NOTICE
Decision filed 11/24/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260774-U

NO. 5-26-0774

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. VIRGIL L. HIGGINSON JR., Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Jefferson County. No. 26-CF-278 Honorable Evan L. Owens, Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court.
Justices Barberis and Bollinger concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's orders granting the State's verified petition to deny pretrial release and denying the defendant's motion for relief are affirmed.

¶ 2 The defendant, Virgil L. Higginson Jr., appeals from the Jefferson County trial court's August 24, 2026, order granting the State's petition to deny pretrial release, as well as the court's September 1, 2026, order denying his motion for relief and immediate release. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 21, 2026, the defendant was charged with one count of unlawful failure of a sex offender to report, a Class 2 felony. 730 ILCS 150/6 (West 2024). He was additionally charged

with five counts of possession of child pornography, Class 2 felonies.[1] 720 ILCS 5/11-20.1(a)(6)(vii) (West 2024).

¶ 5 The State filed a verified petition to deny the defendant pretrial release on August 21, 2026, alleging that the defendant committed a detainable offense, being in possession of child pornography, and his pretrial release posed a real and present threat to the safety of any person or persons or the community. 725 ILCS 5/110-6.1(a)(5) (West 2024).

¶ 6 The matter proceeded to a hearing on August 24, 2026. The State provided its factual basis by proffer, based upon reports from the Mt. Vernon Police Department (MVPD) and the Jefferson County Sheriff's Office (JCSO), as well as the pretrial investigation report. The State asserted that Officers Mellot, Hails, and Keoghan of the MVPD and JCSO, on August 20, 2026, performed a warrant check in Mt. Vernon, Illinois. While at the address for a different individual, the officers encountered the defendant living in a tent on the property. Officers learned that the defendant was a registered sex offender and obtained consent to search the defendant's tent for any other individuals or items inside. The search revealed a cell phone that belonged to the defendant, who gave consent to Detective Hails to search it.

¶ 7 Detective Hails discovered a Facebook application which was logged into an account registered to the defendant's name, with a profile picture of him, on the phone. Hails also observed a Google Chrome application, and the search history contained search terms that were primarily "focused on things of a sexual nature and specifically referring to individuals who could be construed as minors or otherwise underage." The State tendered an exhibit to the court, which displayed the defendant's search history on the Google Chrome application. When asked if there

[1]We acknowledge that the Illinois legislature modified the language of this statute from "child pornography" to "child sexual abuse material." 720 ILCS 5/11-20.1(a) (modified by Pub. Act 104-245 (eff. Jan. 1, 2026)). However, we will use the "child pornography" terminology in use at the time the record was created for the purposes of consistency and clarity in this decision.

was any child pornography on the phone, the defendant denied any and stated that if there was, he "would not have been the one who had put it there." Hails confirmed with the JCSO that the defendant was a registered sex offender and the record keeper, McIlrath, called the registered cell phone for the defendant, which caused the defendant's phone to ring in Hails's hand. McIlrath informed Hails that the defendant did not have a registered social media account for the Facebook profile on his phone. Hails then placed the defendant under arrest. Detective Titzer of the JCSO conducted an extraction of the defendant's cell phone and five photographs were "flagged," which resulted in the child pornography charges.

¶ 8 Defense counsel proceeded by proffer, stating that the defendant resided in a vacant lot on South 24th Street in Mt. Vernon, Illinois. He was 72 years old and had a GED. He was a lifelong resident of Jefferson County and had family ties to the area. He was on disability and retired. He was not on probation, parole, or work release at the time of his arrest. He did not have a failure to appear in court. Further, the defendant did not "believe that Google would allow any juvenile porn to be found on it" as a result of his internet searches. He denied all charges of child pornography.

¶ 9 The State proceed to argument, asserting that the proof was evident or presumption great that the defendant committed a qualifying offense, being five counts of possession of child pornography, which was discovered in addition to his failure to register a social media account as required of a sex offender. The defendant was also on pretrial conditions in Jefferson County case No. 26-CF-174, a separate Class 2 felony charge for failure to register as a sex offender. The defendant had three convictions for failure to register as a sex offender in 2014, 2010, and 2008. He was sentenced to the Illinois Department of Corrections for each conviction. The defendant's criminal history also included theft, driving under the influence, aggravated driving under the influence, and aggravated criminal sexual abuse involving a victim under the age of 13. The State

argued that there was no less restrictive condition or combination of conditions that would ensure that the defendant would not continue to violate the law and that his pretrial detention was necessary to protect the public, particularly minor female children.

