2025 IL App (1st) 251041-U
Order filed: September 30, 2025

FIRST DISTRICT
THIRD DIVISION

Nos. 1-25-1041B, 1-25-1042B, 1-25-1043B, 1-25-1044B,
1-25-1045B, 1-25-1055B, 1-25-1056B (cons.)

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. BRUCE CLAVER, Defendant-Appellant.	)	Appeal from the Circuit Court of Cook County. Nos. 22 CR 2640 22 CR 2641 22 CR 2642 22 CR 2643 22 CR 2644 24 CR 0497 24 CR 3266 Honorable Lorraine Mary Murphy, Judge, presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Martin and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed the orders of the circuit court which required defendant's continued detention pretrial.

¶ 2 Defendant-appellant, Bruce Claver, appeals from orders of the circuit court entered in case numbers 22 CR 2640, 22 CR 2641, 22 CR 2642, 22 CR 2643, 22 CR 2644 (collectively, the 22 cases), 24 CR 497, and 24 CR 3266 which require his pretrial detention pursuant to article 110 of

the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-1 *et seq.* (West 2022)), as amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act).[1] We affirm.

¶ 3 Defendant was first arrested in 2022 when the Act was not in effect. On January 10, 2022, defendant was arrested and charged, by felony complaints which were superseded by indictment (case numbers 22 CR 2640, 22 CR 2641, and 22 CR 2642). In 22 CR 2640, defendant was charged with two counts of aggravated criminal sexual abuse, Class 2, against K.S., a family friend, who was between 9 and 11 years old. On an unidentified date between March 21, 2012, and March 20, 2015, K.S. was at defendant's home and sitting on a couch, when defendant came up behind her, tickled her, and touched her buttocks and vaginal area over her clothes. He stopped when his daughter entered the room.

¶ 4 In 22 CR 2641, defendant was charged with three counts of aggravated criminal sexual abuse, Class 2, against K.C., who was between seven and eight years old. From January 30, 2012, through January 29, 2014, K.C. had sleepovers with defendant's daughter at defendant's home. On at least three occasions, defendant walked into the bedroom, pulled down K.C.'s pants, and pushed her shirt up. Defendant lowered his pants; rubbed lotion on her back, legs, and buttocks; and then pushed her buttocks together, touched her with his penis, and ejaculated on her back.

[1] While commonly known by these names, neither the Illinois Compiled Statutes nor the foregoing public act refer to the Act as the "Safety, Accountability, Fairness and Equity-Today" Act, *i.e.*, SAFE-T Act, or the "Pretrial Fairness Act." See *Rowe v. Raoul*, 2023 IL 129248, ¶ 4 n. 1. Certain provisions of the legislation in question were amended by Pub. Act 102-1104 (eff. Jan. 1, 2023). See *Rowe*, 2023 IL 129248, ¶ 4. The supreme court initially stayed the implementation of this legislation but vacated that stay effective September 18, 2023. *Id.* ¶ 52.

¶ 5 In 22 CR 2642, defendant was charged with aggravated criminal sexual abuse, Class 2, against K.C., a friend of defendant's daughter, who was six or seven years old. On an unidentified date between February 4, 2014, and February 3, 2016, K.C. was at defendant's home when defendant asked her for a massage. He then gave K.C. a massage with her shirt off and rubbed his penis on her back.

¶ 6 The circuit court set a deposit bond of $250,000 with special conditions prohibiting him from contact or communication with the victims, witnesses, and any person under 18 years of age excluding family members. Defendant posted bond and was released.

¶ 7 On February 5, 2022, defendant was arrested and charged, by felony complaints, which were superseded by indictment (case numbers 22 CR 2643 and 22 CR 2644). In 22 CR 2643, defendant was charged with two counts of aggravated criminal sexual abuse, Class 2, against A.O.S., defendant's great niece, who was between five and six years old. From September 17, 2012, through November 29, 2013, A.O.S. regularly had sleepovers at defendant's home. On multiple occasions, defendant touched her vagina with his hand, over and under her clothes. She sometimes woke up in defendant's bed with her underwear and pants off and defendant rubbed her vagina with his hands, skin to skin.

¶ 8 In 22 CR 2644, defendant was charged with two counts of predatory criminal sexual assault, Class X, and two counts of aggravated criminal sexual abuse, Class 2, against I.O.S., defendant's great niece, who was five to seven years old. From July 20, 2011, through July 19, 2013, I.O.S. regularly had sleepovers at defendant's home. During one of those sleepovers, defendant had her lay on the floor with her toys and told her to take off her pants and underwear. He inserted his penis into her vagina. On another occasion, defendant told her to come into his

bedroom and stand in front of him. Defendant got down on his knees and put his hands in the victim's pants and touched her vagina over the underwear.

¶ 9 In these cases, the circuit court ordered that defendant be held without bond and prohibited him from contact with the victims or anyone under 18 years of age. In February 2022, defendant filed a "Motion to Reduce Bond," which was denied by the circuit court.

¶ 10 On May 12, 2022, defendant, again, filed motions to reduce bond in 22 CR 2643 and 22 CR 2644. On June 8, 2022, the circuit court reduced the bond in case number 22 CR 2643 to a deposit bond of $150,000 and in case number 22 CR 2644 to a deposit bond of $200,000. In both cases, the court ordered that if defendant posted bond, he should be placed on electronic home monitoring (EHM). Defendant posted bond and was released on EHM.

