2026 IL App (1st) 261128-U

SECOND DIVISION
September 18, 2026

No. 1-26-1128B

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 26CR4769
	)	
KANIYAH WILLIAMS,	)	Honorable
	)	Antara Rivera and Thomas J. Byrne,
Defendant-Appellant.	)	Judges Presiding.

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice D.B. Walker and Justice Van Tine concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's pretrial detention order affirmed where the State's proffer established that the proof was evident or presumption great that defendant committed a detainable offense; that she posed a real and present safety threat; and that there were no conditions or combination of conditions short of detention which could mitigate that threat.

¶ 2 Defendant, Kaniyah Williams, appeals the trial court's order granting the State's verified petition for pretrial detention pursuant to section 110-6.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1 (West 2024)). That detention order follows multiple charges of aggravated battery filed against defendant stemming from an April 14, 2025, incident. During that

incident, defendant is alleged to have sprayed bear mace into a vehicle occupied by the three-year-old victim, A.H.; his mother; and two other adults.[1]

¶ 3 Defendant was arrested about a year later, on April 15, 2026. The following day, the State filed a petition for a pretrial detention hearing, alleging the proof was evident or the presumption great defendant committed the detainable offenses of aggravated battery of a child and aggravated battery on a public way. The State also alleged that defendant posed a real and present threat to the community based on the specific articulable facts of the case, and that no condition or combination of conditions could mitigate that threat.

¶ 4 That same day, defendant appeared before the Honorable Antara Rivera. A representative of pretrial services stated that defendant had scores of "New criminal activity 3, failure to appear 3, PSA coincides with supervision level 1."

¶ 5 The State proffered that at approximately 9 p.m., on April 14, 2025, Victim 1 picked up her son, A.H., from his father's house near the 5100 block of South Calumet Avenue. Victim 1 and her son entered a silver SUV driven by Witness 1, and Victim 2 was seated in the passenger seat. Victim 2 observed a vehicle approach which she believed was occupied by defendant and co-defendant. Victim 2 told the driver to hurry and leave the area. Defendant's vehicle pulled alongside their vehicle and defendant and co-defendant approached holding cans of bear mace. Victim 1 knew the cans contained bear mace because defendant and co-defendant were known to carry bear mace. Victim 1 told defendant and co-defendant not to do anything because her son was in the car. Co-defendant then stated, "I don't give a f***" and both defendant and co-defendant

[1] In order to preserve the minor victim's anonymity, we will refer to him using initials, and we will also refer to the adults as "Victim 1," "Victim 2," and "Witness 1," the descriptive names used by the parties during the hearings at issue.

sprayed bear mace through the driver's window, into the vehicle towards the backseat. A.H. began crying and gagging, and all of the occupants' eyes and bodies were burning.

¶ 6 Victim 1 exited the vehicle with A.H., and an unknown male bystander arrived in a van and offered to help. Victim 1 and A.H. entered the van, and asked the bystander to take them to the hospital. Defendant and co-defendant approached the bystander's van and sprayed bear mace at Victim 1 and A.H. while they were seated inside. At this point, A.H.'s father arrived in a vehicle. Victim 1 and A.H. exited the van and entered A.H.'s father's vehicle, and he drove them to the hospital. Defendant and co-defendant fled the scene.

¶ 7 Victim 1 took photographs of A.H.'s injuries after they left the hospital. Those photos showed a red rash on his face, lips, arms, and chest. Medical records indicated that A.H. was "afflicted with a chemical reaction due to pepper spray exposure, restricting his airway."

¶ 8 Victim 1 went to the police station the next day and reported the incident. Both Victim 1 and Victim 2 positively identified defendant and co-defendant as the offenders who sprayed mace inside of the vehicles.

¶ 9 The State further asserted that defendant's criminal background included two 2023 felony convictions for retail theft in Lake County; a 2021 felony retail theft conviction in Cook County; a 2019 misdemeanor retail theft conviction, which "included a count of obstruction of identification" in Cook County; two 2020 misdemeanor retail theft convictions in Wisconsin; and juvenile adjudications for battery in 2016 and robbery in 2013. The probation terms associated with her 2013 robbery juvenile adjudication, and her 2021 felony retail theft, were terminated unsatisfactorily, and the probation term associated with her 2023 felony retail theft conviction terminated five months before this offense.

