

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of De Kalb County.
)	
Plaintiff-Appellee,)	
)	
v.)	Nos. 18-CF-510
)	23-CF-48
)	
ADRIAN O. CHANEY,)	Honorable
)	Marcy L. Buick,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE KENNEDY delivered the judgment of the court, with opinion.
Presiding Justice McLaren and Justice Jorgensen concurred in the judgment and opinion.

OPINION

¶ 1 The instant appeal arises from the denial of defendant Adrian Chaney’s motion to reconsider the conditions of pretrial release in two separate cases before the circuit court of De Kalb County: No. 18-CF-510, which involves four felony charges of possession and delivery of cocaine (720 ILCS 570/401(c)(2), 402(c) (West 2018)); and No. 23-CF-48, which involves four felony charges of possession of a controlled substance and possession with intent to deliver (*id.* § 401(a)(2)(A), (a)(7.5)(A)(ii)). For the following reasons, we affirm in part and vacate in part.

¶ 2 I. BACKGROUND

¶ 3 Defendant is alleged to have committed the conduct charged in No. 23-CF-48 on or around January 25, 2023, while released on bond in No. 18-CF-510.

¶ 4 On February 3, 2023, the trial court set bail in the amount of \$500,000 for No. 23-CF-48. On February 8, 2023, the trial court granted the State's motion to revoke bond in No. 18-CF-510, pursuant to section 110-6(f) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6(f) (West 2022)), based on the new charges in No. 23-CF-48.

¶ 5 On September 28, 2023, while represented by private counsel, defendant filed identical "motions[s] to reduce bond" in Nos. 18-CF-510 and 23-CF-48. Although filed after the effective date of the amendments to the Code, commonly known as the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act or the Pretrial Fairness Act (see Pub. Act 101-652, § 10-255 (eff. Jan. 1, 2023); Pub. Act 102-1104, § 70 (eff. Jan. 1, 2023); *Rowe v. Raoul*, 2023 IL 129248, ¶ 52), the motions did not request defendant's release without monetary bond and instead requested the court to "reconsider the amount of bond set" and stated that defendant "should be given a bond."

¶ 6 An October 4, 2023, order continued the case for an October 25, 2023, status review on defendant's "motion[s] to review bond under the pretrial fairness Act [*sic*]." There is nothing in the record to indicate that any other written motion was filed after defendant's September 28, 2023, motions to reduce bond.

¶ 7 At the October 25, 2023, hearing, defense counsel stated, "Your Honor, I'll be brief. Mr. Chaney had asked me to bring this before you. I believe under the SAFE-T Act I'm asking you to consider releasing him on pretrial release." The defense then requested that the trial court reconsider its February 8, 2023, order revoking defendant's bond in No. 18-CF-510, "under the act," and concluded by arguing that defendant was not a flight risk.

¶ 8 The State responded by arguing that, even under the recently amended provisions of section 110-6 of the Code (725 ILCS 5/110-6 (West 2022)), revocation of defendant’s pretrial release in No. 18-CF-510 would be appropriate, as defendant had been charged with two Class X felonies while on release on a Class 1 felony charge.

¶ 9 In its October 25, 2023, order, the trial court stated that it would rule on “defendant’s motions to reduce bond” on November 29, 2023. On that date, the trial court denied defendant’s “motions to reduce bond” but made no reference to the Pretrial Fairness Act, the SAFE-T Act, any of the recently amended provisions of the Code, or defendant’s oral arguments from the previous hearing, stating on the record:

“Under the motion the defendant has filed the Court finds no basis for setting a bond. The Court has previously ruled on the issue of bail in [defendant’s] files, so the Court is going to stand on those prior rulings, deny the motion to reduce bond in all matters at this time.”

The trial court’s order likewise did not contain any of the required written findings for an order for detention as set forth in section 110-6.1(h) of the Code (*id.* § 110-6.1(h)). However, the trial court did orally admonish defendant of his appeal rights under Illinois Supreme Court Rule 604(h) (eff. Dec. 7, 2023).

¶ 10 Defendant timely appealed.

¶ 11 **II. ANALYSIS**

¶ 12 Defendant (*pro se*) filed his notice of appeal on December 13, 2023. On defendant’s standard notice of appeal form, he checked every box under the “Denial or Revocation of Pretrial Release” section; however, the only section he wrote anything in was the “Other” category, arguing that “[n]o verified petition to detain was filed nor a subsequent detention order” and that the court

improperly shifted the burden to defendant when it is the State that bears the burden of proving why defendant's continued detainment was necessary.

