

**NOTICE**  
Decision filed 09/30/25. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2025 IL App (5th) 250554-U  
NO. 5-25-0554  
IN THE  
APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

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

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Macon County.
	)	
v.	)	No. 25-CF-899
	)	
MICHAEL J. PEREZ,	)	Honorable
	)	Jeffrey S. Geisler,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE SHOLAR delivered the judgment of the court.  
Justices Cates and Hackett concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm the circuit court’s orders granting the State’s verified petition to deny pretrial release and denying the defendant’s motion for relief where the court correctly determined that the State presented clear and convincing evidence that the defendant posed a real and present threat to the safety of any person or the community and that there was no condition or combination of conditions that would mitigate the threat.

¶ 2 The defendant, Michael J. Perez, appeals orders of the Macon County circuit court granting the State’s verified petition to deny pretrial release and denying the defendant’s motion for relief. He argues that the State did not present clear and convincing evidence of two of the propositions it was required to prove: (1) that he posed a clear and present threat to the safety of any person or persons or the community; and (2) that no condition or combination of conditions of release would mitigate the threat. We affirm the circuit court’s orders.

¶ 3

## I. BACKGROUND

¶ 4 On June 25, 2025, the State filed a two-count information charging the defendant with aggravated discharge of a firearm (720 ILCS 5/24-1.2(a)(2) (West 2024)) and unlawful possession of a weapon by a felon (*id.* § 24-1.1(a)). The charges stemmed from a June 7, 2025, incident in which the defendant allegedly fired a weapon in the direction of S.J., the 17-year-old father of the child born to the defendant's daughter.

¶ 5 On the same day, the State filed a verified petition to deny pretrial release. The petition alleged that pretrial release should be denied because the defendant was charged with detainable offenses and his release would pose a real and present threat to the safety of any person or persons or the community.

¶ 6 Attached to the petition was a complaint for arrest warrant dated June 10, 2025, and signed by Officer K. Babb. Babb averred that Decatur police officers took reports from S.J. and his mother, Tisja Hobbs.

¶ 7 According to the warrant, S.J. told officers that he and his mother, Tisja Hobbs, went to the defendant's home to retrieve S.J.'s belongings. He explained that he has a child with the defendant's daughter. S.J. indicated that his mother drove him to the defendant's house. The defendant let him into the house and, while inside, he and the defendant got into a verbal argument, which escalated into a physical altercation. S.J. told police that after the altercation ended, he left the house and went toward the passenger side of his mother's vehicle. He stated that he saw the defendant exit his house, walk toward Hobbs's vehicle, and fall on the wet ground. When the defendant stood up, S.J. saw that the defendant was holding a small, black handgun. As S.J. ran down the street, he heard two or three gunshots. He indicated that a bullet struck the roadway near him.

¶ 8 The warrant further indicated that Hobbs told officers that she saw the defendant holding a small, black handgun outside his home. She indicated that she heard one gunshot and that S.J. fled the scene.

¶ 9 Finally, Babb averred that officers observed injuries to S.J.’s wrist and abrasions on the front and back of his neck resulting from “the incident.” They did not observe any gunshot injuries.

¶ 10 On the same date, the State filed a pretrial investigation report (PTI). The report noted that the defendant reported that he had lived with his wife and children in the same home for 16 years. The defendant further reported that he acted as the sole caregiver to his nine children while his wife worked full-time and that he was self-employed with a business he owned called MTPZ Logistics. The investigator confirmed the defendant’s residence but indicated that the remaining information could not be verified. The defendant provided his wife as a verification source, but the investigator was unable to contact her.

¶ 11 The PTI indicated that the defendant had two previous felony convictions for possession of cannabis in 2012 and 2016, for which he received sentences of probation and conditional release, respectively. The report further indicated that the defendant did not have any history of pretrial failure to appear and that he was on court supervision for a charge of reckless driving when the events at issue in the current charges took place.

¶ 12 On the Virginia Pretrial Risk Assessment Instrument—Revised (VPRAIR), the defendant scored 2 out of a possible 14. This put the defendant in the lowest risk category for violating pretrial risk conditions. The PTI did not include any recommendations with respect to pretrial release.