¶ 11 While defendant was on bond and released with EHM, the circuit court, numerous times, granted defendant's motions for leave to travel between February 2023 and December 2023. He was allowed to attend his children's graduations at Rosemont Theater; go on an overnight visit in Madison, Wisconsin and a few day trips to Illinois State University and University of Illinois; travel to Buffalo Grove and Skokie for holiday celebrations; and attend classes at local college to obtain a paralegal degree.

¶ 12 On December 1, 2023, the United States Secret Service (USSS) contacted Glenview Police Department (GPD) detectives in reference to a joint investigation involving the manufacturing of child pornography. On December 11, 2023, GPD detectives, the USSS, and a Cook County Sheriff's Police Investigator executed a search warrant at defendant's home (December 2023 search) while defendant was present. Officers recovered 21 electronic devices, including a mobile

phone, over 10 USB drives, and four laptop computers from the home and a Samsung Android phone (first Samsung phone) from defendant's person. Defendant was arrested.

¶ 13 The next day, defendant was charged, by felony complaints which were superseded by indictment (case number 24 CR 497) with three counts of manufacturing child pornography, Class X, relating to an incident, at an unidentified time between January 2010 and 2015, when, K.C., the victim from case 24 CR 2641, was sleeping over at defendant's home. While she was sleeping, defendant ejaculated on her face and took photographs and a video. The parents identified the victim in the images.

¶ 14 The Act was now in effect, and the State filed a petition to deny defendant pretrial release in 24 CR 497. On December 13, 2023, the circuit court issued a written "order after pretrial detention hearing" pursuant to sections 110-2 and 110-6.1 of the Code (725 ILCS 5/110-2, 110-6.1 (West 2022)) denying the State's petition. As conditions of his pretrial release, defendant was placed on EHM and prohibited from accessing the internet and contacting anyone under the age of 18.

¶ 15 On March 6, 2024, defendant was, again, arrested and, on March 8 charged by felony complaint, which was superseded by indictment (case number 24 CR 3266) with 11 counts of possession of child pornography, Class 2, alleging that he possessed the child pornography on December 11, 2023. These charges stem from an analysis of defendant's electronic devices which were seized during the December 2023 search.

¶ 16 On March 8, the State filed a petition to detain in 24 CR 3266, alleging that defendant posed a threat to the safety of persons or the community. That same day, Judge Lorraine Mary Murphy conducted a hearing on the State's petition.

¶ 17 At the hearing, the State proffered details regarding the December 2023 search and defendant's arrest on March 6. During the search, defendant was talking on the first Samsung phone. A forensic examination of the first Samsung phone led to the discovery of approximately 200 files of apparent child pornography accessible through a password protected application, Keep Safe Private Vault (Keep Safe). Defendant had the password to access the photographs and videos.

¶ 18 The National Center for Missing and Exploited Children "confirmed several of the files contained known victims." One of the photographs possessed by defendant depicted a female under the age of 13 laying down with her mouth and body bound by tape-like material. A male adult was penetrating the underage female with an erect penis. One of the videos depicted an adult male actively penetrating an infant who appeared to be under the age of twelve months old. The faces of the adult male and the infant in the video were not identified.

¶ 19 In February 2024, staff from the Glenview Public Library (library) notified GPD detectives that defendant had been frequenting the library and checking out laptops with access to the internet. Police reviewed library video footage and records and found that defendant, on several of his EHM essential movement days, was at the library, checked out a laptop, and went to a private room. On the day of the arrest, a day defendant had movement on EHM, police officers were again notified that defendant was at the library. When police arrived, they found defendant in a private room using a library laptop. When officers entered the room, defendant made movements like he was minimizing the screen. Officers found the laptop's screen was minimized and a USB drive had been inserted into the laptop. Upon defendant's arrest, the police seized a USB drive, a Samsung Android phone (second Samsung phone), a micro SD memory card, and the library owned laptop. They also recovered a backpack which contained printed materials pertaining to strategies in

defending child related sex cases and discrediting child victims. After an investigation, it was discovered that the second Samsung phone had Keep Safe installed. The second Samsung phone had not been forensically examined.

¶ 20 The State continued its proffer by describing each of defendant's prior cases, as set forth above. As to case number 24 CR 497, the State proffered additional facts. Following a cyber tip, the USSS was investigating a target who used the "monikers" of "sleepy one" and "sleepy 1" while on various online forums and chatting communities related to child exploitation. The investigation linked defendant to several dark web accounts in which pictures, videos, and chats relating to K.C., the victim in case number 24 CR 2641, and an unidentified minor victim were uploaded. These images and chats related to an incident where the victim was sleeping over at defendant's house with defendant's daughter. During the sleepover, defendant ejaculated on the victim's face while she was sleeping. The victim's parents identified the victim in the images.

¶ 21 In aggravation, the State argued that the proof was evident and the presumption great that defendant had committed an eligible offense of possession of child pornography and that defendant poses a real and present threat to the safety of any person or persons or the community. Additionally, there was no condition or combination of conditions that would mitigate the threat where defendant had been placed on EHM but was continuing to commit crimes based on the seized evidence and was accessing the internet in violation of a condition of pretrial release.

