

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2017 IL App (3d) 170140-U

Order filed October 3, 2017

---

IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-17-0140
	)	Circuit No. 05-CF-2326
PATRICK J. DAVIS,	)	
Defendant-Appellant.	)	Honorable Daniel L. Kennedy, Judge, Presiding.

---

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.  
Justices Carter and O'Brien concurred in the judgment.

---

**ORDER**

¶ 1 *Held:* The circuit court's denial of the defendant's motion to modify his conditional release was against the manifest weight of the evidence.

¶ 2 The defendant, Patrick J. Davis, appeals from the denial of his motion to modify his conditional release, arguing that it was against the manifest weight of the evidence.

¶ 3 **FACTS**

¶ 4 In 2005, the defendant was charged with armed robbery (720 ILCS 5/18-2(a) (West 2004)) and armed violence (720 ILCS 5/33A-2(a) (West 2004)). *People v. Davis*, 2013 IL App (3d) 120033-U, ¶ 4. The defendant was found unfit to stand trial and placed into the custody of the Department of Human Services (DHS) for treatment. *Id.* In 2007, the circuit court found that the defendant remained unfit, and a discharge hearing was scheduled. *Id.* ¶ 5. After the discharge hearing, the court “ruled that the evidence was sufficient to find defendant ‘not not guilty’ of the charged offenses” and the defendant’s treatment was extended for two years. *Id.* The defendant continued to remain unfit for trial, and, in 2010, the court found the defendant was a serious threat to public safety and remanded him for further treatment with a maximum commitment date of October 29, 2030. *Id.* ¶ 6.

¶ 5 The defendant, upon the recommendation of DHS, petitioned the court for a conditional release. 725 ILCS 5/104-25 (West 2014). The court granted the request, and the defendant was placed in Stepping Stones of Rockford (Stepping Stones), in August 2015.

¶ 6 In October 2016, the defendant filed a motion to modify the terms of his conditional release to allow him to transition into a 24-hour supervised apartment setting at Stepping Stones, which is the subject of this appeal. The motion alleged that the defendant was making substantial progress and that the staff at Stepping Stones believed the transition to be appropriate for the defendant.

¶ 7 A hearing was held on the motion. The defendant called Matthew Kindler who testified that he was a social worker who worked as a rehabilitation supervisor and coordinator of forensic services at Stepping Stones. Kindler stated that Stepping Stones is a community mental health agency with residential services for adults with severe and persistent mental illness. They have different levels of care including 24-hour supervised group homes, 24-hour supervised

apartments, transitional living apartments, and community-based apartments. The ultimate goal of Stepping Stones “is to get each of [their] clients to live as independently as possible while successfully managing their mental illness.” Kindler supervised the group home that the defendant was living in and had known the defendant for about two years. Kindler said, “I see [the defendant] daily if not in passing, then I’ll sit down and have conversations with him. I’m also responsible for creating his individual treatment plan and his mental health assessment.”

¶ 8 The defendant was residing in a supervised group home that can house eight men. During the defendant’s year in the group home, Kindler noticed that the defendant had been managing his symptoms very well and had been compliant in all treatment and expectations. Moreover, the defendant had taken a leadership role in the agency and had “taken other clients under his wing to help guide them in the right direction towards their recovery.”

¶ 9 Kindler recommended that the defendant be allowed to reside in the supervised apartment setting. The supervised apartment building houses 15 men. Kindler described the features of the two facilities, stating:

“So at the group home where he’s currently residing I have my primary office there. But as I said I supervise three group homes and have other duties in the agency, so I split my time between that office and my other offices.

At the group home we have a case manager who runs that site, two mental health professionals that work during the day and on the weekends during the day and two overnight staff who rotate nights working. The doors in that building are all alarmed. During the day the alarms are disarmed so they only chime when they’re opened. At night they’re fully armed, so it will sound an alarm if the doors are opened.

At the group home when clients leave the site they are required to sign out with staff, check in every two hours that they're gone and sign back in when they return.

The 24-hour supervised apartment, the supervisor there is only responsible for supervising that building as well as individual counseling and some groups around the agency. There's a case manager that runs that site as well. They have three mental health professionals at that site to work during the day, during the week and on the weekend and then also two overnight staff to rotate nights.

\*\*\* Three of the four doors are fully alarmed 24 hours a day, they're only for fire exit. The main exit is not armed, however, there is a window going directly from the staff office into the exit, so clients can be seen leaving the buildings. Clients that are involved in the forensic system would be required to sign out with staff, check in every two hours and sign back in when they return."

¶ 10 Kindler compared the level of supervision at both sites and stated, "There's actually slightly more supervision at the supervised apartment setting given that the supervisor is primarily at that site when she's not providing counseling or other services across the agency, and they do have one extra mental health professional on site." Kindler further stated that there are no differences in regulations, guidelines, or restrictions between the two types of units. In both types of units, "if they leave the site they have to sign out. Every two hours they have to call the sites to check in, sign back in when they come back in. They need to take their medications as prescribed. They need to participate in all treatment recommendations, complete their independent living skills and activities of daily living and participate and volunteer or work activities." As a resident of the supervised apartment, Kindler said the defendant

“would be attending individual treatment. He would be going to counseling and groups. He would be participating in volunteer activities, job seeking as well as social activities with the other clients at the site and other clients across the agency or friends that he’s met in the community. He would be responsible for the upkeep of his apartment and just daily living tasks that come with living in an apartment.”