¶ 13 On June 25, 2025, the circuit court held a hearing on the State’s petition with Judge Forbes presiding. The assistant state’s attorney indicated that the State would stand on the PTI and the complaint for arrest warrant and did not present any testimony or other additional evidence. He

argued that “obviously shooting at people is highly dangerous, and therefore we’d ask that he be detained.”

¶ 14 The defendant relied on the PTI in arguing that pretrial release was appropriate. Defense counsel emphasized that the defendant owned a business and lived in the same home for 16 years. He acknowledged that the defendant was on court supervision when the incident occurred, but he emphasized that the defendant had no convictions for violent felonies and that his most recent felony conviction was nine years earlier. In addition, counsel highlighted the defendant’s low score on the VPRAIR.

¶ 15 Ruling from the bench, the circuit court pointed to the evidence that the defendant fired two or three shots at S.J. and noted that the defendant had two prior felonies and was on supervision when the incident occurred. The court found that the defendant posed a real and present threat to S.J. and the community at large. The court further found that “there is no condition or combination of conditions that can mitigate the real and present threat based on the seriousness of this offense that was committed while he was on court supervision and given his criminal history.” The court therefore granted the State’s petition to deny pretrial release.

¶ 16 The court entered a written order the same day. The court found that the State had proven by clear and convincing evidence that (1) the proof was evident or the presumption great that the defendant committed a detainable offense; (2) the defendant posed a real and present threat to the safety of any person or persons or the community; and (3) no condition or combination of conditions could mitigate the real and present threat. The court summarized the facts supporting its findings that the defendant posed a real and present threat and that no conditions of release could mitigate that threat as follows: “Evidence [the defendant] committed serious gun offenses while on court supervisions; 2 prior felony offenses.”

¶ 17 On July 1, 2025, the defendant filed a motion for relief. See Ill. S. Ct. R. 604(h)(2) (eff. Apr. 15, 2024). He argued that the State failed to provide clear and convincing evidence of all three propositions it was required to prove. With regard to the first proposition (that the proof was evident or the presumption strong that he committed a detainable offense), the defendant argued that the reports of the two witnesses were inconsistent. He noted that while S.J. told police he heard two to three gunshots, Hobbs reported hearing only one. With regard to the second proposition (that he posed a real and present threat to the safety of any individuals or the community), the defendant again emphasized that he had no prior violent felonies, that his drug convictions were from 9 and 13 years ago, respectively, and that he was in the lowest risk level on the VPRAIR. As to the third proposition (that there were no conditions that could mitigate the real and present threat), the defendant argued that there was no evidence that he had a history of violence or that he had ever used a gun previously. In addition, he argued that the court could mitigate any threat by imposing conditions such as home confinement, GPS monitoring, and/or a no-contact order protecting the victim.

¶ 18 On July 2, 2025, the circuit court held a hearing on the defendant's motion for relief with Judge Geisler presiding. The defendant presented the same arguments that were in his written motion. In response, the State argued that Judge Forbes had thoroughly analyzed the salient facts before ruling and that by discharging a gun, the defendant posed a risk to "the entire community" as well as "the individuals involved." Judge Geisler then stated on the record that the State met its burden of proving all three elements. In a docket entry on the same day, the circuit court stated "that continued detention is necessary to avoid a real and present threat to the safety of any persons or the community." The defendant filed a timely appeal pursuant to Illinois Supreme Court Rule 604(h)(1)(iii) (eff. Apr. 15, 2024) on July 7, 2025.

¶ 19

## II. ANALYSIS

¶ 20 The defendant argues that the State failed to prove by clear and convincing evidence that (1) he posed a real and present threat to the safety of any individual or individuals or the community; or that (2) no condition or combination of conditions of release could mitigate the threat. We disagree.

¶ 21 All criminal defendants are presumptively eligible for pretrial release, even those charged with violent offenses. *People v. Lopez*, 2025 IL App (2d) 240709, ¶ 20; see also 725 ILCS 5/110-2(a) (West 2024). Pretrial release may only be denied “in certain statutorily limited situations.” *Lopez*, 2025 IL App (2d) 240709, ¶ 15 (citing 725 ILCS 5/110-6.1(e) (West 2022)). Pertinent here, the circuit court may deny pretrial release after a hearing on the State’s verified petition only where (1) the proof is evident or the presumption great that the defendant has committed a detainable offense; (2) the defendant poses a real and present threat to the safety of any individual(s) or to the community; and (3) no condition or combination of conditions would mitigate the threat. *People v. Miller*, 2024 IL App (1st) 240588, ¶ 24 (citing 725 ILCS 5/110-6.1(e)(1)-(3) (West 2022)).

