2024 IL App (4th) 240087-U

NO. 4-24-0087

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
March 22, 2024
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
JESUS ARRIAGA,	)	No. 23CF985
Defendant-Appellant.	)	
	)	Honorable
	)	Scott Kording,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Doherty and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not abuse its discretion by granting the State's petition to deny defendant pretrial release.

¶ 2 Defendant, Jesus Arriaga, appeals the trial court's decision to deny him pretrial release under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2022)), hereinafter as recently amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). We find no abuse of discretion by the court in granting the State's petition and affirm its detention order.

¶ 3 I. BACKGROUND

¶ 4 On September 25, 2023, the State charged defendant with seven counts of aggravated unlawful possession of a stolen motor vehicle valued in excess of $25,000 (625 ILCS

5/4-103.2(a)(3) (West 2022)), each one a Class 1 felony offense (*id.* § 4-103.2(c)). It also filed a petition to deny defendant pretrial release under section 110-6.1(a)(8) of the Code (725 ILCS 5/110-6.1(a)(8) (West 2022)), alleging defendant was eligible for pretrial detention and should be denied release because he posed "a high likelihood of willful flight to avoid prosecution."

¶ 5 On September 27, 2023, the trial court conducted a detention hearing, at which defendant appeared with the aid of a Spanish-speaking interpreter. At the State's request, the court took judicial notice of a verified statement of arrest that had been filed in the case. The statement showed the Bloomington, Illinois, police department received information from law enforcement officers in West Allis, Wisconsin, regarding a group of individuals selling stolen, high-end luxury pickup trucks. Defendant was one of the targets of the West Allis police investigation into the matter. Thereafter, Bloomington police officers located five luxury trucks posted for sale on Facebook Marketplace in the Bloomington area. The postings were made under four separate Facebook accounts that were suspected to be "fake accounts."

¶ 6 Bloomington police officers also set up surveillance at a large warehouse with a banner that read " 'High-County Trucks,' " along with a Bloomington address and phone number. At the warehouse, officers observed what appeared to be one of the trucks that had been posted for sale on Facebook Marketplace. They also observed five men coming and going from the warehouse. At one point, the men pulled six luxury trucks out of the warehouse and parked them in a line in a parking lot. Later, the vehicles were returned to the warehouse. A search warrant was issued for the warehouse. Inside, the police found eight luxury Chevrolet and GMC pickup trucks, seven of which were confirmed to have been stolen from the State of Texas.

¶ 7 The five males, defendant and four codefendants—Carlos Gabriel Guzman-Toledo, Anthony Williams Gomez-Gomez, Henry Gomez-Gomez, and Geovany Alvarez—were detained

by the police at a hotel where codefendant Alvarez had rented two rooms. The police executed a search warrant on the two rooms and two additional vehicles the men were seen driving. They found numerous key fobs in one of the vehicles and a loaded handgun in one of the hotel rooms.

¶ 8 Codefendant Alvarez spoke with the police and stated that he and "the entire group knew the trucks were stolen." Alvarez indicated the group was working for an unnamed individual, who was "organizing the theft ring and [was] shipping stolen cars all across the United States." He further stated that when a car was sold, the cash would go to the organizer, and whoever sold the vehicle would be "paid their cut or 'commission' for the sale." He estimated he had sold approximately 15 trucks and stated he had "operated with several different individuals in several different cities including Milwaukee."

¶ 9 The State further presented evidence by way of proffer, which showed that defendant reported to the police that he was born in the United States and had a California identification card. He stated he lived in Sugarland, Texas, and Houston, Texas, but provided no street address. Ultimately, all five codefendants reported being Texas residents, and none had any "local [Illinois] ties other than the stop over *** to sell the stolen vehicles." One codefendant, Henry Gomez-Gomez, was found in possession of a Mexican passport that he admitted was fake. Another codefendant, Carlos Gabriel Guzman-Toledo, had both a Mexican passport and a Mexican identification card that the police suspected were fraudulent. Additionally, in defendant's hotel room, the police found the expired United States passport of someone who was not part of the underlying investigation, as well as a Mexican passport and a Costco card that each had codefendant Alvarez's picture but a different name.