¶ 10 Turning to the required elements, the State first explained that it was filing the petition "under the residual clause, the forcible felony section of the Pretrial Fairness Act as *** there was a threat of great bodily harm here for this defendant to spray bear mace into a vehicle." Based on the above proffer, the State argued the proof was evident and the presumption great that defendant committed the offenses. The State noted that the two victims knew defendant for several years and identified her as one of the offenders who sprayed the bear mace. The State also argued defendant posed a real and present threat to the victims and the community where defendant sprayed bear mace, a "caustic spray that causes pain and irritation," into a vehicle knowing a three-year-old child was inside. The State asserted that bear mace "causes a threat of great bodily harm," and that although it is a "non[-]lethal deterrent, *** it's -- a non[-]lethal deterrent against bears. Large mammals. *** [T]his was used in a small space [in] a car occupied by multiple individuals, including a 3-year-old autistic child." The State further explained that the substance used by defendant "can cause eye damage, respiratory harm and skin issues as well."

¶ 11 A.H.'s injuries included a restricted airway and burns to his body. The State asserted that it was "harmful, obviously, to spray a substance like that into a vehicle that's occupied with other people, given that it's a small space, and if someone has to drive that car, they might not be able to see. So it's a very dangerous situation." The State also explained that defendant sprayed the bear mace into the vehicle, even after Victim 1 told the perpetrators that her child was in the car. The State observed: "We don't know the history between the parties here, but defendant is willing to take whatever disagreement it was to a point where she's spraying bear mace into a car occupied by multiple individuals, including a 3-year-old child."

¶ 12 Finally, the State argued that no condition or combination of conditions could mitigate the risk that defendant poses, because the proffer showed she was a violent offender, she had only

recently completed felony probation at the time of the offense, and she completed two other probation terms unsatisfactorily. The State argued that defendant "has a history of violating probation and picking up new cases" while under conditions of release, and accordingly, she was "not likely to comply" if the court ordered conditions of release here.

¶ 13 Defense counsel responded that defendant "wholly and vehemently denies the allegations against her." At the time of the offense, defendant was pregnant, and "in no position to be doing what she is alleged to have been doing on this date and time."

¶ 14 Defense counsel also "move[d] to strike the petition," because "the charges do not constitute a forcible felony within the residual clause of the [Pretrial Fairness Act]." Defense counsel argued that, under that residual clause, the State "must demonstrate either a threat of or actual great bodily harm." Counsel argued that the State alleged that there was a "threat of harm," but "actual contact occurred, *** so we don't need to dive into a world of hypothetical threats that could have happened." Counsel further argued that the injuries to A.H. were "minor," that the complaining witnesses "did not suffer any permanent damage," and there was "no threat of great bodily harm." Because there was "no threat of great bodily harm," counsel argued that defendant was "charged with a non[-]detainable offense."

¶ 15 As to the second prong, defense counsel argued that defendant did not pose a safety threat because there was no great bodily harm involved in the offense, and it was not alleged that defendant made any "repeated contact" with the complaining witnesses. Counsel also stated that no weapon or firearm was involved, and defendant was not arrested until a year after the offense.

¶ 16 Counsel further asserted that defendant's criminal background did not include any firearm related offenses, or felony convictions for "crimes of violence." Defendant was a "mother of three," with one child being a newborn, and she was studying to become a phlebotomist. Counsel

argued electronic monitoring with a curfew would be sufficient to mitigate any risk posed and would prevent any contact with the victims.

¶ 17 In ruling, the court found that the charged offenses of aggravated battery in a public place and aggravated battery of a child were detainable under the Act, and that the proof was evident and the presumption great defendant committed those offenses. The court explained that the proffered evidence showed that defendant sprayed mace into the rear area of the vehicle despite knowing a child was inside, and defendant pursued the victims to a second vehicle and sprayed mace inside that vehicle as well. A.H. sustained chemical burns about his body, and photographs were taken of his injuries. The court also noted that the victims knew defendant and identified her in a photo array, and those identifications occurred soon after the incident.