¶ 22 In mitigation, defense counsel argued that defendant had the presumption of innocence on each of his pending charges and had been previously released on EHM without incident. He has no criminal record but does have strong family support and community ties. Further, the State failed to prove that defendant was actually accessing the internet and to specifically identify any

individual or individuals that defendant posed a threat. Defense counsel contended that there were conditions that would mitigate any risk, including prohibiting defendant from leaving the house (even on his essential movement days), or accessing a phone, computer, or the internet; or monitoring defendant's movements and activities.

¶ 23 The State, in rebuttal, argued that it can be inferred that defendant was on the internet at the library in that the officers saw defendant make movements to minimize the screen when they entered the room. In addition, the second Samsung phone, which was found on his person, had Keep Safe, which must be downloaded from the internet.

¶ 24 In her oral ruling, Judge Murphy found the State had shown by clear and convincing evidence that the proof is evident and the presumption is great that defendant committed the eligible offenses; defendant poses a real and present threat to the safety of any person or persons or the community "based on the specific articulable facts in the case"; and no conditions or combination of conditions would mitigate that risk. Judge Murphy based her findings on "the proffered evidence, that *** he just keeps picking up cases."

¶ 25 In a written order, Judge Murphy made more specific findings. First, the proof is evident or the presumption great that the defendant has committed an eligible offense in that "[d]efendant possessed the phone on his person with the child pornography when the police recovered the phone." Second, defendant poses a real and present threat to the safety of any person or persons or the community, based on the articulable facts of the case in that "defendant has 5 pending ACSAb & PCSA cases and a manufacturing child porn case with one of the victims in the image/video from one of the pending ACSAb cases and was arrested." Third, no condition or combination of conditions can mitigate the real and present threat posed by defendant in that "defendant continues

to pick up new felony cases each and every time he was out on pretrial release anything less than detention would put the safety of the entire community at risk." Judge Murphy granted the State's petition and ordered defendant detained.

¶ 26 At the same time, under the Act, the State filed petitions for revocation of defendant's pretrial release in the 22 cases and 24 CR 497, on the ground that defendant, while on pretrial release, was charged with possession of child pornography in case 24 CR 3266, and no condition or combination of conditions would reasonably prevent defendant from being charged with a subsequent felony or Class A misdemeanor.

¶ 27 That same day, Judge Anjana M.J. Hansen held a hearing on the State's petitions for revocation. At the hearing, the State proffered the circumstances of defendant's March 6, 2024 arrest in case 24 CR 3266, at which time he was charged with 11 counts of possession of child pornography, Class 2. The State also proffered the details of the December 2023 search and arrest in case 24 CR 497.

¶ 28 In aggravation, the State argued that defendant was on EHM on cases that include charges of predatory criminal sexual assault, aggravated criminal sexual abuse cases, and Class X manufacturing of child pornography. In the case of the manufacturing of child pornography, defendant had been allowed pretrial release on the condition that he was to have no internet access. However, defendant, on his essential EHM movement days, would frequent the library where he would check out a laptop to access the internet. The State requested defendant's pretrial release be revoked "based on the new charges alone." Further, the State argued there was no condition or combination of conditions that would mitigate defendant's risk as he "clearly is not going to abide by the rules of pretrial release" and "has picked up a new case of possessing child pornography."

¶ 29 Defense counsel argued defendant had no criminal background and the State's proffer did not establish when defendant downloaded or knew of the photographs and videos. Defense counsel further argued that the State did not establish that defendant was using the internet at the library, only that he was on a laptop in a private room.

¶ 30 The State, in rebuttal, argued that defendant had the first Samsung phone and was talking on the phone at the time of the December 2023 search. The phone had Keep Safe, with a password, which was known to defendant. Subsequently, he had the second Samsung phone on his person at the time of his March 2024 arrest which also had Keep Safe, which must be downloaded from the internet.

¶ 31 Judge Hansen found defendant had the photographs and videos in his possession at a time when he had several pending cases. Judge Hansen found the State proved by clear and convincing evidence that no condition or combination of conditions of release would reasonably prevent defendant from being charged with another misdemeanor or felony. Judge Hansen granted the State's petitions and revoked defendant's pretrial release in the 22 cases and 24 CR 497 and entered written orders in each case reflecting that decision.

¶ 32 On March 21, 2024, defendant's wife, a nonlawyer, signed and filed notices of appeal from the detention orders under Illinois Supreme Court Rule 604(h) (eff. Dec. 7, 2023) in the 22 cases, 24 CR 497, and 24 CR 3266. This court dismissed the appeals for lack of appellate jurisdiction. See *People v. Claver*, 2024 IL App (1st) 240621-U.

¶ 33 On or about April 11, 2024, defendant was arraigned on a direct indictment (case number 24 CR 3697) and charged with two counts of aggravated criminal sexual abuse, Class 2, against a victim who was between 6 and 8 years old. The incident occurred at some point between May 10,

2011 and May 9, 2014, when the victim, a friend of defendant's daughter, was at a sleepover at defendant's home. Defendant ejaculated onto chocolate chip pancakes. He told the victim it was melted butter and watched her eat the pancakes. Defendant photographed the event and posted about it on an internet forum.

¶ 34 On April 25, 2024, the State filed a petition to detain in case number 24 CR 3697. That same day, Judge Murphy presided over the detention hearing. Judge Murphy found the proof was evident and the presumption great that defendant committed an eligible offense, criminal sexual abuse; the defendant poses a real and present threat or safety of any person or persons or the community based on the articulable facts of the case; and no condition or combination of conditions could mitigate the real and present threat. Judge Murphy ordered defendant detained.