¶ 22 The State has the burden of proving all three requirements by clear and convincing evidence. *People v. Horne*, 2023 IL App (2d) 230382, ¶ 16. If the State fails to prove any one of these requirements, “the presumption of release remains, and detention is unlawful.” *People v. Sorrentino*, 2024 IL App (1st) 232363, ¶ 32. In addition, the court must make written findings summarizing its reasons for denying pretrial release. *Horne*, 2023 IL App (2d) 230382, ¶ 18 (citing 725 ILCS 5/110-6.1(h)(1) (West 2022)).

¶ 23 Our standard of review on appeal depends on the nature of the evidence presented at the pretrial detention hearing. Where the parties present the testimony of live witnesses, we review the circuit court’s decision to determine whether it is against the manifest weight of the evidence.

*People v. Morgan*, 2025 IL 130626, ¶ 54. However, where the parties proffer only documentary evidence, as they did in this case, the appellate court “stands in the same position as the circuit court and may therefore conduct its own independent review of the proffered evidence and evidence otherwise documentary in nature.” *Id.* ¶ 51. Our review is thus *de novo*. *Id.* ¶ 54. This means we will conduct the same analysis the circuit court would conduct, and we are not bound by its findings. *Lopez*, 2025 IL App (2d) 240709, ¶ 18.

¶ 24 Here, the defendant was charged with aggravated discharge of a firearm and unlawful possession of a weapon by a felon, both of which are detainable offenses. See 725 ILCS 5/110-6.1(a)(6)(A), (a)(6)(O)(i) (West 2024). On appeal, he does not challenge the circuit court’s finding that the proof was evident and the presumption strong that he committed these offenses; he argues only that the State failed to sustain its burden of proving the two remaining requirements for pretrial detention. We turn our attention to those arguments.

¶ 25 The defendant first argues that the State failed to prove by clear and convincing evidence that he posed a real and present threat. We reject this contention.

¶ 26 The pertinent statute provides a nonexhaustive list of factors courts should consider in determining whether a defendant poses a real and present threat to the safety of any individual(s) or the community. Those factors include (1) the nature and circumstances of the offenses charged, including whether they are crimes of violence or involve a weapon (*id.* § 110-6.1(g)(1)); (2) whether the defendant’s prior criminal history indicates “violent, abusive, or assaultive behavior, or lack of such behavior” (*id.* § 110-6.1(g)(2)(A)); (3) the identity of any individual to whose safety the defendant may pose a threat and the nature of any such threat (*id.* § 110-6.1(g)(3)); (4) the defendant’s age and physical condition (*id.* § 110-6.1(g)(5)); (5) the age and physical condition of the victim or complaining witness (*id.* § 110-6.1(g)(6)); (6) whether the

defendant possesses or has access to any weapons (*id.* § 110-6.1(g)(7)); (7) whether the defendant was on probation, parole, or mandatory supervised release when arrested on the underlying charges or any other offense (*id.* § 110-6.1(g)(8)); and (8) any other factor that has a reasonable bearing on the defendant's propensity for violent, abusive, or assaultive behavior (*id.* § 110-6.1(g)(9)). No one factor is determinative, and the court must base its decision on an individualized assessment. *People v. Atterberry*, 2023 IL App (4th) 231028, ¶ 15 (citing 725 ILCS 5/110-6.1(f)(7) (West 2022)).

¶ 27 The defendant's contention that the State failed to carry its burden has three components. First, he challenges the reliability of the statements S.J. and Hobbs made to police, arguing that they were inconsistent. He notes that while S.J. told police he heard two to three gunshots, Hobbs reported hearing only one shot. He also asserts that although S.J. told police that one of the bullets struck the roadway near him, police did not recover any projectiles at the scene. However, the record before us does not indicate what police found at the scene, and we do not consider the fact that S.J. reported hearing one or two more gunshots than Hobbs sufficient to render the evidence in the complaint for an arrest warrant unreliable. Both witnesses told police they observed the defendant holding a small, black handgun, and both witnesses described hearing at least one gunshot as S.J. ran away from the defendant. As such, the complaint for an arrest warrant provided evidence concerning the nature and circumstances of the underlying charges that the court could properly consider. See *id.* § 110-6.1(g)(1).