¶ 18 As to the second prong, the court found that defendant posed a danger not only to the victims, but also to a bystander who attempted to assist the victims. The court found that defendant's actions were "deliberate," in that she approached the vehicle knowing who was inside, sprayed mace inside the vehicle despite being aware that a child was in the backseat, and then followed the victims to a second vehicle and sprayed mace into that car as well. The court considered defendant's juvenile adjudications for robbery and battery, finding it aggravating that defendant began committing forcible and violent felonies "at an early age."

¶ 19 Finally, the court held that no condition or combination of conditions could mitigate the threat posed by defendant. The court explained that the proffered evidence suggested that defendant "had some sort of issue" with Victim 1, and when she "get[s] upset," she turns to using a "chemical object." And while the court did not know if defendant "had an issue with" A.H., defendant "didn't care that [A.H.] was in the car" when she sprayed the mace inside, and then pursued them to a different vehicle and sprayed again. The court found that the "chemical object"

used by defendant was "just as dangerous as using a dangerous weapon" because it could "harm someone, gravely" or "maybe even fatally," and the actual injuries suffered by A.H. in this case were "extensive[ ]." Finally, the court also considered defendant's flight after the incident as indicative of her intent to "evad[e] arrest and prosecution."

¶ 20 Accordingly, the court granted the State's petition and ordered defendant detained pending trial.

¶ 21 On May 21, 2026, defendant filed a motion for relief. Defendant argued that the State failed to present clear and convincing evidence that "the proof was evident and presumption great" that she committed a detainable offense because the witnesses "did not actually observe bear mace on the day of the incident," defendant "was not arrested with bear mace," and no evidence suggested that she "ever purchased bear mace." Defendant also argued that the charges did not "allege great bodily injury or the threat thereof" because the adults were "unscathed," and the child "did not suffer from any permanent or life-altering injuries."

¶ 22 Defendant further argued that the court erred in finding that she posed a real and present threat, because she was arrested a year after the incident occurred. Defendant asserted that "if this incident was indeed the dangerous act that it was characterized as by the Court, then it is just as significant that [defendant] spent the year after the incident without any violent criminal activity." Defendant contended that, "[t]o the extent that [defendant] was a danger to [the] specific individuals" involved in the incident, she "has proven throughout this year that she will not contact these individuals."

¶ 23 Defendant also argued that the court "ignored" the mitigating evidence that defendant "was pregnant at the time of the incident," that she had since given birth to a daughter, and that defendant's detention has "had a significant impact on her and her child's health." Defendant stated

that before her detention, she was employed, was helping to support her mother, and was studying to be a phlebotomist.

¶ 24 Finally, defendant asserted that the court erred in finding that no condition or combination of conditions could mitigate the threat she poses. Defendant contended that she had "demonstrated throughout the last year that she can comply with laws and police, as she was not arrested for any additional offenses and was arrested without incident. Essentially, she has proven to this Court that she is capable of pretrial release before she was arrested for this case."

¶ 25 The Honorable Thomas J. Byrne held a hearing on defendant's motion for relief that same day. At that hearing, defense counsel argued that she "believe[d] that [defendant] is being held on a non-detainable offense" and that there was no "clear and convincing evidence that there was, in fact, bear mace" used by defendant. Counsel agreed that "clearly a substance was expelled, and this substance did cause injury," however "this injury did not arise to the level of great bodily injury." Counsel further argued that there was "no threat of great bodily injury because in this case injury did occur, so we know what that injury was and it wasn't great bodily injury."

¶ 26 Defense counsel also argued that defendant was not a safety threat, because she was arrested a "year after the incident," and during that time, she did not have any further interactions with the victims and she was not arrested for any other offense, which "demonstrated that when she is on pretrial release, she is not going to be a danger to the community."

¶ 27 In ruling on defendant's petition, the court found that this "was a detainable offense." The court considered that defendant "engaged" in "two separate attacks," one of which was while Victim 1 was attempting to obtain medical attention for A.H. following the first attack. The court then stated that, "whether or not" A.H. suffered

> "great bodily harm or some other type of bodily harm, it's clear to this Court that the defendant does pose a danger to the community at large. Anyone who would engage in that type of conduct is a person who presents danger to the community at large, specifically those individuals that are helpless and are just a byproduct of her outrage, anger, and lack of self[-]control."