¶ 10 The State emphasized that codefendant Alvarez admitted the group's practice was to move from town to town and to stay in a hotel or warehouse for a couple of weeks before moving

on to the next location. It asserted that aside from the Illinois investigation, there were also investigations involving the group in Wisconsin, North Carolina, Colorado, Florida, and Nebraska. In connection with investigations in Wisconsin and Florida, defendant was identified as a suspect through photographs taken by victims who purchased stolen vehicles or through surveillance videos and photographs. Defendant was also identified on surveillance video removing proceeds from an account that was linked to one of the businesses through which the stolen vehicles were sold. He was further connected to at least two different commercial airline flights that were linked to locations in other states where there were pending investigations.

¶ 11 The State maintained that although defendant had no criminal history, there were no conditions of release that could mitigate his risk of flight. It pointed out defendant had no Illinois residence and, thus, home detention was not an option. Additionally, defendant worked for a larger organization that was capable of moving from place to place, and he had the means to travel to avoid prosecution. The State also argued that the nature of the criminal operation was designed to evade prosecution, specifically, taking stolen vehicles from one state and selling them in another while "never hitting the same city with the resell."

¶ 12 In response, defendant's counsel asserted that defendant was born in Chicago and a citizen of the United States. He represented that defendant spent the majority of his life in California before moving to Texas to look for work. Defendant was found with a California identification card and no false identifications were attributable to him.

¶ 13 Ultimately, the trial court granted the State's petition to deny defendant pretrial release on willful flight grounds, finding (1) the proof was evident or the presumption great that defendant committed a detainable offense, (2) defendant posed a real and present threat of willful flight, and (3) no conditions of pretrial release could mitigate the risk of flight. The court's oral

ruling showed it considered the Code's definition of willful flight. It found that although defendant had no prior record and possessed no false identifications, he was "tied through evidence *** to several different acts and efforts in an organized scheme designed by mobility to evade prosecution." The court found the evidence suggested defendant had the means to travel and a significant role in the underlying criminal enterprise. Through that enterprise, defendant had "engaged in a pattern of intentional conduct that [was] designed to evade prosecution."

¶ 14 In its written order, entered the same day as the detention hearing, the trial court further determined as follows: "[Defendant] was [a] significant actor in highly coordinated multi-state auto theft ring with high-name vehicles. [Defendant] traveled to several different states to avoid capture and charges." It also noted that defendant "was closely associated with [codefendants] who possessed openly several different types of fake [identifications]."

¶ 15 This appeal, pursuant to Illinois Supreme Court Rule 604(h) (eff. Sept. 18, 2023), followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, defendant seeks his "Release from Detention, with conditions." In filing his notice of appeal, he used the notice of appeal form approved for Rule 604(h) appeals, which permitted him to check boxes to identify his claimed errors on review and provided additional space for him to elaborate on the details of each claim. See Ill. S. Ct. R. 606(d) (eff. Sept. 18, 2023). Defendant checked boxes identifying four specific claims of error, asserting (1) he was not charged with an offense qualifying him for denial of pretrial release, (2) the State failed to prove that the proof was evident or the presumption great that he committed the charged offenses, (3) the State failed to prove that no conditions could mitigate the risk of willful flight, and (4) the trial court erred in its determination that no conditions would reasonably ensure his appearance for later

hearing or prevent him from being charged with a subsequent felony or Class A misdemeanor. He also checked a box for "Other," identifying the following additional claims of error:

> "1. When the court ruled the State had met its burden for detention under the 'willful flight' theory, the court incorporated findings defendant would 'commit other crimes' where 'dangerousness' was neither asserted nor proven.
>
> 2. The court's decision to detain was not sufficiently individualized as directed by [section 110-6.1(f)(7) of the Code (725 ILCS 5/110-6.1(f)(7) (West 2022))]."

¶ 18 On appeal, defendant has elected not to file a Rule 604(h) memorandum and relies solely on his claims of error as set forth in his notice of appeal. The State has filed its own memorandum in response to defendant's appeal.