¶ 35 On June 3, 2024, defendant's private counsel and the public defender orally sought defendant's release on all eight cases. Defense counsel began by stating the original five cases alleged incidents occurring between 2011 and 2014 and there were no allegations that any offenses occurred outside of defendant's home or in the community at large. In the 18 months that defendant was on EHM, he had no violations. The court had granted him over a dozen travel requests, including outside of Cook County, and he had 180 days of essential EHM movement days without incident. Beginning in August 2023, defendant attended in-person classes at a local college where he was enrolled full time in a paralegal program. When he was restricted from internet access, he was a few classes short of earning the certificate and was also forced to shut down two online businesses. While on EHM, he did not miss any court dates but missed two dates while detained.

¶ 36 Defendant has strong family and community ties. He has been married for 25 years with two children. He was an active and participating member of a synagogue. Defendant is the

youngest of five children, grew up in Skokie, and is a college graduate with extensive work experience.

¶ 37 Defense counsel then referred to defendant's March 2024 arrest and argued that it was impossible for the librarians to know whether defendant was accessing the internet and the State failed to show he was accessing the internet. Since the March 2024 arrest, the SD cards have been returned and no criminal charges have been brought regarding the flash drive or the laptop.

¶ 38 Defense counsel argued that defendant has abided by the no contact orders and had not been accused of making threats directly or indirectly. He had no criminal convictions. While detained, defendant had been enrolled in a parenting group, completed over 35 classes and educational certification courses, and attended religious groups and meetings. He had no tickets or disciplinary actions. Twice, defendant had been threatened with physical harm by another detainee.

¶ 39 Defense counsel sought defendant's release on EHM with conditions which would mitigate any perceived threat. For example, the court could prohibit his access to certain websites and applications, impose strict limitations on his access to computers and the internet, and require the use of website tracking devices. These restrictions also would allow defendant to obtain gainful employment or reopen his online businesses, continue conducting legal research for his cases, and complete his paralegal certificate.

¶ 40 The public defender, in case number 24 CR 3697, adopted defense counsel's arguments and added that the alleged events occurred many years ago.

¶ 41 In response, the State proffered facts as to each case and stated that the victims continued to cooperate and are willing to testify. The State argued defendant had violated his conditions of release by accessing the library laptops and possessing the second Samsung phone with Keep Safe.

Defendant has also been charged with additional crimes, namely, 11 counts of possession of child pornography in case 24 CR 3266. Further, at the times the court allowed defendant to travel on EHM, defendant had not been charged with manufacturing and possessing child pornography, case number 24 CR 497 and 24 CR 3266, and his release on bond was not under the Act. Because defendant posed a real and present threat based on the specific articulable facts of his cases and was a danger to children, the State sought his continued detention.

¶ 42 Judge Murphy first addressed the 22 cases and 24 CR 497, where the State's petitions to revoke defendant's pretrial release were granted. In those cases, she found that the State established by clear and convincing evidence that defendant, while on pretrial release was charged with 11 felony counts of possession of child pornography. Judge Murphy further found the State showed by clear and convincing evidence that no combination of conditions would reasonably prevent defendant from being charged with a subsequent felony or Class A misdemeanor and ordered that defendant's pretrial release continued to be revoked in those cases.

¶ 43 Judge Murphy next addressed case number 24 CR 3266 and read into the record and adopted her March 8, 2024 findings. Judge Murphy added that defendant had accessed the internet in violation of a condition of his release. And while on EHM for multiple cases involving young girls, defendant was charged with possession of child pornography. Judge Murphy found that anything less than detention would put the safety of the entire community at risk and ordered that defendant remain detained.

¶ 44 Judge Murphy entered a written order in case number 24 CR 3266 with findings. First, the proof is evident or the presumption great that defendant has committed an eligible offense in that "[d]efendant possessed the phone on his person with the child porn images and video when the

police recovered the phone." Second, defendant poses a real and present threat to the safety of any person or persons or the community, based on the articulable facts of the case in that "defendant has 5 pending ASCAb + 1 PCSA case and a manufacturing child porn with one of the victims in the image/video from one of the pending ACSAb cases." Third, no condition or combination of conditions can mitigate the real and present threat which defendant poses in that "defendant has violated his previous release with conditions and defendant continues to pick up new felony cases each and every time he was out on pretrial release. Anything less than detention would put the safety of the community at risk."

¶ 45 Judge Murphy, as to case number 24 CR 3697, read into the record and adopted her findings from the April 25, 2024 hearing. The victim had identified defendant as the perpetrator and the State proved by clear and convincing evidence that defendant committed the eligible offense of aggravated criminal sexual abuse. Defendant exhibited predatory and unpredictable behavior against vulnerable children and the State proved by clear and convincing evidence that defendant posed a real and present threat to the safety of any person or persons, or the community based on the specific articulable facts and that threat could not be mitigated and ordered that defendant remain detained.

¶ 46 On April 7, 2025, defendant's private counsel filed identical motions for relief under Illinois Supreme Court Rule 604(h), in each of the 22 cases, 24 CR 497, and 24 CR 3266, seeking a reversal of the June 3, 2024 orders requiring defendant's continued detention. The public defender filed a motion for relief in case number 24 CR 3697; the motion is not in the record and an appeal has not been filed in 24 CR 3697.

