2026 IL App (1st) 261497-U
Nos. 1-26-1497B, 1-26-1498B (cons.)
Order filed November 24, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

SECOND DIVISION

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

v.

JOSKI ASTREE, Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable Jennifer Frances Coleman, Judge, Presiding.
Nos. 20-CR-0570201, 20-CR-0573101

PRESIDING JUSTICE D.B. WALKER delivered the judgment of the court.
Justices Reyes and Van Tine concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in denying defendant's motion for relief. Affirmed.

¶ 2 Defendant Joski Astree appeals from the trial court's order (1) denying him pretrial release pursuant to Section 110-6.1 of the Code of Criminal Procedure (Code), commonly referred to as the Pretrial Fairness Act (the Act) (725 ILCS 5/110-6.1 (West 2024)), and (2) denying his motion for relief. On appeal, defendant contends the State failed to show by clear and convincing evidence that (1) defendant poses a real and present threat based upon the specific articulable facts of the case and (2) no condition or combination of conditions could mitigate the real and present threat

to the safety of any person, persons, the community or defendant's willful flight from prosecution. For the following reasons, we affirm the judgment of the trial court.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged with predatory criminal sexual assault in each of two cases (Nos. 20 CR 0570201 and 20 CR 0573101) in connection with the alleged sexual abuse of two sisters, P.T. and J.T., who were nine years old and five years old, respectively, at the time of the offenses. Prior to the effective date of the Act, defendant was arrested and the trial court denied defendant's request for bail. On January 15, 2026, defendant filed a motion seeking a hearing for pretrial release. On February 17, 2026, the State filed a petition to detain defendant pending trial pursuant to section 110-6.1 of the Code (725 ILCS 5/110-6.1 (West 2024)).

¶ 5 On February 17, 2026, the trial court held a hearing with respect to defendant's pretrial detention. The State began with its proffer. With respect to the first prong, whether the evidence established that the proof was evident and the presumption great that the defendant committed both charged offenses, the State made the following proffer. At the time of the offenses in 2015, defendant was 30 years old, whereas the two victims were sisters who were nine years old and five years old, respectively. Defendant lived in the same apartment complex as the victims and was a friend of their mother, who occasionally allowed him to babysit the children.

¶ 6 The State noted that the offenses took place for an approximate 12-month period beginning around March 7, 2015. The nine-year-old victim (P.T.) stated that defendant entered her room while she was reading a book and began touching her on her buttocks. After she tried to cover herself with clothing, defendant moved the clothing and touched her vagina with his hand. During the same period, defendant repeatedly touched the five-year-old sister's (J.T.'s) vagina. On one occasion, while babysitting the younger sister, defendant told her to lie next to him on the couch,

at which point defendant took off her clothing down to her underwear, reached inside her underwear, and rubbed her vagina with his hand. In addition, defendant touched her vagina while she sat on his lap during a purported "driving game" on two or three other occasions. The State then explained that, although both sisters attempted to tell their mother about the abuse, she did not believe them. The State added that the mother has since lost custody of both children.

¶ 7 In April 2016, the older sister's aunt noticed "tissue paper protruding from [the older sister's] underwear while she was dressing for church." When the aunt asked why the older sister had placed tissue in her underwear, she disclosed a separate incident of sexual abuse involving another individual who had allegedly touched her during the prior night (the State commented that this individual was subsequently charged with respect to this particular offense). During the ensuing hospital investigation, both sisters participated in forensic interviews and disclosed that defendant had also touched them inappropriately in response to a "routine question" regarding whether anyone else had ever touched them. The sisters further identified defendant in photo arrays independently, and two forensic interviews were also conducted in the "elected case" (*i.e.*, the case involving the five year old) to clarify these disclosures. Following his arrest in May 2020, defendant made post-*Miranda* statements acknowledging that he babysat the victims on at least 10 occasions and had sometimes been alone with them.