¶ 19 Under the Code, all defendants are to "be presumed eligible for pretrial release." 725 ILCS 5/110-6.1(e) (West 2022). However, upon verified petition by the State, the trial court may deny a defendant release if he has committed a detainable offense as set forth in section 110-6.1(a) of the Code (*id.* § 6.1(a)). Relevant to this case, a court may deny pretrial release if the defendant "has a high likelihood of willful flight to avoid prosecution and is charged with *** [a] felony offense other than a Class 4 offense." *Id.* § 110-6.1(a)(8)(B).

> " 'Willful flight' means intentional conduct with a purpose to thwart the judicial process to avoid prosecution. Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight. Reoccurrence and patterns of intentional conduct to evade prosecution, along with any affirmative steps to communicate or remedy any such missed court date, may be considered as factors in assessing future intent to evade prosecution." *Id.* § 110-1(f).

¶ 20 In cases like the present one, the State must prove by clear and convincing evidence that (1) the proof is evident or the presumption great that the defendant has committed a detainable offense as set forth in section 110-6.1(a) and (2) no condition or combination of conditions can mitigate the risk of the defendant's willful flight. *Id.* § 110-6.1(e).

¶ 21 We review the trial court's decision to deny a defendant pretrial release for an abuse of discretion. *People v. Inman*, 2023 IL App (4th) 230864, ¶¶ 10-11. "An abuse of discretion occurs when the circuit court's decision is arbitrary, fanciful or unreasonable, or where no reasonable person would agree with the position adopted by the [circuit] court." (Internal quotation marks omitted.) *Id.* ¶ 10.

¶ 22 The first ground for relief identified in defendant's notice of appeal was a claim that he was not charged with an offense qualifying for denial of pretrial release. He elaborated on his claim by stating as follows: "The [trial] court improperly found a 'detention eligible offense' as a result of the hearing on 'willful flight.' [Charged with 7 counts of Aggravated Unlawful Possession of a Stolen Motor Vehicle, 625 ILCS 5/4-103.2(a)(3)]."

¶ 23 As noted above, a trial court may deny a defendant pretrial release if the defendant "has a high likelihood of willful flight to avoid prosecution and is charged with *** [a] felony offense other than a Class 4 offense." 725 ILCS 5/110-6.1(a)(8)(B) (West 2022). The offenses with which defendant was charged—seven counts of aggravated unlawful possession of a stolen motor vehicle—were Class 1 felony offenses. 625 ILCS 5/4-103.2(c) (West 2022). Accordingly, they were detention eligible offenses under section 110-6.1(a)(8) when accompanied by a finding that defendant also had "a high likelihood of willful flight to avoid prosecution." 725 ILCS 5/110-6.1(a)(8).

¶ 24 To the extent defendant challenges the trial court's willful flight determination, we

find no abuse of discretion. The record shows the court considered the definition of willful flight set forth in the Code and found that, consistent with that definition, the State had to establish that defendant had "a high likelihood of engaging in intentional conduct designed to thwart the judicial process to avoid prosecution." Further, it found the third sentence of the willful flight definition "instructive," noting it stated that "[r]eoccurrence and patterns of intentional conduct to evade prosecution *** may be considered as factors in assessing future intent to evade prosecution." *Id.* § 110-1(f).

¶ 25 In the present case, the trial court found defendant's past behavior in connection with what the court characterized as a "highly coordinated multi-state auto theft ring" in which defendant traveled to several different states, reflected a pattern of intentional conduct designed to avoid prosecution. The court found defendant had a significant role in the underlying "theft ring," stating defendant was "tied through evidence *** to several different acts and efforts in an organized scheme designed by mobility to avoid prosecution." It pointed to evidence of the airline flights defendant took, which had been linked to investigations to other states; that there were several other cities and states involved in the scheme; that defendant clearly had the means to travel; and that defendant was associated with codefendants who openly possessed different types of fake identifications.

¶ 26 We also note that defendant had no connection to the Bloomington area, where the underlying offenses occurred. The evidence showed defendant was born in Chicago and spent the majority of his life in California. At some point, he moved to Texas; however, he provided no street address identifying where in Texas he was residing.