¶ 10 Defense counsel argued that the defendant denied all charges, did not present a threat to any person or persons of the community, there were no injuries or weapons alleged, and he would fully abide by all pretrial release conditions. Defense counsel asked for the defendant's release with home confinement and electronic monitoring.

¶ 11 The circuit court found, by clear and convincing evidence, that the proof was evident or presumption great that the defendant committed a detainable offense, that he posed a real and present threat to the community, and that no condition or combination of conditions would mitigate the defendant's threat. The court stated that it based its decision on the defendant's criminal history and the evidence presented by the State. The court denied the defendant pretrial release. The same day, the circuit court entered an order for detention.

¶ 12 Defense counsel filed a motion for relief and immediate release on August 28, 2026. The motion alleged that the State failed to meet its burden of proving, by clear and convincing evidence, that the proof was evident or the presumption great that the defendant committed a qualifying offense, that he posed a real and present threat to the safety of any person or persons or the community, and that no condition or combination of conditions could mitigate the real and present threat. The motion argued that the circuit court failed to fully consider the defendant's willingness to abide by any terms of pretrial release, that no injuries resulted from the alleged offense, and his ties to the community.

¶ 13 The matter proceeded to a hearing on September 1, 2026. Defense counsel reiterated the factual proffer provided during the initial hearing and argued that the trial court failed to consider

the factors listed in the motion for relief. Defense counsel stated that the defendant would abide by any terms of pretrial release, there were no injuries or weapons alleged, and less restrictive conditions could ensure the safety of any person or persons of the community. Defense counsel asked for the defendant's release with electronic monitoring.

¶ 14 The State provided the same factual proffer from the initial hearing and the defendant's criminal history. The State said that its position was unchanged from the initial hearing and argued that the defendant posed a danger to the community, specifically to female children. The defendant was also on pretrial release for failure to register as a sex offender when he was arrested, which showed that less restrictive means were attempted "to no avail" in the defendant's case. The State asked that the defendant remain detained.

¶ 15 The trial court stated that it considered the arguments of counsel, the charging documents, and the pretrial investigation report. It stated that the defendant had "a history of abuse of children" and of violating the Sex Offender Registration Act. The defendant was on pretrial release at the time of the offense. The court considered the nature of the offense as well, and stated that the defendant was "a threat to society as a whole" based on the proffer. The court denied the defendant's motion for relief, stating that no conditions would be sufficient because the defendant demonstrated that he would not follow conditions through his violations of the Sex Offender Registration Act and his terms of pretrial release. The defendant appealed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, the Office of the State Appellate Defender (OSAD) was appointed as appellate counsel. The defendant was permitted, but not required, to file a memorandum on appeal. OSAD never filed a memorandum or a notice in lieu of a memorandum pursuant to Rule 604(h)(7). "Issues raised in the motion for relief are before the appellate court regardless of whether the optional

memorandum is filed." Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). Therefore, our review is limited to the issues raised in the motion for relief.

¶ 18 The defendant's motion for relief states the following:

> "7. The Court erred in granting the State's Petition to Deny Pre-Trial Release at [the initial detention hearing], in that the State failed to meet its burden of proving by clear and convincing evidence any of the above in that:
>
> a. The Court failed to fully consider Defendant's willingness to abide by any terms of pretrial release.
>
> b. The Court failed to fully consider the fact that no injuries resulted from the alleged offense.
>
> c. The Court failed to fully consider Defendant's family ties to Jefferson County."

¶ 19 While not argued by the State on appeal, we find that the defendant has waived all argument on appeal for failure to provide sufficient arguments with citations to any relevant authorities. Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024).

¶ 20 "Whether 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." Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024). 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. A reviewing court "cannot be expected to formulate an argument for defendant out of whole cloth." *People v. Inman*, 2023 IL App (4th) 230864, ¶ 13.

