

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of Cook County.
Plaintiff-Appellee,)	
)	
v.)	No. 06 CR 6632
)	
RICKEY ANDERSON,)	
)	The Honorable
Defendant-Appellant.)	Angela M. Petrone,
)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Justices Fitzgerald Smith and Lavin concurred in the judgment.

ORDER

¶ 1 *Held:* circuit court's denial of defendant's petition for conditional release affirmed where its conclusion was not against the manifest weight of the evidence and where the court did not rely on an improper factor to make its determination.

¶ 2 Defendant Rickey Anderson was found not guilty by reason of insanity of the offense of burglary of a place of worship and was committed to the custody of the Illinois Department of Health and Human Services (the Department). Defendant subsequently filed a petition for conditional release, which the circuit court denied. On appeal, defendant argues that the circuit

court's order denying his petition for conditional release is against the manifest weight of the evidence. For the reasons set forth herein, we affirm the judgment of the circuit court.

¶ 3

BACKGROUND

¶ 4

In 2006, defendant was arrested and charged with the burglary of a local church. At the time of the crime, defendant had been diagnosed with schizophrenia and was under the influence of cocaine and alcohol, which he had been using to self-medicate. He was ultimately found not guilty by reason of insanity (NGRI) of the offense and was remanded to the custody of the Department for inpatient psychiatric treatment and care in accordance with section 5-2-4 of the Unified Code of Corrections (Code) (730 ILCS 5/5-2-4 (West 2012)). Defendant has remained in the custody of the Department since his NGRI adjudication.

¶ 5

On June 13, 2014, defendant filed a petition for conditional release. In his petition, defendant alleged that he no longer met the statutory criteria for continued inpatient commitment, and as such, was entitled to be conditionally released from the Department's care. Specifically, defendant alleged that he was no "no longer 'in need of mental health services on an inpatient basis because he is 'not reasonably expected to inflict serious physical harm upon himself or another' 730 ILCS 5/5-2-4(a-1)(B) [(West 2012)]." The circuit court subsequently continued the cause for a hearing on defendant's petition in accordance with section 5-2-4(e) of the Code (730 ILCS 5/5-2-4(e) (West 2012)).

¶ 6

Conditional Release Hearing

¶ 7

At the hearing, Doctor Richard Malis, the leader of the clinical treatment team at the Elgin Mental Health Center (the Center), testified that he has been defendant's treating psychiatrist since his inpatient commitment in 2007. Over the years, he has formally met with defendant at least once per month; however, Doctor Malis testified that he usually saw defendant

"on the unit most days of the week in passing." Doctor Malis testified that defendant was diagnosed with schizophrenia for the first time "in the 1980's." Following his diagnosis, defendant hospitalized "more than 10" times as a result of the "deterioration [of] his functioning" caused by his illness.

¶ 8 Doctor Malis testified that schizophrenia is a non-curable mental illness. It is, however, a treatable condition. Since defendant began receiving treatment for his illness at the Center, his clinical condition has "improved" in a number of ways. Doctor Malis explained that when defendant was first admitted, he "believed that he was a part of a reality game," which he termed "the intimidation game" and that "devices were implanted in him that would communicate the directives that were a part of this game, and that if he were to carry out those directives, he would win money." Defendant was firmly committed to his hallucinations and delusions. Doctor Malis testified that although defendant still believes that he had devices implanted in him, he "has consistently reported that he no longer hears messages from the game." Most recently, defendant has come to accept the possibility that the large amount of money that he believed he had accumulated by playing the game might not exist. "[B]efore he said that if it turned out he didn't have that money, it would be very upsetting to him. Now he is able to say it's not a major issue for him."

¶ 9 Doctor Malis testified that he believed that the positive changes he has seen in defendant are attributable, in part, to the antipsychotic and mood stabilizing medication that he has been taking. He also believed that defendant's "extended period of sobriety" has also proven beneficial because his prior "use of drugs and alcohol destabilized his mental illness." Doctor Malis testified that defendant has gained "partial insight" into his need to cooperate with treatment; however, defendant has stated that he "doesn't necessarily see the benefit of the

medication." Nonetheless, defendant has been "in full agreement with doing what the treatment team recommends."