¶ 27 The record reflects the trial court's factual findings were supported by the record, and defendant does not argue that the court relied on any improper factor. Given that the evidence

showed defendant had a significant role in an organized criminal scheme that was transient or mobile in nature, the means to travel, and no ties to the Bloomington, Illinois, area, we find the court committed no error in finding that he posed a high likelihood of willful flight. Under the circumstances presented, the court's decision was not arbitrary, fanciful, or unreasonable.

¶ 28 The second ground for relief identified in defendant's notice of appeal was a claim that the State failed to prove that the proof was evident or the presumption great that he committed the charged offenses. However, although defendant checked a box identifying this claim of error as one of his grounds for relief, he failed to provide any elaboration for his claim. As an appellant, defendant bears the burden of persuasion on review. See, *e.g.*, *Insurance Benefit Group, Inc. v. Guarantee Trust Life Insurance Co.*, 2017 IL App (1st) 162808, ¶ 44 ("[D]efendant, as the appellant, bears the burden of persuasion as to [his] claims of error."). He cannot satisfy that burden by solely checking a box on a form notice of appeal next to boilerplate language taken directly from the Act. Instead, at a minimum, defendant was required to point to some specific facts or aspect of the case that supported his requested grounds for relief. See *Inman*, 2023 IL App (4th) 230864, ¶ 13 ("[I]t is reasonable to conclude the Illinois Supreme Court, by approving the notice of appeal form, expects appellants to at least include some rudimentary facts, argument, or support for the conclusory claim they have identified by checking a box."). Because defendant has not provided any supporting facts or argument for his claim, he has not met his burden of persuasion and has failed to establish an abuse of discretion by the trial court as to this issue.

¶ 29 In connection with defendant's third ground for relief, he argued that the State failed to prove that no conditions could mitigate his risk of willful flight. He elaborated on this claim of error by arguing that "[t]he State did not sufficiently plead or prove 'willful flight,' being the only theory of detention alleged. '(H)igh likelihood of willful flight' was not proven." For the

reasons already stated, the trial court's willful flight determination was supported by the record and not an abuse of discretion. Accordingly, defendant's third claim of error lacks merit.

¶ 30 Defendant's fourth identified ground for relief asserted a claim that the trial court erred by determining that no "conditions would reasonably ensure the appearance of defendant for later hearings or prevent defendant from being charged with a subsequent felony or Class A misdemeanor." Again, relative to this claim, defendant simply checked a box next to boilerplate language taken from the Act without any elaboration or factual support. Given such circumstances, defendant cannot meet his burden of persuasion as the appellant, and he has failed to establish any abuse of discretion by the court.

¶ 31 Finally, as noted, defendant raised two additional grounds for relief under the section entitled "Other" on the form notice of appeal, arguing (1) the trial court improperly "incorporated findings [that he] would 'commit other crimes' " when his " 'dangerousness' was neither asserted nor proven" and (2) "[t]he court's decision to detain was not sufficiently individualized as directed by" the Code. We find neither argument persuasive.

¶ 32 The record shows that when setting forth its oral ruling and discussing whether any condition could mitigate defendant's risk of flight, the trial court commented that it had serious questions about whether defendant would commit other crimes if he were not detained. Ultimately, however, the court's comments were not tied to any finding of dangerousness, and we do not find they were necessarily improper in the context in which they were stated. Further, the record does not show that a determination by the court that defendant was likely to commit other crimes was a significant factor in any of the findings it was required to make when deciding whether to deny pretrial release in this case. Under the circumstances presented, we find no error.

¶ 33 Additionally, as defendant points out, section 110-6.1(f)(7) of the Code states that

"[d]ecisions regarding *** detention prior to trial must be individualized." 725 ILCS 5/110-6.1(f)(7) (West 2022). Here, the trial court explicitly recognized that requirement at the detention hearing, and both its oral and written rulings reflect its consideration of defendant's particular circumstances, history, and actions. Again, we find no error.

¶ 34 In this case, the trial court did not abuse its discretion by denying defendant pretrial release on willful flight grounds. Defendant's challenge to the court's detention order lacks merit.

¶ 35 III. CONCLUSION

¶ 36 For the reasons stated, we affirm the trial court's order.

¶ 37 Affirmed.