¶ 8 With respect to the second prong, the State argued that defendant posed a real and present threat to the safety of "multiple people, [including] everyone under the age of 18." In addition to emphasizing his prior violent convictions and the alleged sexual abuse of two young victims, the State noted that defendant had a pending Class 2 felony charge of possessing methamphetamine, two prior convictions for possession of a controlled substance, and convictions for aggravated robbery in Cook County and robbery in Peoria County, for which he received prison sentences of

5 years and 54 months, respectively. Finally, the State maintained that, under prong three, electronic monitoring and other conditions of release could not adequately mitigate the risk, particularly given defendant's access to children. The State referred specifically to defendant's statement that he has children, from which the State concluded that, if defendant were to go home, electronic monitoring would not prevent him from "encountering children." The State thus asked the court to detain defendant on both predatory criminal sexual assault charges.

¶ 9 In response, defense counsel challenged the strength of the State's proffer as to both complainants. Counsel argued that the State failed to establish that the proof is evident or the presumption great, or in the alternative, that conditions short of detention could mitigate any risk defendant poses. Counsel noted that defendant has remained in custody since 2020.

¶ 10 As to P.T., counsel recounted that her 2016 outcry initially identified a different individual, who has since been charged and whose case is pending. Counsel then confusingly stated, "What's interesting about that proffer is after the outcry was given to [P.T.'s] uncle, the people that named [defendant] were the uncle's sister[,] and the uncle's mother then named [defendant] as a possible suspect, as well." Counsel then noted that the minor named defendant in a subsequent forensic interview. Counsel emphasized that no arrest warrant was issued and defendant was neither arrested nor questioned at that time, and that the matter did not develop further until approximately four years later. As to J.T., counsel noted that the alleged conduct occurred in 2015 or 2016, but the outcry did not occur until 2019, while the complainant was in the custody of the Department of Children and Family Services (DCFS) and being interviewed regarding two unrelated allegations of abuse within her home. Counsel argued that (1) the span of time between the two outcries (*i.e.*, the sisters' outcries were separated by roughly three years) and (2) the time elapsed

between the alleged incidents and the respective outcries (four years and three years, respectively) undermined the strength of the evidence against defendant.

¶ 11 Counsel further argued that defendant has no criminal history involving sex offenses, is the father of two children, and had been the primary financial provider for the family (including his disabled girlfriend) prior to his arrest. Counsel added that defendant's son was placed with DCFS due to defendant's incarceration and the mother's "not [being] available to take care of the child" but that defendant was "still fighting for his parental rights in civil court."

¶ 12 As to dangerousness, counsel argued that defendant poses no risk to the public or to the complainants. Counsel argued that defendant had neither seen nor had contact with the complainants for several years before his arrest. Counsel further posited that a combination of conditions could mitigate any risk, including 24-hour home confinement. Counsel noted that, because defendant's children are in DCFS custody and any contact would be supervised through the State, home confinement would not place defendant in the presence of children. Finally, counsel argued that nothing in defendant's background suggests he would fail to comply with conditions of Pretrial Services, and that, in light of the facts of the case and defendant's character, conditions exist that could mitigate any public-safety risk.

¶ 13 The trial court then announced its findings. The court found that the State established by clear and convincing evidence that the proof is evident or the presumption is great that defendant committed predatory criminal sexual assault and that defendant posed a real and present threat to the safety of any person or persons or the community. The court stated that it recognized that it was "possible" to keep him away from the two victims, because it appeared that they were no longer in the custody of their mother (defendant's friend), who had provided defendant with "access" to the victims. The court nonetheless found that, based upon the allegations of sexually

assaulting both minors for a lengthy period of time, he was a "threat to any person, including people in the community." The court additionally found that there was no condition or combination of conditions that would mitigate the real and present threat that defendant posed, observing that electronic monitoring "doesn't really solve anything, because it looks like it happened either in his home or another person's home." The court thus ordered that defendant remain detained.