¶ 10 In accordance with the treatment team's recommendations, defendant has spent time in the Center's mental illness and substance abuse (MISA) unit. Doctor Malis testified that defendant "has been extremely good about going to all recommended groups and participating appropriately." Defendant has never inflicted serious injury or harm upon himself or anyone else during his stay at the Center and has never displayed aggressive behavior. Because defendant has made progress and has evidenced good behavior, he has been given "unsupervised on-grounds privileges, which allow[] him to leave the locked portion of the facility and walk on-grounds in designated areas unescorted two or three times a day." Doctor Malis testified that defendant has "always been prompt in returning within the designated times" and that there have been "no major behavior issues while he's been out on passes." He further testified that the only minor behavioral problem occurred when defendant picked up a cigarette butt that was in the parking lot of the facility on one occasion. Defendant has never attempted to leave the grounds or escape while using his unsupervised on-grounds privileges.

¶ 11 Doctor Malis testified that based upon his examination of defendant's records as well as the observations he has made during his treatment sessions with defendant, he believes that defendant "is at a very, very low risk of inflicting serious, physical harm upon himself." He explained that defendant "has had no history of [inflicting] serious harm on himself in the past" and that he is "as stable clinically as he's ever been." In addition, defendant has been "compliant with [his] treatment, sobriety, [and] medications." Doctor Malis similarly opined that defendant "is at low risk for [inflicting] serious, physical harm upon [others.]" He explained the basis for his opinion as follows: "he has no history of any violent crimes, there is no known history of any

violence toward others. Even though he did have some arguments with family members that led to prior hospitalizations, he never acted [violently]. ****[E]ven at his sickest, when he was both using drugs and actively psychotic, he was never violent." Doctor Malis further emphasized that when defendant committed the burglary that led to his inpatient commitment at the Center, he did not physically harm anybody or threaten to physically harm anybody. Based on his recollection of defendant's crime, Doctor Malis testified that it was a nonviolent offense. Defendant simply decided to burgle a church after using cocaine and drinking alcohol and attempted to steal some religious figurines that were "somewhat valuable" as well as a pair of boots belonging to one of the clergymen.

¶ 12 On cross-examination, Doctor Malis testified that defendant recently had interviews with several different group-home facilities that would be reasonable places for him to stay if the court were to grant his petition for conditional release. He acknowledged that Stepping Stones, one of those facilities, rejected defendant following his interview because he reportedly denied having a mental illness or needing medication. Doctor Malis further acknowledged that prior to defendant's admission to the Center, he had a history of failing to obtain recommended mental health services and failing to take prescribed medications. Doctor Malis testified that if defendant stopped taking his prescribed medications, his symptoms would worsen within a week.

¶ 13 Doctor Malis confirmed that defendant is still currently delusional and continues to believe that he has implants in his head. Although he has improved, defendant has lost privileges on occasion for violating various unit rules. Doctor Malis testified that in his most recent report that he completed regarding defendant's treatment and status, he indicated that defendant "continues to require confinement at a secure setting at Elgin Mental Health Center." He explained, however, that it is a "standard phrase that [doctors] use until the time [the patients] are

actually granted their conditional release" and that he has "not made any formal recommendation for conditional release at this time." When pressed to provide an opinion, Doctor Malis testified that based upon his understanding of the relevant statute, "there's a legal aspect of appropriateness and then there's whether clinically we feel right now does he have the best chance of success if he is released right now. So there are two different things." In his professional clinical opinion, defendant "is not ready [for conditional release] at this time." As a result, he has not submitted a specific conditional release treatment plan on defendant's behalf.

¶ 14 On redirect examination, Doctor Malis reiterated that defendant has suffered from delusions since the 1980's and that they have never resulted in him causing harm to himself or others.

¶ 15 Doctor Fidel Echevarria, a staff psychiatrist with Forensic Clinical Services and a consulting psychiatrist for the Community Counseling Centers of Chicago, testified as the State's retained expert witness. He explained that he was asked to examine defendant's records and interview defendant to determine the nature and severity of defendant's mental illness and to render an opinion as to whether he is in need of inpatient care and whether he is at risk for inflicting serious harm upon himself or others. Doctor Echevarria testified that he "was one of the original examiners who rendered an opinion about [defendant's] sanity" at the time of his burglary offense and as a result, he was "familiar with his case." Before interviewing defendant, Doctor Echevarria examined the recent evaluations completed by Center's staff. He found it significant that defendant's doctors were not recommending conditional release and that defendant had not yet been granted supervised off-grounds privileges, a step that usually precedes conditional release. He also found it significant that defendant was denied conditional release placement at the Stepping Stones facility because he denied that he suffered from a

mental illness and needed to take medication. Doctor Echevarria found this particularly troubling because defendant has a history of not taking his medication when not subject to inpatient care. He testified that the abrupt discontinuation of psychotropic medication in mentally ill patients is detrimental and often results in the worsening or emergence of symptoms in a one-week period.