¶ 28 In the second component of his argument, the defendant correctly contends that neither the general societal harm caused by his prior drug offenses nor the mere fact that the State charged him with detainable offenses in this case is sufficient to support a finding that he posed a real and present threat. See, e.g., *Atterberry*, 2023 IL App (4th) 231028, ¶ 18 (stating that "the fact that a



person is charged with a detainable offense is not enough to order detention”); *People v. Drew*, 2024 IL App (2d) 230606-U,<sup>1</sup> ¶ 19 (explaining that in ordering pretrial detention, a court may not rely on “a general conclusion” that a charged offense “is inherently dangerous to the community”). We note, however, that the circuit court expressly considered the evidence that the defendant fired gunshots at S.J. and the fact that he was on court supervision when the conduct at issue occurred. Thus, the court did not rely solely on the inherent danger to the community posed by the defendant’s previous crimes and the mere fact that the defendant was charged with a detainable offense in this case.

¶ 29 Finally, the defendant points to evidence that he had a limited criminal history involving convictions that were not recent and did not involve crimes of violence (725 ILCS 5/110-6.1(g)(2)(A) (West 2024)) and evidence that he scored in the lowest risk category on the VPRAIR. He argues that this evidence showed he did not pose a real and present threat to anyone’s safety. However, our independent review of the documentary evidence in the record indicates that while there was some evidence to support a finding that the defendant did not pose a safety threat, the record contained ample evidence to support the opposite conclusion.

¶ 30 As we have discussed, the circuit court considered evidence that the defendant was on court supervision when the events at issue occurred (*id.* § 110-6.1(g)(8)) and evidence that the charges involved the use of a weapon (*id.* § 110-6.1(g)(1)). In addition, the record contains evidence that the defendant injured S.J. during an altercation just before he fired at him, thus indicating he had the potential for violence. See *id.* We also consider that S.J. was only 17 years old (*id.* § 110-6.1(g)(6)) and had a child with the defendant’s daughter (*id.* § 110-6.1(g)(3)). Although the record

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<sup>1</sup>Cited as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025).

does not reveal the exact age of the defendant's daughter, the PTI does indicate that the defendant's children ranged in age from 3 to 18 years and that they all resided with him. These circumstances made future conflicts between the defendant and S.J. likely. Finally, the record reveals that the defendant possessed or had access to a weapon. See *id.* § 110-6.1(g)(7)). Viewing this evidence in its entirety, we find that the State met its burden of proving by clear and convincing evidence that the defendant posed a real and present threat to the safety of an individual (S.J.) or the community.

¶ 31 The defendant next argues that the State failed to meet its burden of proving by clear and convincing evidence that no conditions or combination of conditions could mitigate any threat he posed. We disagree.

¶ 32 Once a court determines that the defendant poses a threat to the safety of any individual or the community, the court must then consider whether any conditions of pretrial release will mitigate the threat and whether the defendant is likely to comply with such conditions. *Horne*, 2023 IL App (2d) 230382, ¶ 32 (citing 725 ILCS 5/110-5(a)(1)-(6) (West 2022)). Pertinent factors to consider include (1) the nature and circumstances of the offenses charged (725 ILCS 5/110-5(a)(1) (West 2024)); (2) the weight of the evidence against the defendant (*id.* § 110-5(a)(2)); (3) the defendant's character, family ties, employment, community ties, length of residence in the community, and criminal history (*id.* § 110-5(a)(3)(A)); (4) whether the defendant was on probation or parole when arrested on the underlying charges (*id.* § 110-5(a)(3)(B)); and (5) the nature and seriousness of the threat posed by the defendant's release based on the specific and articulable facts of the case (*id.* § 110-5(a)(4)).