¶ 28 The court also "consider[ed] her prior background," which indicated that "she is not a person who is inclined to follow court orders, which would be a requirement of any pretrial release."

¶ 29 Accordingly, the court denied defendant's motion for relief, and found her continued detention was necessary.

¶ 30 On June 3, 2026, defendant filed a timely notice of appeal under Rule 604(h).

¶ 31 Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act or Pretrial Fairness Act (Act) amended the Code by "abolishing traditional monetary bail in favor of pretrial release on personal recognizance or with conditions of release." *People v. Hongo*, 2024 IL App (1st) 232482, ¶ 20. "Section 110-6.1(e) of the Code presumes that all defendants are eligible for pretrial release and places the burden of justifying pretrial detention by clear and convincing evidence on the State." *People v. Stock*, 2023 IL App (1st) 231753, ¶ 11; 725 ILCS 5/110-6.1(e) (West 2024).

¶ 32 For the State to obtain an initial detention order, the Act requires three showings by "clear and convincing" evidence:

> "(1) that the proof is evident or the presumption great that the defendant has committed a qualifying offense (725 ILCS 5/110-6.1(e)(1) (West 2022)), (2) that the defendant's pretrial release poses a real and present threat to the safety of any

> person or persons or the community (725 ILCS 5/110-6.1(a)(1)-(7), (e)(2) (West 2022)) or a likelihood of willful flight to avoid prosecution (725 ILCS 5/110-6.1(a)(8), (e)(3) (West 2022)), and (3) that no condition or combination of conditions can mitigate the real and present threat to the safety of any person or the community or prevent the defendant's willful flight from prosecution (725 ILCS 5/110-6.1(e)(3) (West 2022))." *Hongo*, 2024 IL App (1st) 232482, ¶ 20.

¶ 33 The State or the defendant may present evidence to the trial court by way of proffer based upon reliable information. 725 ILCS 5/110-6.1(f)(2) (West 2024). Our standard of review of pretrial release determinations is dependent on whether the trial court heard live witness testimony or whether the parties proceeded solely by proffer or submission of documentary evidence. Where the parties to a pretrial detention hearing proceed solely by proffer or submission of documentary evidence, this court stands in the same position as the trial court and may conduct its own independent review of the proffered evidence, thus reviewing the record *de novo*. *People v. Morgan*, 2025 IL 130626, ¶ 54. In this case, the parties proceeded by proffer, and accordingly, we will review defendant's detention order *de novo*. *Id.*

¶ 34 Defense counsel filed a notice in lieu of a Rule 604(h) memorandum in this court on August 24, 2026. In that notice, defendant elected to stand on the motion for relief and not file the optional Rule 604(h) memorandum. Accordingly, defendant's motion for relief shall serve as her argument in this appeal. See Ill. S. Ct. R. 604(h)(7) (eff. Apr. 15, 2024) ("The motion for relief will serve as the argument of the appellant on appeal. *** Issues raised in the motion for relief are before the appellate court regardless of whether the optional memorandum is filed.").

¶ 35 In defendant's motion for relief, she argued that the State failed to present clear and convincing evidence that "the proof was evident and presumption great" that she committed a

detainable offense; that she posed a real and present threat; and that there were no condition or combination of conditions short of detention which could mitigate the threat she poses. We will address each issue in turn.

¶ 36 Defendant first asserts that the State failed to present clear and convincing evidence that the "proof was evident and presumption great"[2] that she committed a detainable offense.

¶ 37 Section 110-6.1(a)(1.5) provides that a defendant may be detained pending trial if he or she is charged with a "forcible felony." That section defines "forcible felony" to mean any of an enumerated list of 18 felonies, or "any other felony which involves the threat of or infliction of great bodily harm or permanent disability or disfigurement." 725 ILCS 5/110-6.1(a)(1.5) (West 2024). This latter portion of the section has been termed "the residual clause," as we explain below.

