate standard of review in this situation is the abuse-of-discretion standard. In *Morgan*, the court held “there is nothing discretionary about making a finding as to whether the State has met its standard of proof of a particular fact.” (Internal quotation marks omitted.) *Morgan*, 2025 IL 11130626, ¶ 28. Section 110-6.1(i-5) of the Code does not set forth a standard of proof or impose a burden of proof regarding the issue of pretrial detention. Therefore, we find persuasive the proposition that, “if the purpose of a standard of proof is to ‘instruct the factfinder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication,’ [(*Morgan*, 2025 IL 130626, ¶ 29)] then the absence of such a standard suggests the legislature intended to leave the decision to the trial court’s discretion.” *Mansoori*, 2025 IL App (1st) 250481-U, ¶ 32. In sum, a trial court’s decision regarding continued detention under section 110-6.1(i-5) of the Code is reviewed for an abuse of discretion. An abuse of discretion occurs when the trial court’s “decision is arbitrary, fanciful or

unreasonable, or where no reasonable person would agree with the position adopted by the [trial] court.” (Internal quotation marks omitted.) *Walton*, 2024 IL App (4th) 240541, ¶ 33.

¶ 30 In this case, we determine the trial court did not abuse its discretion in concluding that defendant’s continued detention was necessary to avoid a real and present threat to the safety of any person or persons or the community. Defendant failed to present to the court any new information or demonstrate a change in circumstances to justify changing the court’s decision to order his pretrial detention. Defendant stated he had secured housing in Fulton County with his parents who would be able to provide 24-hour supervision of him. However, at defendant’s prior hearing, he also stated he would be able to live under his mother’s supervision in Fulton County. The only information that could be considered “new” was defendant’s assertion that his 64-year-old mother, who suffers from health issues requiring regular medical attention, did not work and could provide 24-hour supervision. The court considered defendant’s mother’s age and health concerns to be relevant factors to assessing her ability to monitor defendant and noted the testimony presented at the prior hearing regarding defendant’s conduct remained of “significant concern.” Defendant stated he would wear an ankle monitor and abide by the conditions of house arrest. Defendant volunteering to wear an ankle monitor is not new information, as he stated his willingness to do so at the prior hearing. Although defendant’s willingness to be under house arrest was not specifically discussed at his prior hearing, the court at that time was told defendant was amenable to wearing an ankle monitor, being prohibited from going to Peoria, and any other restrictions on his movement. The possibility of wearing a GPS monitor in the context of house arrest was a condition available at the time of defendant’s prior hearing; thus, it is not a change in circumstances. Further, defendant’s statement that “he would be there to assist with his mother[’]s health issues” is not new information that would impact the necessity for defendant’s

continued detention. Finally, defendant stated he would have no contact with the alleged victims or their family and would abide by any conditions the court wished to impose upon him. This cannot be considered a change in circumstances or new information as defendant stated this at his prior hearing as well.

¶ 31 After our careful review, we conclude the trial court's decision that defendant's continued detention was necessary to avoid a real and present threat to the safety of any person or persons or the community was based on the specific articulable facts of the case and was not arbitrary, fanciful, or unreasonable. Defendant's "new information" was basically that he was willing to be on house arrest with GPS monitoring and under the supervision of his elderly parents. This option and information were available to the trial court at the time of his prior detention hearing and are, therefore, insufficient to show a change in circumstances as is required to warrant a change in his detention status.

¶ 32 Although we have determined the proper standard of review of a continued detention determination is abuse of discretion and the trial court's decision was not an abuse of discretion in this case, we further find the result would be the same under the manifest weight of the evidence standard as well. Therefore, we affirm.

¶ 33 III. CONCLUSION

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

¶ 35 Affirmed.

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*People v. Post*, 2025 IL App (4th) 250598

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**Decision Under Review:** Appeal from the Circuit Court of Fulton County, No. 23-CF-235; the Hon. Thomas B. Ewing, Judge, presiding.

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**Attorneys  
for  
Appellant:** James E. Chadd, Carolyn R. Klarquist, and James Wozniak, of State Appellate Defender's Office, of Chicago, for appellant.