¶ 33 As the defendant correctly states, a court may not order pretrial detention "based on the bare allegations of the charge." *Lopez*, 2025 IL App (2d) 240709, ¶ 19 (citing *People v. Stock*,

2023 IL App (1st) 231753, ¶ 18); see also *People v. Jeanpierre*, 2025 IL App (4th) 240462-UB,<sup>2</sup> ¶ 19. The nature and circumstances of the underlying offenses is a proper consideration. 725 ILCS 5/110-5(a)(1) (West 2024). However, it is “just one factor to consider in determining whether the threat posed can be mitigated by conditions of release.” *Lopez*, 2025 IL App (2d) 240709, ¶ 19. As stated previously, the court must make an individualized assessment without relying exclusively on any single factor. *Atterberry*, 2023 IL App (4th) 231028, ¶ 15.

¶ 34 The defendant contends that the underlying charges have not yet been proven and “the State identified no other compelling evidence indicating [the defendant] is unlikely to comply with conditions” of pretrial release. He acknowledges, however, that he was on court supervision when the underlying offense occurred. This is an important consideration in determining whether a defendant is likely to comply with the conditions of pretrial release. 725 ILCS 5/110-5(a)(3)(B) (West 2024); see also *Horne*, 2023 IL App (2d) 230382, ¶ 35 (upholding the circuit court’s finding that the defendant was unlikely to comply with conditions based, in part, on evidence that the defendant was on probation when he committed the underlying offenses). Also pertinent is the fact that one of the underlying charges, unlawful possession of weapon by a felon, necessarily involves a failure to comply with statutory requirements related to firearms. See *People v. Brown*, 2024 IL App (5th) 240236-U,<sup>3</sup> ¶ 34.

¶ 35 In addition, the nature of the defendant’s relationship with S.J. makes it likely that further confrontations between them will occur. The defendant’s daughter resides with the defendant and shares a child with S.J. This, too, is a relevant consideration. See *Horne*, 2023 IL App (2d) 230382, ¶¶ 28, 35 (finding evidence that the defendant lived in the same household as his mother, who was

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<sup>2</sup>Cited as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025).

<sup>3</sup>Cited as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025).

the victim of the offense charged, provided support for the circuit court’s determinations that he posed a threat to her safety and that conditions of release would be unlikely to mitigate the threat).

¶ 36 We recognize that neither *Horne* nor *Brown* are precisely analogous to the case before us. Both cases involved more extensive evidence that the defendants had histories of failure to comply with court orders. See *Horne*, 2023 IL App (2d) 230382, ¶¶ 8, 28, 35; *Brown*, 2024 IL App (5th) 240236-U, ¶ 34. We further recognize that, as the defendant emphasizes, there was some evidence to support a contrary finding. Specifically, there was evidence that the defendant successfully completed sentences of probation and conditional discharge on his previous drug charges, evidence that he was employed, and evidence that he had lived in the same community for a long time. However, we find that the evidence, viewed in its entirety, satisfied the State’s burden of proving by clear and convincing evidence that the conditions of pretrial release would not mitigate the threat.

¶ 37 The defendant argues, however, that neither the State nor the circuit court specifically addressed the feasibility of any available conditions of release. We reject this contention because there is no requirement that they do so. The legislation governing pretrial detention proceedings requires the State to file a verified petition stating the grounds upon which the court should deny pretrial release; however, “[i]t does not require the State to allege why release conditions would not reasonably ensure \*\*\* the safety of others and the likelihood of [the] defendant’s compliance with pretrial release” (*Horne*, 2023 IL App (2d) 230382, ¶ 34).

¶ 38 Similarly, although the circuit court must make written findings “summarizing the court’s reasons for concluding that the defendant should be denied pretrial release, including why less restrictive conditions would not avoid a real and present threat” (725 ILCS 5/110-6.1(h)(1) (West 2024)), setting forth a summary of the facts supporting the court’s conclusion that the defendant

posed a real and present threat and its conclusion that no conditions would mitigate that threat, as the court did here, is sufficient to comply with this requirement (see *Horne*, 2023 IL App (2d) 230382, ¶ 35). As this court recently observed, many of the statutory factors courts are to consider in determining whether the conditions of pretrial release would be likely to mitigate any threat posed by the defendant are similar to the factors that address whether the defendant poses a threat in the first place. *Brown*, 2024 IL App (5th) 240236-U, ¶ 33.

¶ 39 We have already concluded that the State satisfied its evidentiary burden. Having so concluded, we find no error in the circuit court's summary of its findings.

¶ 40 III. CONCLUSION

¶ 41 For the foregoing reasons, we affirm the orders of the circuit court.

¶ 42 Affirmed.