¶ 21 "[D]efendants 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." *People v. Post*, 2025 IL App (4th) 250598, ¶ 23. Failure to comply with Rule 604(h)(7)'s requirement of presenting arguments with sufficient detail to enable meaningful appellate review constitutes waiver of the issue on appeal. Ill. S. Ct. R. 604(h)(7), (2) (eff. Apr. 15, 2024). Unlike forfeiture, which is a limitation on the parties, waiver is a limitation on this court and precludes review. *People v. Nettles*, 2024 IL App (4th) 240962, ¶ 29 (citing *United States v. Flores*, 929 F.3d 443, 447 (7th Cir. 2019) ("We reviewed forfeited arguments for plain error, whereas waiver extinguishes error and precludes appellate review.")).

¶ 22 In the present case, the defendant's motion for relief asserts that the circuit court erred in granting the State's petition to deny his pretrial release due to the State's failure to meet its burden of proof for "any of the above," which includes the elements of the statute: that the proof is evident or presumption great that the defendant committed a qualifying offense, that he poses a real and present threat to the safety of any person or the community, and that no condition or combination of conditions can mitigate that threat. The motion for relief serves more than one purpose. *People v. Patterson*, 2025 IL App (1st) 250510, ¶ 18. Its initial purpose is to give the aggrieved party an opportunity to draw the trial court's attention to any errors it may have made in the initial release determination and give the court an opportunity to correct them. *Patterson*, 2025 IL App (1st) 250510, ¶ 18. But it also "crystalizes and frames the issues for appeal." *Patterson*, 2025 IL App (1st) 250510, ¶ 19.

¶ 23 Rather than clearly arguing how the State failed to prove each element of the statute, defense counsel instead provided a list of factors the trial court "failed to fully consider." The arguments in the motion for relief are undeveloped. They are not applied to each element of pretrial detention and do not explain why the factors presented outweigh the other elements the trial court could consider in determining detention, such as the defendant's criminal history. The motion asserts that the trial court failed to consider the defendant's willingness to abide by pretrial release conditions, but does not argue how this consideration would outweigh the defendant's history and current status on pretrial release conditions in a different case with the same offense of failure to register as a sex offender. Outside of the case law introducing the pretrial detention standard of review applicable on appeal, the motion for relief does not provide any citations to relevant authorities that would be pertinent to the defendant's case.

¶ 24 These "[b]are contentions in the absence of argument or citation of authority do not merit consideration on appeal." *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). Reviewing courts are entitled to have the issues clearly defined, pertinent authority cited, and cohesive arguments presented. *Saville*, 253 Ill. App. 3d at 682. The purpose of requiring the appellant's memorandum or motion for relief to contain detailed arguments is, as explained by the task force that recommended its adoption, to prohibit just such a conclusory argument in pretrial-release appeals:

> "We believe that this rule is essential to discourage the boilerplate 'arguments' we have seen in the existing check-the-box notice of appeal. We remain ever mindful that, as appellate judges, *we may not serve as advocates for a party*. Presentation of the appellant's argument in a cursory manner pressures the court to abandon the role it is ethically obligated to play: that of a neutral arbiter." (Emphasis added.) Ill. S. Ct. Pretrial Release Appeals Task Force, Report and Recommendations 8 (2024), https://

ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/628434e3-d07f-4eadb1f6 4470d7e83bf3/Pretrial%20Release%20Appeals%20Task%20Force%20Report_March%202024.pdf [https://perma.cc/LL5Y-R4FN].

People v. Hood, 2026 IL App (1st) 260117-U, ¶ 13.

¶ 25 The defendant does not provide any specific argument as to the elements within his motion for relief, and it is not this court's position to argue and advocate on his behalf as to how these elements impact his pretrial detention. As the defendant has not provided any argument within his motion for relief that would contain sufficient detail to enable meaningful appellate review, he has waived all argument on appeal. Due to the defendant's waiver, any potential error has been extinguished. As such, the trial court's detention order and denial of the motion for relief are affirmed.

¶ 26 III. CONCLUSION

¶ 27 Based on the foregoing reasons, we affirm the trial court's orders of August 24, 2026, and September 1, 2026.

¶ 28 Affirmed.