¶ 38 Both parties agree that defendant was detained under the residual clause of section 110-6.1(a)(1.5). Defendant, however, contends that the charged aggravated battery offense does not qualify under the residual clause because the charge "did not allege great bodily injury or the threat thereof," because the adults were allegedly "unscathed," and because A.H. "did not suffer from any permanent or life-altering injuries."

¶ 39 Before turning to defendant's argument, we note that appellate courts in the third and the fourth districts have found that, because "aggravated battery resulting in great bodily harm or permanent disability or disfigurement," is one of the enumerated felonies in section 110-6.1(a)(1.5), other forms of aggravated battery cannot qualify as a forcible felony under the residual

[2] Although defendant's argument suggests that the State must make both showings, we note that under section 110-6.1(e)(1), the State must show that *either* "the proof is evident *or* the presumption great that the defendant has committed a qualifying offense." (Emphasis added) 725 ILCS 5/110-6.1(e)(1) (West 2024).

clause when it does not actually result in such harm. Those courts have reasoned that the residual clause's use of "any other felony" means

> "any felonies other than those listed. As the statute specifically enumerated a subset of aggravated battery as a forcible felony (aggravated battery resulting in great bodily harm or permanent disability or disfigurement), 'other felony' must refer to felonies *other than* aggravated battery, not different subsets of aggravated battery like we have here." (Emphasis in original). *People v. Grandberry*, 2024 IL App (3d) 230546, ¶ 12; see also *People v. Brooks*, 2024 IL App (4th) 240503, ¶¶ 20, 21 (Following the reasoning of *Grandberry*).

¶ 40 Other reviewing courts, however, have found that the court in *Grandberry* "improperly focused on the single word 'other' in interpreting section 110-6.1(a)(1.5)," and

> "viewing the statute as a whole, including the legislature's use of the words '*any* other felony' that '*involves* the threat of or infliction of great bodily harm or permanent disability or disfigurement,' it is our view that the legislature included a residual clause to serve as a 'catch-all' mechanism, which allows the circuit courts to examine the specific facts and circumstances of the charged offense and determine whether the defendant's conduct implicates the residual clause of section 110-6.1(a)(1.5). It is our interpretation that the legislature's inclusion of the residual clause was intended to focus on whether the conduct *threatened* or *caused* great bodily harm—not on the specific felony offense committed. It is clear that the circuit court is in the best position to evaluate the specific facts and circumstances of each case and determine if pretrial release is appropriate or if detention is necessary to protect the public." (Emphasis in original) *People v. Duncan*, 2024 IL

App (5th) 240588, ¶ 29.

¶ 41 In defendant's motion for relief, she did not argue that the aggravated battery offense she was charged with is not detainable because it was not the type of aggravated battery specifically enumerated in the statute. Rather, she argued that the charged offense was not detainable under the residual clause because it did not involve actual, or the threat of, great bodily harm. Thus, we could find that she has forfeited any such argument based on the reasoning of *Grandberry*, 2024 IL App (3d) 230546. See Ill. S. Ct. R. 604(h)(7) ("Whether made in the motion for relief alone or as supplemented by 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"); *People v. Woods*, 2024 IL App (3d) 230592, ¶ 32 (holding that undeveloped arguments in pretrial detention appeals are forfeited).

¶ 42 Forfeiture aside, we would agree with the appellate courts which have found that aggravated battery can be detainable under the residual clause, so long as it "involves the threat of or infliction of great bodily harm or permanent disability or disfigurement." 725 ILCS 5/110-6.1(a)(1.5) (West 2024); see *Duncan*, 2024 IL App (5th) 240588, ¶ 29 (the defendant's conduct supporting the charged offense of aggravated battery by strangulation was "precisely the conduct the legislature contemplated when including the residual clause in section 110-6.1(a)(1.5)."); *People v. Davis*, 2026 IL App (1st) 260457-U, ¶ 17 (finding "aggravated battery of a transit passenger" to be detainable under the residual clause); *People v. Marion*, 2026 IL App (2d) 260203-U ¶¶ 4-5 (finding aggravated battery to a child under section 720 ILCS 5/12-3.05(b)(2) to be a detainable offense).