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**Attorneys  
for  
Appellee:** Patrick Delfino and David J. Robinson, of State's Attorneys Appellate Prosecutor's Office, of Springfield, for the People.

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IN THE CIRCUIT COURT OF Fulton



COUNTY

**FILED**

NINTH

JUDICIAL CIRCUIT

JUN 17 2025

PEOPLE OF THE STATE OF ILLINOIS,  
Plaintiff-Appellee,

*Charlese M. Markley*  
CLERK OF THE CIRCUIT COURT, 9TH JUDICIAL CIRCUIT  
FULTON COUNTY ILLINOIS

-vs-

No. 23-CF-235

E-FILED

JESSE POST

Transaction ID: 4-25-0598

Defendant-Appellant.

File Date: 6/13/2025 8:43 AM

Carla Bender, Clerk of the Court

APPELLATE COURT 4TH DISTRICT

**NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER  
PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)**

**(Defendant as Appellant)**

**Court from which appeal is taken:**

Circuit Court of Fulton  County.

The Judge who entered the order on the motion for relief under Rule  
604(h)(2): EWING

**Date of Order on Motion for Relief\*:** MAY 29, 2025

**\*Without an Order on a Motion for Relief, this notice of appeal is  
prohibited by Rule 604(h)(2).**

**Date(s) of Hearing(s) Regarding Pretrial Release:** MAY 6, 2025

**Court to which appeal is taken:**

Appellate Court of Illinois, Fourth  Judicial District

**Name of Defendant and address to which notices shall be sent (if  
Defendant has no attorney):**

Defendant's Name: JESSE POST

Defendant's Address: 268 W. Washington Ave., P.O. Box 269, Lewistown, IL 61542

Defendant's E-mail: \_\_\_\_\_

Defendant's Phone: \_\_\_\_\_

**If Defendant is indigent and has no attorney, does he or she want one  
appointed?                     Yes                     No**

**Name of Defendant's attorney on appeal (if any):**

Attorney's Name: \_\_\_\_\_  
Attorney's Address: \_\_\_\_\_  
Attorney's E-mail: \_\_\_\_\_  
Attorney's Phone: \_\_\_\_\_

**Name of Defendant's trial attorney (if any):**

Attorney's Name: Nicholas M. Cotta  
Attorney's Address: 100 N. Main St., Lewistown, IL 61542  
Attorney's E-mail: \_\_\_\_\_  
Attorney's Phone: \_\_\_\_\_

Is the trial attorney a public defender?     Yes     No


**Nature of Order Appealed (check only one):**

- Denying pretrial release
- Revoking pretrial release
- Imposing conditions of pretrial release

**Are there currently pending any other appeals in this matter by the same party under the Pretrial Fairness Act?     Yes\*     No**

**\*If Yes, this notice of appeal is prohibited by Rule 604(h)(11).**

**I certify that everything in this NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h) is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.**

  
\_\_\_\_\_  
*Your Signature*

Nicholas M. Cotta  
*Printed Name*

6303100  
*Attorney # (if any)*

No.

IN THE

## SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 4-25-0598.
	)	
Plaintiff-Appellee,	)	There on appeal from the Circuit
	)	Court of the Ninth Judicial Circuit,
-vs-	)	Fulton County, Illinois, No. 23-CF-
	)	235.
	)	
JESSE POST,	)	Honorable
	)	Thomas B. Ewing,
Defendant-Appellant.	)	Judge Presiding.

## NOTICE AND PROOF OF SERVICE

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Mr. Jesse Post, Fulton County Jail, 268 W. Washington, Lewistown, IL 61542

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On December 31, 2025, the Brief and Argument for Defendant-Appellant in Support of Rule 604(h) Appeal was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the Defendant-Appellant in an envelope deposited in a U.S. mailbox in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument for Defendant-Appellant in Support of Rule 604(h) Appeal to the Clerk of the above Court.

/s/Mia Roman

LEGAL SECRETARY

Office of the State Appellate Defender

Pretrial Fairness Unit

203 N. LaSalle St., 24th Floor

Chicago, IL 60601

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Service via email is accepted at

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