¶ 47 In the motions for relief, defense counsel argued that the State failed to prove by clear and convincing evidence that defendant's continued detention was warranted. More specifically, defense counsel argued that the State failed to prove that defendant was a danger to the community or a flight risk and that there was no condition or combination of conditions that could mitigate any real and present threat defendant may pose. The incidents occurred between 2011 and 2016 in his home, and his daughter and the alleged victims are now grown. There were no longer occasions for young girls to come to his home, and there was no evidence that defendant had assaulted anyone while on pretrial release. If defendant posed a threat, counsel argued that the State failed to prove that there were no conditions or combination of conditions that could mitigate that threat.

¶ 48 On May 2, 2025, at a hearing on the motions for relief, defense counsel argued that defendant is not a flight risk. He has been detained since March 8, 2024, despite demonstrating that he is able to comply with pretrial conditions that would mitigate the risk of recidivism, such as EHM and prohibiting contact with the victims. She asked the court to grant defendant's release.

¶ 49 The State recounted the details of each of the charges against defendant. The State added that, upon further investigation of the seized devices from the December 2023 search, there were 459 digital images and 2 videos of suspected child pornography on the first Samsung phone, 329 digital images of suspected child pornography on one laptop, and 735 digital images of suspected child pornography on another laptop. The State further added that the photographs from the first Samsung phone depicted an image of an adult male who ejaculated onto a plate of pancakes and another photograph of a child approximately six years old eating those pancakes. During the investigation, the USSS discovered chat logs from an online forum in which defendant bragged about ejaculating onto pancakes and feeding them to young girls.

¶ 50 The State argued that there were no conditions that would keep the community safe from the threat posed by defendant. The State noted that defendant previously had been released on EHM and continued to violate the law by downloading child pornography onto his phone. Further, EHM would not be effective in that defendant had committed the sexual abuse offenses in his home.

¶ 51 Following the hearing, Judge Murphy began her oral ruling by reading and standing on her April 25 and June 3, 2024 orders. Judge Murphy clarified that none of her detention decisions were based on the willful flight factor. Judge Murphy entered written orders which denied defendant's motions for relief in the 22 cases, 24 CR 497, and 24 CR 3266.

¶ 52 On May 30, 2025, defendant filed notices of appeal under Rule 604(h) in the 22 cases, 24 CR 497, and 24 CR 3266. Defendant has filed memoranda in appeal numbers 1-25-1045B (appealing 24 CR 3266) and 1-25-1056B (appealing 24 CR 497) and notices in lieu in appeal numbers 1-25-1041B (appealing 22 CR 2641), 1-25-1042B (appealing 22 CR 2642), 1-25-1043B (appealing 22 CR 2643), 1-25-1044B (appealing 22 CR 2644), and 1-25-1055B (appealing 22 CR 2640). We consolidated the appeals on our own motion and the State filed a consolidated memorandum.

¶ 53 In his motions for relief, defendant sought reconsideration of the circuit court's June 3, 2024 orders requiring his continued detention and sought his release with appropriate conditions. Defendant argued that the State failed to prove by clear and convincing evidence that defendant's continued detention was warranted. More specifically, defendant argued that the State failed to prove (1) how defendant is a danger to the community or a flight risk and (2) there was no condition or combination of conditions that could mitigate any real and present threat.

¶ 54 In the memorandum filed in appeal number 1-25-1045B, defendant argues that, in case number 24 CR 3266, "defendant is no longer a threat to the sexually [*sic*] assault visitors at his now-adult daughter's sleepovers and the risk that defendant will download child pornography is not a present threat to safety."

¶ 55 In his memorandum in appeal number 1-25-1056B, defendant asserts that he is appealing the March 8, 2024 order in case number 24 CR 497. He contends that the circuit court erred in granting the State's petition to revoke his pretrial release where the State did not proffer that defendant had been charged with a felony or Class A misdemeanor which occurred while he was on pretrial release in case number 24 CR 497. Defendant acknowledges that these arguments were not raised in his motion for relief in this case; he seeks review under plain error or ineffectiveness of counsel principles.

¶ 56 Pretrial release is governed by article 110 of the Code (725 ILCS 5/110 (West 2022)), as amended by the Act. Under the Code, the requirement of posting monetary bail was abolished in Illinois as of September 18, 2023, in favor of pretrial release on personal recognizance or with conditions of release. See 725 ILCS 5/110-1.5 (West 2022); *Rowe*, 2023 IL 129248, ¶ 52. For qualifying offenses, upon filing a verified petition requesting the denial of pretrial release, the State has the burden to prove by clear and convincing evidence that: (1) the proof is evident or the presumption great that the defendant has committed a qualifying offense, (2) the defendant's pretrial release poses a real and present threat to the safety of any person or the community, and (3) less restrictive conditions would not avoid a real and present threat to the safety of any person or the community and/or prevent the defendant's willful flight from prosecution. 725 ILCS 5/110-2(a), 110-6.1 (West 2022).

¶ 57 Where a defendant is detained pretrial, the statute poses an obligation on the circuit court to revisit the defendant's status at every subsequent court appearance. *People v. Walton*, 2024 IL App (4th) 240541, ¶ 24. When a defendant is initially released, but later detained after that release has been revoked, the circuit court "must find that continued detention *** is necessary to reasonably ensure the appearance of the defendant for later hearings or to prevent the defendant from being charged with a subsequent felony or Class A misdemeanor." 725 ILCS 5/110-6(j) (West 2022). When a defendant is detained at the initial detention hearing, the circuit court "must find that continued detention is necessary to avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or to prevent the defendant's willful flight from prosecution." *Id.* § 110-6.1(i-5).