Kindler further stated:

“The goal at the supervised apartment facility is to help clients gain more independence. As [the defendant] has been living in a supervised group home for a year, he has successfully shown that he can manage his mental illness symptoms while completing daily living tasks under a supervised—close supervised setting.

While the treatment supervision won’t change going into a 24-hour supervised apartment, the level of supervision completing daily living skills will. He will be expected to independently clean his apartment, cook for himself, complete his hygiene tasks. Staff will monitor to make sure that he’s doing that but they won’t be there to remind him that it’s time to clean, it’s time to cook or anything like that.

So the goal is to help him gain his independence. At some point [the defendant] is going to likely be off of court restrictions, and like with all of our clients we want him to be as independent as he possibly can be.”

¶ 11 The State called Carol McNeal who testified that she was a clinical social worker and worked as a rehabilitation supervisor at the supervised apartments at Stepping Stones. McNeal corroborated much of Kindler’s testimony, including that the apartment building was supervised

24-hours a day. McNeal stated that neither the apartments nor the group homes were locked facilities, but that residents at both facilities were required to sign in and out and check in when they were not at the facility. She further stated that the curfew at the apartment facility was one hour later than that at the group home, but that was the only variance in freedom for the residents. McNeal said that if the motion was allowed, the defendant would be placed in her facility. No other evidence was presented for either party.

¶ 12 The court denied the motion. In doing so, the court noted that the defendant had only been in the group home for approximately 15½ months and did not have an “out date” until 2030. The court stated, “He seems to be doing very well where he is at. I will deny your motion.” The defendant filed a motion to reconsider, which was denied.

¶ 13 ANALYSIS

¶ 14 On appeal, the defendant argues that denying the motion was against the manifest weight of the evidence.

¶ 15 Section 104-25(g)(2) of the Code of Criminal Procedure of 1963 (Code) provides that, if a defendant is remanded to DHS, he must be placed in a secure setting, unless the court determines that there are compelling reasons why such placement is not necessary. 725 ILCS 5/104-25(g)(2) (West 2016). On review, we will not reverse a circuit court’s determination of whether the terms of the defendant’s conditional release should be modified unless it is against the manifest weight of the evidence. See *People v. Cross*, 301 Ill. App. 3d 901, 911 (1998). A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented. *People v. Deleon*, 227 Ill. 2d 322, 332 (2008).

¶ 16           Upon review of the record, we find the court’s decision to deny the defendant’s transition to the supervised apartment was against the manifest weight of the evidence. The defendant presented the testimony of Kindler who recommended that the defendant be transitioned to the supervised apartment. Kindler testified that the defendant had shown substantial progress at the group home, had been compliant with all instructions and treatment, had been managing his symptoms, and had taken a leadership role in the group home. He testified that there was slightly more supervision at the apartment facility as there was an extra mental health professional and the supervisor was primarily at the site. Further, he testified that both facilities had 24-hour supervision and required the same conditions of its residents, including signing in and out, checking in while not in the facility, taking medication, and participating in counseling, groups, and individual treatment. The State presented McNeal as a witness who testified that residents at the apartment facility were provided no greater freedoms than those residing in the group home, other than the apartment had a curfew one hour later than the group home. Notably, McNeal corroborated much of the testimony of Kindler and did not disagree with Kindler’s recommendation.

¶ 17           It is the circuit court’s responsibility to weigh the opinions of the witnesses with the other evidence presented and draw its own conclusions. See *Cross*, 301 Ill. App. 3d at 911. We acknowledge that the defendant’s criminal conduct which led to his commitment may be considered along with the other evidence presented at the hearing. See *In re Stephenson*, 67 Ill. 2d 544, 563-64 (1977). However, even taking into account the underlying criminal conduct, it was unreasonable for the court to reject the recommendation where there was no evidence presented that it was necessary for the defendant to remain in the group home.

¶ 18 In coming to this conclusion, we reject the State’s reliance on testimony from social workers at hearings in 2009 and 2011 regarding the defendant’s progress at that time. Such evidence was not presented at the hearing at issue here and is not relevant to the defendant’s transition to the supervised apartment facility. The State attempts to generically cite *Stephenson* for the proposition that evidence from *all* past hearings is relevant and may be considered. However, the court in *Stephenson* only stated that the underlying criminal conduct may be considered with the evidence. See *id.* Considering the fluid nature of mental health (see *In re Estate of J.M.*, 287 Ill. App. 3d 110, 116 (1997)), we will not expand this holding. Moreover, we note that section 104-25(g)(2) of the Code specifically allows for the continued review and modification of a defendant’s circumstances to determine the appropriate course of action. 725 ILCS 5/104-25(g)(2) (West 2016). To allow the court to consider the testimony of social workers at past hearings would be contrary to the intent of the Code.

¶ 19 CONCLUSION

¶ 20 The judgment of the circuit court of Will County is reversed.

¶ 21 Reversed.