¶ 14 On June 3, 2026, defendant filed his motion for relief pursuant to the Act. Defendant first contended that the State failed to establish by clear and convincing evidence that the proof was evident or the presumption great that he committed the charged offenses. He recounted that P.T. initially identified another individual as the perpetrator during a 2016 forensic interview and did not identify defendant until January 2020. Similarly, defendant argued that J.T. did not accuse defendant of abuse until April 2019. Defendant further noted that the accused individual had been arrested and indicted for predatory criminal sexual assault against the same minors. According to defendant, the minors' mother stated that the minors "never made an outcry to her" regarding defendant sexually abusing them. Defendant further stated that the mother indicated that, following the outcry, she took the children to La Rabida Hospital, "cooperated with CPD," and took them for a forensic interview. Finally, defendant reported that the mother also indicated that "she had never been informed about the defendant sexually assaulting the minor children."

¶ 15 Defendant also argued that the State failed to establish that he posed a real and present threat to the safety of any person or the community or that no conditions of release could mitigate any threat or risk of flight. He maintained that the court improperly weighed the statutory factors because his criminal history involved only nonviolent offenses. Defendant further emphasized that he supported his two minor children and had family and community support from his father,

fiancée, and friends. He argued that any concerns could be addressed through conditions requiring him to appear in court, report address changes, commit no additional offenses, and participate in pretrial services with 24-hour home confinement.

¶ 16 On July 8, 2026, the trial court held a hearing on defendant's motion for relief. Defense counsel argued that the State had not established that the proof was evident or the presumption great as to the charged offenses. Counsel noted that defendant had been in custody since 2020, was 38 years old, had no prior violent felony convictions or allegations of criminal sexual assault, and had a fiancée, two children, and a father in the community whom he was supporting. Counsel further asserted that defendant had cooperated with police, had no history of failing to appear in court, and had presented no behavioral issues while in custody. Counsel maintained that conditions of release could adequately address any safety concerns and requested defendant's release with pretrial services and a 24-hour curfew.

¶ 17 In response, the State argued that the proof was evident and the presumption great that defendant committed the charged offenses, explaining that both victims identified defendant as the offender during forensic interviews. The State further argued that no condition or combination of conditions could adequately protect the victims or the public, emphasizing that defendant allegedly committed the offenses while babysitting the young victims inside a home, where electronic monitoring would not prevent further offenses. The State also noted defendant's prior criminal convictions and another pending case and requested that the court deny defendant's motion for relief. In response to the trial court, the State noted that defendant's "background" consisted of the following: a 2014 conviction for possession of a controlled substance resulting in a one-year sentence of imprisonment because defendant violated the original two-year probation term, a 2012 conviction for possession of a controlled substance resulting in a sentence of probation, a 2005

aggravated robbery conviction resulting in a five-year sentence of imprisonment, and a 2006 robbery conviction resulting in a 54-month prison sentence.

¶ 18 Following arguments, the trial court denied defendant's motion. The court found that defendant's continued detention was necessary to protect the public, and it found that there were no conditions or combination of conditions that would protect the public based upon the nature of the offenses and the allegations. The court noted that the victims alleged that the offenses took place in a home where defendant was present as a guest to babysit them. The court further noted that there were multiple offenses involving J.T. over a period of time. This appeal follows.

¶ 19 II. ANALYSIS

¶ 20 Defendant elected to file a memorandum on appeal as a supplement to his motion for relief. See Ill. Sup. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). In his memorandum, defendant argues that the trial court failed to conduct an individualized assessment of conditions of release. Defendant maintains that the State "failed to proffer any facts demonstrating dangerousness beyond the charges themselves," and thus the court's finding that he poses a real and present threat improperly rests solely upon the State's allegations. Defendant also claims that the State failed to prove that no condition or combination of conditions could mitigate that threat because there was "no individualized determination." Defendant asks that this court reverse the court's order and remand this matter for a hearing on conditions of pretrial release.