¶ 58 Initially, we consider whether defendant's arguments as to the March 8, 2024 order, in case 24 CR 497 (appeal number 1-25-1056B), may be reviewed under either the plain error doctrine or ineffectiveness of counsel. He contends that the issues were forfeited by his failure to raise them in the motion for relief and not waived.

¶ 59 Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024), provides that "[a]s a prerequisite to appeal" from an order denying pretrial release, "the party taking the appeal shall first present to the [circuit] court a written motion requesting the same relief to be sought on appeal and the grounds for such relief." Rule 604(h)(2) further provides that, "[u]pon appeal, any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived." *Id.*

¶ 60 The appellate court, in *People v. Nettles*, 2024 IL App (4th) 240962, faced claims, which the defendant did not raise in the motion for relief. *Id.* ¶¶ 15-16. The *Nettles* defendant, as

defendant here, sought review of his arguments under the plain error doctrine, or in the alternative, for ineffective assistance of counsel. *Id*. ¶ 22.

¶ 61 The *Nettles* court noted that Rule 604(h) provides that issues not raised in the motion for relief are waived and there is a distinction between the doctrines of "forfeiture" and "waiver." *Id.* ¶ 29. The court explained that "forfeiture is the failure to make the timely assertion of the right, [and] waiver is the intentional relinquishment or abandonment of a known right." (Internal quotation marks omitted.) *Id*. The distinction is significant because forfeited claims may be reviewed under the plain-error doctrine, but " 'if [a] defendant has waived the issue, we need not review his claim for plain error.' " *Id.* (quoting *People v. Scott*, 2015 IL (4th) 130222, ¶ 21, and citing *United States v. Flores*, 929 F.3d 443, 447 (7th Cir. 2019) ("We review forfeited arguments for plain error, whereas waiver extinguishes error and precludes appellate review.").

¶ 62 The *Nettles* court recognized that the terms "forfeiture" and "waiver" are sometimes used interchangeably, but any ambiguity as to the use of the term "waiver" in Rule 604(h), is resolved by a report filed by the Illinois Supreme Court Pretrial Release Appeals Task Force following changes to Rule 604, as follows:

> "That report noted that 'It would be helpful to all involved to have the rules regarding issue preservation made explicit.' [Citation.] The task force then proposed that, '[o]ther than errors occurring for the first time at the hearing on the motion for relief, issues not raised in the motion will not be considered on appeal,' noting 'that this leaves no room for alternative means of analysis such as plain error review or a contention of ineffective assistance of trial counsel.' [Citation.] The reasoning was 'that an expedited, limited review of detention decisions is designed in the first instance to be review of the trial court's

> decision' and it was 'unreasonable to expect this expedited process to carry the same weight and scope of argument that is seen in a direct appeal following conviction.' " (Internal quotation marks omitted.) *Id.* ¶ 31.

The *Nettles* court concluded that plain-error review is incompatible with the language of Rule 604(h). *Id.* ¶ 34.

¶ 63 The appellate court, in *People v. Jackson*, 2025 IL App (4th) 241411-U, found that our supreme court's decision in *People v. Ratliff*, 2024 IL 129356, offered further support for the decision in *Nettles*. The *Jackson* court explained:

> "After our decision in *Nettles*, the Illinois Supreme Court issued its decision in *People v. Ratliff*, 2024 IL 129356, ¶ 26, finding that 'Rule 604(d) is unmistakably clear: Any issue not raised in a posttrial motion is "waived" on appeal. Though forfeiture may be a limitation on the parties, and not this court, we have never stated that the same is true of waiver, and with good reason.' The *Ratliff* court reaffirmed that Illinois Supreme Court Rules are not mere suggestions (citation) and abandoned prior precedent finding that the word waived really meant forfeited. [Citation.] The court refused to overlook the defendant's waiver under the auspice of plain error to reach the merits of his claim." *Jackson*, 2025 IL App (4th) 241411-U, ¶ 18.

¶ 64 We agree with the analysis and the conclusions reached in *Nettles* and *Jackson* and find that Rule 604(h)(2) precludes the use of plain error to review the pretrial detention issues in appeal number 1-25-1056B, which have been waived by defendant.

¶ 65 In the alternative, defendant argues that we should review the waived issues under ineffectiveness of counsel.

¶ 66 A defendant's claim of ineffective assistance of counsel is analyzed under the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Veach*, 2017 IL 120649, ¶ 29. To prevail on a claim, "a defendant must show both that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *People v. Petrenko*, 237 Ill. 2d 490, 496 (2010). The failure to satisfy either prong precludes a finding of ineffective assistance of counsel. *People v. Clendenin*, 238 Ill. 2d 302, 317-18 (2010).

¶ 67 The *Nettles* court also addressed the applicability of ineffective assistance of counsel on appeal under Rule 604(h) where the defendant failed to raise a claim in a motion for relief. The court concluded that the defendant could not meet the prejudice prong, and explained:

> "[a]n appeal from a detention decision can be brought at any time prior to convictions. [Citation.] Subject to the limitation that no more than one appeal be brought at one time [citation], [the] defendant could still file a prior motion for relief and take a proper appeal. It is difficult to discern how a defendant could establish that he has been prejudiced by his attorney 'dropping the ball' when the ball is still in the air." *Nettles*, 2024 IL App (4th) 240962, ¶¶ 25-26.