¶ 43 Accordingly, we turn to the argument that defendant did make in her motion for relief—that the offense charged in this case is not detainable under the residual clause because it did not involve great bodily harm, or "the threat of" great bodily harm when the adult victims were unharmed and A.H. "did not suffer from any permanent or life-altering injuries."

¶ 44 Defendant's focus on the actual injuries suffered by A.H. and the other victims misses the mark. The residual clause uses the disjunctive "or," meaning that a charged offense may qualify if it *either* (1) involves the threat of great bodily harm, *or* (2) involves the infliction of great bodily harm. These are separate prongs, and the fact that a victim did not actually suffer great bodily harm does not establish that the defendant's conduct did not threaten to cause it; it may simply reflect that the defendant was fortunate, that the victim was resilient, or that the harm was mitigated by other circumstances.

¶ 45 In *People v. Delaney*, 2024 IL App (5th) 240231, the State sought to detain the defendant pretrial based on the charged offense of aggravated fleeing or attempting to elude a peace officer. The proffered facts established that the defendant fled from police, driving 87 miles per hour in a 55-mile-per-hour zone. *Id.* ¶ 4. Defendant's vehicle crossed a median and hit another driver head on. *Id.* ¶ 6. The other driver declined medical treatment at the scene. *Id.* ¶ 7. The trial court found that the charged offense was not detainable, because the State had not shown that the defendant "contemplated the threat of" great bodily harm from his actions. *Id.* ¶ 11. The fifth district appellate court reversed, finding that the statute had no such intent requirement, and that an offense qualifies under the residual clause "when the circumstances of a particular case show that defendant's actions actually threatened or inflicted great bodily harm, permanent disability, or disfigurement." *Id.* ¶¶ 19-25.

¶ 46 As *Delaney* illustrates, courts applying the residual clause focus on the harm that the conduct *threatened*, not on what it ultimately produced. *Id.*; see also *Duncan*, 2024 IL App (5th) 240588, ¶¶ 5, 31 (finding that defendant's offense based on strangling the victim could qualify as detainable under the residual clause, despite the victim suffering only "red markings" to her neck); *People v. Tooks*, 2024 IL App (4th) 240259-U (charged offenses of harassment by telephone and harassment through electronic communications were detainable where defendant made phone calls and text messages to his wife in which he threatened to kill her. No actual injury occurred.).

¶ 47 Based on our *de novo* review, we find that defendant's actions in spraying bear mace into vehicles containing the adult victims and three-year-old A.H. involved the threat of great bodily harm, and the charged offense was therefore detainable under the residual clause. The State's proffer established that A.H. suffered a restricted airway, rashes, and chemical burns to his body. The State further argued that exposure to bear mace could "cause eye damage, respiratory harm and skin issues as well." Moreover, the State explained that defendant's attack occurred when the victims were sitting in vehicles, which made the situation especially dangerous. Defendant sprayed the chemical substance into small, enclosed spaces, and the victims may have attempted to flee by driving away while suffering from the effects of chemical exposure. As the trial court found, A.H.'s injuries were "extensive[ ]" and defendant used a "chemical object" that was "just as dangerous as using a dangerous weapon" because it could "harm someone, gravely" or "maybe even fatally."

¶ 48 Defendant next alleges that the State failed to prove that she committed the charged offense because the victims "did not actually observe bear mace on the day of the incident," defendant "was not arrested with bear mace," and no evidence suggested that she "ever purchased bear mace." The State's proffer, however, established that Victim 1 knew the cans carried by defendant

and co-defendant contained bear mace because they were known to carry bear mace, which is sufficient at this stage to show that the proof is evident or the presumption great that defendant committed the charged offense.

¶ 49 Defendant next argues that the court erred in finding that she posed a real and present safety threat. In making a determination as to a defendant's dangerousness, the court may consider the factors listed in 725 ILCS 5/110-6.1(g), which include the "nature and circumstances" of the charged offense; the "history and characteristics of the defendant," including prior criminal history; and "any other factors *** deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive, or assaultive behavior, or lack of such behavior."