¶ 13 Defendant, through counsel, filed a memorandum in support of his appeal. In his memorandum, defendant argues that his motions constituted a motion to reconsider under section 110-7.5(b) of the Code (725 ILCS 5/110-7.5(b) (West 2022)) and that therefore defendant was entitled to a hearing under section 110-6.1 of the Code (*id.* § 110-6.1). Defendant further contends that, during the hearing on his motions, the trial court did not require that the State meet its burden of proving by clear and convincing evidence that defendant posed a real and present threat to a person, persons, or the community or that no condition or combination of conditions of release would reasonably ensure defendant's appearance at later hearings. Defendant likewise argues that the trial court's order did not comply with the requirements for an order of detention as set forth in section 110-6.1(h).

¶ 14 Though defendant's written motions did not contain any indication that they were being brought under the new statutory schema for pretrial detention, the conduct of the parties makes it clear that defendant intended by his "motions to reduce bond" to seek reconsideration of his pretrial detention under the newly amended provisions of the Code for several reasons: (1) the motions were filed shortly after the effective date of the amendments to the Code; (2) at the hearing, counsel exclusively, albeit briefly, argued for defendant's release under the new schema; and (3) the State's arguments in response likewise focused on the new schema.

¶ 15 Accordingly, while defendant's motions were clearly drafted in a manner consistent with the old schema, we construe defendant's motions as motions brought pursuant to section 110-7.5(b) of the Code. However, we reject defendant's contention that section 110-7.5(b) entitles defendant to a new hearing under section 110-6.1 of the Code.

¶ 16 This case presents an issue of statutory construction, which we review *de novo*. *Sperl v. Henry*, 2018 IL 123132, ¶ 23. The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature. *Ryan v. Board of Trustees of the General Assembly Retirement System*, 236 Ill. 2d 315, 319 (2010). The best indication of the legislature’s intent is the plain language of the statute itself. *Id.* In determining the plain meaning of statutory language, the court looks to the statute as a whole, the subject it addresses, and the apparent intent of the legislature. *People v. Perry*, 224 Ill. 2d 312, 323 (2007).

¶ 17 Section 7.5 of the Code (725 ILCS 5/110-7.5 (West 2022)) addresses those persons who were arrested prior to the effective date of the amendments to the Code, dividing them into three categories:

“The first category consists of any person who was released subject to pretrial conditions prior to the effective date of the Act. *Id.* § 110-7.5(a). The second category consists of any person who remains in pretrial detention after being ordered released with pretrial conditions, *including the depositing of monetary security*. *Id.* § 110-7.5(b). The third category consists of any person who remains in pretrial detention and whose bond was previously set as ‘no bail.’ *Id.*” (Emphasis in original.) *People v. Lippert*, 2023 IL App (5th) 230723, ¶ 9.

¶ 18 In No. 23-CF-48, bond had been set at \$500,000 but defendant remained in pretrial detention, and that case therefore involves the second category of defendants. Under section 110-7.5(b), on or after September 18, 2023, “any person who remains in pretrial detention after having been ordered released with pretrial conditions, including the condition of depositing security, shall be entitled to a hearing under subsection (e) of Section 110-5.” 725 ILCS 5/110-7.5(b) (West 2022); *Rowe*, 2023 IL 129248, ¶ 52 (lifting stay in public acts 101-652 and 102-1104 and setting

effective date as September 18, 2023). Accordingly, in No. 23-CF-48, defendant would be entitled to a hearing under section 110-5(e) (*id.* § 110-5(e)) to determine the reason for defendant's continued pretrial detention, not a hearing under 110-6.1.

¶ 19 In asking the trial court to reconsider, defendant limited his arguments to the fact that he had ties to the community, was not a flight risk, and would make his court appearances. Defendant made no argument before the trial court that could meaningfully be construed as an argument under section 110-5(e), and he likewise makes no arguments on appeal regarding section 110-5(e). See *People v. McKee*, 2022 IL App (2d) 210624, ¶ 39 (arguments not raised in opening brief are forfeited). Accordingly, we affirm the trial court's order denying defendant's motion in No. 23-CF-48.¹

¶ 20 In the case of No. 18-CF-510, defendant was held without bond and would be entitled to a hearing under section 110-7.5(b)(1) of the Code (725 ILCS 5/110-7.5(b)(1) (West 2022)). Specifically, he is entitled to a hearing on his "motion for reconsideration of pretrial release conditions," not a new hearing under section 110-6.1. Had the legislature intended that defendants should receive a new hearing under section 110-6.1, it could have indicated as such, just as it indicated in the immediately preceding sentence that defendants who remain in custody after having been ordered released with pretrial conditions are entitled to a hearing under section 110-5(e).