¶ 21 The parties initially disagree as to the scope of our review. Defendant argues that our review should be limited to the hearing on his motion for relief on February 17, 2026. Defendant states that evidence provided at the other-crimes hearing (that was held immediately prior to the motion-for-relief hearing) should not be considered, because that hearing concerned admissibility of trial evidence, not pretrial detention, and cites this court's holding that no new evidence should

be considered at a hearing on a motion for relief. See *People v. Williams*, 2024 IL App (1st) 241013, ¶¶ 25-29; but see *People v. Arrington*, 2026 IL App (4th) 260297 (disagreeing with *Williams*), *appeal allowed*, No. 133409 (Aug. 11, 2026).[1] The State responds that defendant has forfeited this argument because he failed to lodge any objection at the hearing and because defendant's motion for relief contains new evidence consisting of, *inter alia*, the minors' mother's claim that the minors never made an outcry to her and that the mother had never been informed that defendant had abused the minors. In any event, our holding is unchanged even considering, pursuant to *Williams*, only the evidence presented at the initial pretrial detention hearing.

¶ 22 Section 110-6.1(e) of the Code provides that "all defendants shall be presumed eligible for pretrial release." 725 ILCS 5/110-6.1(e) (West 2024). To detain a defendant, the State must show by clear and convincing evidence, that (1) the proof is evident or the presumption great that the defendant committed the offense, (2) the defendant poses a real and present threat to the safety of any person or the community based on the specific facts of the case, and (3) no conditions or combination of conditions exist that can mitigate this threat or defendant's willful flight. *Id.* Defendant's challenge here concerns the second and third prongs, the threat defendant poses to the community and conditions of his release that could mitigate that threat.

¶ 23 Section 110-5(a) of the Act requires in relevant part the following:

> "(a) In determining which conditions of pretrial release, if any, will reasonably ensure the appearance of a defendant as required or the safety of any other person or the

[1] We note that the State has stated in its appellee's brief before our supreme court that "[t]he parties agree that this Court's rules do not permit the circuit court to consider new evidence at a hearing on a motion for relief." See *Arrington*, No. 133409 (appellee's brief filed Oct. 23, 2026).

community and the likelihood of compliance by the defendant with all the conditions of pretrial release, the court shall, ***, take into account ***:

(1) the nature and circumstances of the offense charged;

(2) the weight of the evidence against the defendant, except that the court may consider the admissibility of any evidence sought to be excluded;

(3) the history and characteristics of the defendant, including:

(A) the defendant's character, physical and mental condition, *** criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current *** arrest, the defendant was on *** other release pending *** appeal[] or completion of sentence for an offense ***;

(4) the nature and seriousness of the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, that would be posed by the defendant's release, ***." 725 ILCS 5/110-5(a) (West 2024).

Section 110-5(c) of the Act states that any conditions of release imposed must be "the least restrictive *** necessary to reasonably ensure the appearance of the defendant as required or the safety of any other person or persons or the community." *Id.* § 110-5(c).

¶ 24 Since no live testimony was presented at the detention hearing, we review *de novo* the trial court's findings and its ultimate decision as to whether or not to detain defendant. *People v. Morgan*, 2025 IL 130626 ¶¶ 54-55. Finally, we may affirm the trial court's judgment on any basis apparent from the record. See *People v. Johnson*, 208 Ill. 2d 118, 128 (2003).

¶ 25 In this case, the trial court did not err in finding that defendant poses a real and present threat and that no condition or combination of conditions could mitigate that threat. At the hearing on defendant's motion for pretrial release, the State's proffer alleged that defendant, who has been

incarcerated since 2020, committed predatory criminal sexual assault of his friend's five- and nine-year-old daughters for about a one-year period beginning in March 2015 while he babysat them. The State's proffer further included defendant's criminal history: two robbery convictions (each resulting in lengthy prison sentences) and two controlled substance possession convictions (one of which resulting in a prison sentence due to a probation violation).

¶ 26 On these proffered facts, the court's decision to detain defendant did not rest solely on the charges, as in *People v. Stock*, 2023 IL App (1st) 231753, and *People v. Lopez*, 2025 IL App (2d) 240709. See. *Stock*, 2023 IL App (1st) 231753, ¶ 17 (observing that, with respect to possible conditions to mitigate the defendant's threat, "the State presented no evidence on this element"); *Lopez*, 2025 IL App (2d) 240709, ¶ 19 (noting that, regarding the second element, "the State relies on the general circumstances surrounding the charges"). Rather, they were amply supported by the specific facts unique to this case. Defendant, while left alone to babysit five- and nine-year-old sisters, sexually abused them over an approximate 12-month period. These alleged offenses establish that he remains a risk to the community, particularly to children.