¶ 50 In this case, the State's proffer demonstrated that defendant poses a real and present threat not only to the victims, but also to the community. Although the State's proffer did not include a motive for defendant's attack, that proffer suggested that defendant "had some sort of issue" with Victim 1, and defendant escalated that dispute to the point where she attacked the victims, spraying bear mace into a vehicle despite knowing that a three-year-old was inside. Defendant then pursued Victim 1 and A.H. to a bystander's vehicle, and sprayed bear mace into that vehicle as well. The State also provided evidence regarding defendant's criminal history, which included multiple felony and misdemeanor convictions for retail theft, along with two juvenile adjudications for battery and robbery, both violent offenses. In these circumstances, we find that defendant poses a real and present threat to the safety of the victims and the community.

¶ 51 Defendant, however, argues the State failed to prove that she is a safety threat because a year had passed between the offense and her arrest. She states that she "spent the year after the incident without [engaging in] any violent criminal activity," and that she "has proven" that she

"will not contact these individuals." Defendant also argued that the court "ignored" the mitigating evidence regarding her pregnancy, the birth of her daughter, and her employment and educational pursuits.

¶ 52 First, defendant presents no evidence that the trial court ignored her evidence in mitigation. Indeed, the record rebuts defendant's suggestion, as the court explained in ruling that it had considered the "mitigation given by [defendant's] attorney."

¶ 53 Moreover, although defendant was not arrested for any new criminal offenses during the year following the offense, a lack of police contact in the period following an offense does not "prove" that a defendant is no longer dangerous. See *People v. Whitaker*, 2024 IL App (1st) 232009, ¶ 76 (explaining that the defendant had presented "no authority to support her contention that the absence of additional charges following a crime suggests that she does not pose a danger to a person or the community. If anything, a lack of police contact since a crime could indicate consciousness of guilt and attempts to evade apprehension."). In this case, the trial court relied on evidence showing that defendant fled from the scene of the offense, which the court found to be "indicative of evading arrest and prosecution because, at the time, the defendant didn't want to be caught." Moreover, even if we could interpret the lack of additional charges or arrests in defendant's favor, that factor would not outweigh the other factors suggesting her dangerousness.

¶ 54 Finally, defendant asserted that the court erred in finding that no condition or combination of conditions could mitigate the threat she poses. Defendant's argument on this prong is essentially the same as her argument on the dangerousness prong—defendant focuses on the length of time between the incident and her arrest to contend that she has demonstrated that she is "capable of pretrial release."

¶ 55 In determining which conditions of pretrial release, if any, would ensure the safety of any

person or the community, a court should consider the factors listed in 725 ILCS 5/110-5(a) (West 2024). These factors share "considerable overlap" with those considered above under the dangerousness prong, "for the graver the safety threat, the more difficult to mitigate through conditions, and a lesser threat to safety is more easily mitigated by release conditions." *People v. Chestnut*, 2026 IL App (1st) 252140-U, ¶ 30. Specifically, a court shall "take into account such matters as" the "nature and circumstances of the offense charged"; the "weight of the evidence"; the "history and characteristics of the defendant"; and the "nature and seriousness of the real and present threat to the safety of any person or persons or the community." 725 ILCS 5/110-5(a) (West 2024).

¶ 56 As this court found above, defendant's successful evasion of law enforcement does not preclude a showing of dangerousness, and we likewise find that it does not prove that a defendant is "capable of pretrial release." The nature and circumstances of the charged offense and defendant's criminal background, described above, suggest that no conditions or combination of conditions would ensure the safety of the victims and the community. The record also shows that defendant's 2021 probation for retail theft was terminated unsatisfactorily based on committing another retail theft in 2023; and her probation was terminated unsatisfactorily from her 2013 juvenile conviction for robbery. Defendant's history of violating prior conditions of release imposed upon her, suggests that she would not comply with such conditions if they were imposed in this case. See *People v. Morgan*, 2024 IL App (4th) 240103, ¶ 40, *aff'd*, 2025 IL 130626 ("a defendant's release on conditions depends on the court having confidence that the defendant will *comply* with those conditions." (Emphasis in original)).

¶ 57 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 58 Affirmed.