¶ 21 Our conclusion that defendant is not entitled to a section 110-6.1 hearing in No. 18-CF-510 is bolstered when one considers which defendants were eligible to be held without bail prior

¹Should defendant wish to renew any argument under section 110-5(e), he is free to raise the issue again before the trial court, either by motion or at a subsequent appearance.

to the amendments to the Code. Under the prior statutory schema, broadly speaking, a defendant could be held without bail only where (1) the proof was evident or the presumption great that the defendant committed a qualifying offense and posed a real and present threat to the physical safety of a person or persons (725 ILCS 5/110-4, 110-6.1, 110-6.3 (West 2020)) or (2) where the defendant had committed additional crimes while released on bail or otherwise violated the conditions of bail (*id.* § 110-6). These categories align with the two means by which a defendant can be held without pretrial release under the new schema: by denying pretrial release under section 110-6.1 (725 ILCS 5/110-6.1 (West 2022)) or by revoking pretrial release under section 110-6 (*id.* § 110-6). It would be unreasonable to read section 110-7.5(b) of the Code as automatically prescribing a hearing under section 110-6.1 when a defendant may have been held without bail not due to a finding of dangerousness or flight risk but instead due to revocation of pretrial release upon violation of conditions of release. See *Illinois State Treasurer v. Illinois Workers' Compensation Comm'n*, 2015 IL 117418, ¶ 39 (“[C]ourts do have an obligation to construe statutes in a way that will avoid absurd, unreasonable, or unjust results ***.”). In short, the nature of the order or orders to be reconsidered will determine the hearing a defendant receives pursuant to section 110-7.5(b)(1).

¶ 22 Accordingly, when a defendant seeks reconsideration of pretrial release conditions under section 110-7.5(b)(1), the proceedings may focus on either or both section 110-6 and section 110-6.1, depending on the circumstances of the individual case and the original basis for holding the defendant without bail. Further, because such a motion seeks reconsideration rather than a new hearing, additional evidence or findings by the trial court may not be necessary if the original evidence and findings under the old schema would satisfy the requirements of the new schema.

¶ 23 With that being said, should the trial court deny a defendant’s motion, as occurred here,

the trial court should be explicit about which section of the new schema defendant is now being held under and the basis for the detention. This is important because defendants have different rights depending on whether they are being held under section 110-6 or section 110-6.1 of the Code. For instance, where the trial court revokes pretrial release under section 110-6 for a defendant with more than one case pending and either the case that caused the revocation is dismissed, the defendant is found not guilty, or the defendant completes a lawfully imposed sentence, the defendant is then entitled to a hearing on conditions of pretrial release under section 110-5 on the defendant's other case (725 ILCS 5/110-6(a) (West 2022)); however, a defendant who is held pursuant to section 110-6.1(e) is entitled to pretrial release after 90 days (see *id.* § 110-6(i)). Additionally, both sections require that the trial court make continuing findings at subsequent appearances as to whether the defendant's detention is necessary, but those findings are specific to the relevant section. *Id.* §§ 110-6(j), 110-6.1(i-5). Further, a defendant is entitled to appeal an order of pretrial detention under either section, and they should know which section they are being detained under in order to make an effective appeal. See Ill. S. Ct. R. 604(h) (eff. Dec. 7, 2023).

¶ 24 Here, the trial court's order failed to specify what section defendant was being detained under or the basis for the detention. This was error. Because we do not know the basis for the trial court's decision, we vacate the order denying defendant's motion to reconsider in No. 18-CF-510 and remand for a new hearing.

¶ 25 III. CONCLUSION

¶ 26 We affirm the De Kalb County circuit court's order in case No. 23-CF-48, vacate the order in case No. 18-CF-510, and remand for further proceedings consistent with this opinion.

¶ 27 Affirmed in part and vacated in part.

¶ 28 Cause remanded.

People v. Chaney, 2024 IL App (2d) 230563

Decision Under Review: Appeal from the Circuit Court of De Kalb County, Nos. 18-CF-510, 23-CF-48; the Hon. Marcy L. Buick, Judge, presiding.

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