¶ 27 Furthermore, the trial court did not err in finding that there was no condition or combination of conditions that could mitigate defendant's threat. Although defendant asserts that he no longer has access to the victims or even his son (who is apparently under the care of DCFS), the threat defendant poses is to the community and not limited solely to the two victims. In addition, defendant informed the court at the detention hearing that he was "still fighting for his parental rights," which presumably would include visitation, squarely placing his son at risk.

¶ 28 Even if subjected to home confinement with electronic monitoring, defendant would nonetheless be allowed, *at a minimum*, two days of unsupervised movement outside of the home. See 730 ILCS 5/5-8A-4(A-1) (West 2024) ("At a minimum, any person ordered to pretrial home

confinement with or without electronic monitoring must be provided with movement spread out over no fewer than two days per week, to participate in basic activities ***."). As such, we agree with the trial court that there is no condition or combination of conditions that would mitigate the risk defendant poses to the community.

¶ 29 We further reject defendant's argument that the delay in reporting lessens the risk he poses to the community. It is well established that there are often delays associated with a child's claim of having been sexually abused. See *People v. Santillan*, 2021 IL App (1st) 191377-U, ¶ 92 ("Delayed reporting is a common and well-documented phenomenon among child victims of sexual abuse."); see also *People v. Duplessis*, 248 Ill. App. 3d 195, 199-200 (1993) (stating that a young victim's delay in reporting sexual abuse can be attributed to fear of the offender or to shame, guilt, and embarrassment).

¶ 30 Moreover, the delay in reporting here is reasonable given the fact that the young girls' mother refused to believe their outcry to her, which would likely discourage them from bringing the matter up again. See *People v. Bitler*, 146 Ill. App. 3d 477, 481-82 (1986) ("it is often unlikely the child will discuss such a stressful incident with anyone but the mother") (citing *State v. Padilla*, 110 Wis. 2d 414, 419 (Ct. App. 1982) (observing that, in the context of whether a child's reporting of abuse to her mother constitutes an excited utterance, "a child is apt to repress the incident" and "it is often unlikely that a child will report this kind of highly stressful incident to anyone but the mother")). Fortunately, the girls did eventually restate their allegation in response to a routine question whether anyone else had abused them during the interview regarding a third-party's alleged abuse of them. We thus reject defendant's argument on this point.

¶ 31 Finally, defendant's reliance upon *People v. Robinson*, 2025 IL App (2d) 250123-U, and *People v. Riaz*, 2023 IL App (1st) 231833-U, does not alter our decision. At the outset, the

defendants in both cases had no prior histories, undermining the State's argument that the defendants posed a threat to a specific individual or the community. See *Riaz*, 2023 IL App (1st) 231833-U, ¶¶ 11, 25; *Robinson*, 2025 IL App (2d) 250123-U, ¶ 36 (recounting that the defendant had "*no* other criminal history, let alone a weapons history or other history that would suggest an ongoing threat of danger to the community" (emphasis in original)). In addition, with respect to possible mitigation of this threat, the defendant's lack of prior criminal history or the State's failure to argue the point undermined the State's claim that there were no such conditions available to mitigate the threat the defendant posed. See *id.* ¶ 37 (explaining that "defendant has no criminal history and, thus, no history of failing to obey court orders that would suggest he would not abide by any conditions of release imposed upon him"); *Riaz*, 2023 IL App (1st) 231833-U, ¶ 27 (noting that the State "presented no evidence on this element"). Here, by contrast, defendant has a lengthy criminal history, including his demonstrated failure to conform to probation conditions (resulting in his incarceration). This establishes both that defendant poses a threat to the community and that his ability to follow the trial court's orders is far from assured. Therefore, defendant's reliance upon *Riaz* and *Robinson* is unavailing.

¶ 32 III. CONCLUSION

¶ 33 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 34 Affirmed.