¶ 68 Therefore, under *Nettles*, we find defendant cannot establish ineffective assistance of counsel in appeal number 1-25-1056B based on defense counsel's failure to raise his arguments as to the March 8, 2024 order in the motion for relief. As a result, we will not consider the arguments set forth in the memorandum filed in appeal number 1-25-1056B.

¶ 69 We next turn to those issues challenging the circuit court's June 3, 2024 continued detention orders that were properly preserved for review in all of his appeals.

¶ 70 Our supreme court recently defined the applicable standard of review for initial detention hearings, which is dependent on whether live witness testimony was presented at the hearing. See *People v. Morgan*, 2025 IL 130626. Specifically, where live witness testimony is presented, "the circuit court's ultimate detention decision under section 110-6.1 [(725 ILCS 5/110-6.1 (West 2022)], in addition to any underlying factual findings supporting the decision, will not be disturbed on review unless found to be contrary to the manifest weight of the evidence." *Id.* ¶ 54. However, if the hearing proceeds solely by proffer, "the reviewing court is not bound by the circuit court's factual findings and may therefore conduct its own independent *de novo* review of the proffered evidence and evidence otherwise documentary in nature." *Id.*

¶ 71 As to a continued detention decision, this court, prior to *Morgan*, held that we review such decisions for an abuse of discretion. *Casey*, 2024 IL App (3d) 230568, ¶¶ 11-13; *Thomas*, 2024 IL App (1st) 240479, ¶ 14; *Walton*, 2024 IL App (4th) 240541, ¶ 40. Following, *Morgan*, which as discussed involved an initial petition for detention, and not a determination of continued detention, some divisions of this court have applied the *de novo* standard to continued detention decisions. *People v. Brito*, 2025 IL App (1st) 242601-U; *People v. Salley*, 2025 IL App (1st) 242240-U; *People v. Walker*, 2025 IL App (1st) 242464-U; *People v. Williams*, 2025 IL App (1st) 242594-U; *People v. Wilson*, 2025 IL App (1st) 242454-U. However, in *People v. Mansoori*, 2025 IL App (1st) 250481-U, another division of this court found that despite the holding in *Morgan*, the abuse of discretion standard used in *Casey* and *Thomas* to review continued detention determinations was the correct standard of review. Defendant argues that we should follow *Morgan* and review *de novo*. We need not decide this question because under either standard we would affirm the circuit court's determinations that defendant's continued detention was appropriate.

¶ 72 In the 22 cases and 24 CR 497, defendant was not initially detained but was released with conditions and later detained following revocation of his release. Therefore, in the appeals from these cases, we need only consider whether continued detention was necessary to reasonably ensure the appearance of defendant for later hearings or to prevent defendant from being charged with a subsequent felony or Class A misdemeanor. 725 ILCS 5/110-6(j) (West 2022).

¶ 73 Defendant was on pretrial release on nine counts of aggravated criminal sexual abuse and two counts of predatory criminal sexual assault (the 22 cases) when he was subsequently arrested on December 11, 2023 for charges of manufacturing of child pornography (24 CR 497). He was again placed on pretrial release with one of the conditions of release being that he not access the internet. Again, while on release, defendant was charged with 11 counts of possessing child pornography (24 CR 3266), charges which alleged that the possession occurred on December 11, 2023. The State's proffer established that, during the December 2023 search, defendant was using and in possession of the first Samsung phone with Keep Safe, which had over 200 child pornography photographs and videos.

¶ 74 And the State showed that defendant violated the condition of his release which prohibited him from accessing the internet. The State proffered that defendant frequented the library to use laptops with internet access in private rooms during essential EHM movement days. The officers arrested defendant at the library, in a private room, with a library laptop, and observed him make moves as if he was minimizing the screen. Additionally, at the time, he had the second Samsung phone with Keep Safe, which must be downloaded from the internet.

¶ 75 In light of defendant's subsequent charges while released on EHM and his failure to abide by the condition of release which required that he not access the internet, we find no error in the

circuit court's conclusion that continued detention was necessary to "prevent the defendant from being charged with a subsequent felony or Class A misdemeanor." 725 ILCS 5/110-6(j) (West 2022). Because we have made this finding we need not consider whether continued detention was necessary to ensure defendant's appearance in court.

¶ 76 Defendant also argues that his continued detention was not necessary in that most of the State's allegations against him occurred prior to 2016. We reject this argument. Defendant also has been charged with possessing child pornography on December 11, 2023. At the time of possession, defendant was on pretrial release on multiple charges of sexual abuse of minors and he was being arrested on charges of manufacturing child pornography.

¶ 77 In case number 24 CR 3266, involving charges of possession of child pornography, defendant was initially detained and therefore, we need only consider whether continued detention was necessary "to avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or to prevent the defendant's willful flight from prosecution." 725 ILCS 5/110-6.1(i-5) (West 2022). The statute "does not require the court to again make specific findings that the State proved the three propositions by clear and convincing evidence as required by the initial hearing." *Hongo*, 2024 IL App (1st) 232482, ¶ 21 (citing *People v. Casey*, 2024 IL App (3d) 230568, ¶ 13). The finding required by section 110-6.1(i-5) is subject to a less demanding standard than that required at the detention hearing. *People v. Thomas*, 2024 IL App (1st) 240479, ¶ 14 ("when the trial court found that the State presented clear and convincing evidence on all three elements required by section 110.6-1(e), that finding necessarily encompassed the continued detention finding required by section 110-6.1(i-5)").

¶ 78 We agree with the State that defendant's continued detention was necessary to avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case. *Id.* The State's proffer showed that defendant had been charged with numerous felony counts of sexual abuse, which stemmed from incidences with multiple young girls. While he was on pretrial release for these charges, he was found to be in possession of over 200 photographs and videos that were classified as child pornography. Not only did the State proffer that he possessed these photographs and videos, it also proffered that he was involved in online chats relating to these images and videos, some of which involved victims of defendant's other charges. Therefore, we find that the State met its burden of proving that defendant is a real and present threat to the victims, children, and the community at large. See (*People v. Popovich*, 2025 IL App (4th) 250196, ¶ 21 (quoting *People v. Jackson*, 2024 IL App (4th) 240441-U, ¶ 18) ("Possession of child pornography is inextricable from the act of creating it, and '[t]he abuse endured by these children, created for those, like defendant, who consume child pornography, is not a hypothetical possibility that may or may not come to pass. It has already happened.' ")).

¶ 79 Defendant disagrees with the circuit court's assertion that his behaviors were unpredictable. He maintains that his behaviors were actually predictable in that the sexual abuse charges allegedly occurred when his daughter, at a young age, had sleepovers in his home, which will no longer happen. Defendant also argues that the sexual abuse charges are from the 2010s and he has not been accused of any similar occurrences since then. He contends that the charges of possession of child pornography do not make him a *physical* threat to a child or to anyone in the community. We disagree.

¶ 80 Even though the multiple charges of sexual abuse of vulnerable minors involved occurrences in the past, in December 2023, photographs and videos of some of the victims (along with hundreds of pornographic photographs and videos of other children) were still in defendant's possession and accessible to him on the first Samsung phone in Keep Safe. This same application was downloaded to the second Samsung phone. He had also disseminated photographs through online chats, some of which included his victims. Further, this court in *People v. Schulz,* 2024 IL 240422, ¶ 26, has explained that the creation and possession of child pornography causes both physical and psychological harm:

> "[T]he State undoubtedly has a legitimate reason to ban the creation of child pornography, as it is often associated with child abuse and exploitation, resulting in physical and psychological harm to the child." (Internal quotation marks omitted.) [Citation.] "Child pornography is particularly harmful because the child's actions are reduced to a recording which could haunt the child in future years, especially in light of the mass distribution system for child pornography." [Citation.] There is a developing consensus that a relationship exists between even the possession of child pornography and its creation, as the former may stimulate the latter. [Citation.]"

¶ 81 Here, based on the articulable facts of defendant's charges as to the sexual abuse of minors, possession of a voluminous amount of child pornography and sharing of child pornographic images through online chats, defendant poses a threat not only to his victims and vulnerable children, but also to the community.

¶ 82 Defendant nonetheless insists that his background, close ties to his family and community, and his conduct without incident while on pretrial release support a finding that he is not a threat.

Defendant also points out that during the time he was released on bond, the court granted him numerous movement days including overnight trips without incident. We disagree. The charges relating to the sexual abuse of minors arise out of incidents in defendant's own home and the victims are extended family members or were friends of his daughter. At the time defendant was allowed movement, he had not been charged with manufacturing or possession of child pornography. Thereafter, when released under the Act, with EHM and conditions of release, defendant violated a condition of his release by gaining access to the internet at the library on his essential movement days and had Keep Safe on the second Samsung phone, which was downloaded from the internet.

¶ 83 Because we find that continued detention was proper in that defendant poses a clear and present threat, we do not consider his arguments that he was not a flight risk.

¶ 84 Defendant further argues that the State failed to prove that there was no condition or combination of conditions that would mitigate the possible threat that defendant poses. However, in determining whether continued detention is appropriate, "the Code does not require the court to again make specific findings that the State proved the three propositions by clear and convincing evidence as required at the initial hearing." *Casey*, 2024 IL App (3d) 230568, ¶ 13. We need only consider whether continued detention is necessary to "reasonably ensure the appearance of the defendant for later hearings or to prevent the defendant from being charged with a subsequent felony or Class A misdemeanor" (725 ILCS 5/110-6(j) (West 2022)) or "avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or to prevent the defendant's willful flight from prosecution." (*Id.* § 110-6.1(i-5)). Where a trial court finds "that the State presented clear and convincing evidence on all three

elements required by section 110-6.1(e), that finding necessarily encompass[es] the continued detention finding." *Thomas*, 2024 IL App (1st) 240479, ¶ 14.

¶ 85 Furthermore, we disagree that there are conditions which would mitigate the threat which he poses. The State's proffer showed that defendant, while on pretrial release was charged with possession of child pornography. He was found to possess this material when he was arrested on charges of manufacturing of pornography. Defendant possessed pornographic images and videos of the victims from his sexual abuse charges. He further used his EHM essential movement days to frequent the public library where he checked-out library laptops to access the internet, which was in violation of his pretrial release conditions.

¶ 86 For the forgoing reasons, we affirm the orders of the circuit court which require that defendant continue to be detained pretrial.

¶ 87 Affirmed.