¶ 16 Doctor Echevarria opined that based on his review of defendant's records and his interview with defendant, that defendant "continues to be in need of inpatient care." He emphasized that defendant has not yet demonstrated that to his treatment team that he is ready for additional privileges including supervised off-grounds passes, a step that usually precedes conditional release. In Doctor Echevarria's opinion, defendant "is not yet appropriate for conditional release."

¶ 17 On cross-examination, Doctor Echevarria acknowledged that defendant's medical records do not show that he ever inflicted physical harm on another person. The only evidence that defendant may have inflicted harm on himself was defendant's self-report back in 2007 that he had jumped out of a window because that was a requirement for him to win money while playing the intimidation game. Doctor Echevarria, however, admitted that he did not conduct any investigation to verify defendant's claim that he jumped out of a window. He also admitted that the police reports completed in connection with defendant's burglary of the church do not reveal that defendant was violent or that he harmed himself or anyone else prior to his arrest.

¶ 18 Although schizophrenia is a non-curable mental illness, Doctor Echevarria acknowledged that defendant has "gotten better" during his time at the Center. Defendant has complied with his prescribed treatment plan and has completed the Center's MISA program. Defendant has also been compliant with his medication. Doctor Echevarria testified that he did

not observe any overt symptoms of defendant's mental illness during their recent interview. He further testified that he did not believe that defendant would inflict any serious harm upon himself or other individuals in the future. He specifically classified the potential risk that defendant would physically harm himself or others as "low."

¶ 19 After hearing the testimony of Doctors Malis and Echevarria, the circuit court elected to continue the matter and requested both doctors to conduct additional assessments and render opinions as to whether or not they believed defendant was a good candidate for supervised off-grounds privileges.

¶ 20 When the parties returned to the court, Doctors Malis testified that he was in favor of defendant being granted supervised off-grounds privileges. Doctor Malis explained that the off-grounds passes would serve several purposes. The passes would allow defendant to participate in the Center's community reintegration program and take escorted day trips into the community with other patients. During those trips, defendant would be afforded the opportunity to demonstrate that he is able to behave appropriately and follow rules. Defendant would also be able to use the passes to attend an outpatient substance abuse program twice a week over a six-month period as well as to visit potential placement options where he could potentially reside once he is granted conditional release. Doctor Malis testified that he and other members of defendant's treatment team were in favor of increasing defendant's privileges. He opined that defendant's "best chance of success would be with continued inpatient treatment" accompanied by off-grounds privileges.

¶ 21 Following Doctor Malis's testimony, the parties stipulated to the report completed by Doctor Echevarria. In his report, Doctor Echevarria indicated that defendant has "maintained psychiatric stability on psychotropic medications" and "has complied with all treatment

recommendations, as well as the conditions from the previously granted unsupervised on-grounds pass privilege[s]. He has demonstrated improved insight into his mental illness and need for continued compliance with all recommended treatment including medication. In addition, [defendant] has not been a behavioral problem with the forensic unit in dealing with either staff or fellow patients.” Accordingly, Doctor Echevarria opined that defendant should be granted off-grounds privileges. He believed that “the court’s authorization of this additional pass privilege w[ould] allow [defendant] the opportunity to pursue residential placement and additional outpatient mental health services in preparation for eventual conditional release and to demonstrate the appropriate management of this additional responsibility that is viewed as essential for the eventual approval of a conditional release.”

¶ 22 After hearing arguments from the parties, the circuit court delivered the following ruling in open court:

“At this time, I believe there has been sufficient progress made by the defendant and sufficient safeguards to ensure the safety of the defendant and the public that’s been demonstrated to this court.

I will grant the defendant’s request for supervised off-grounds passes. I do believe this is the next step in the course of defendant’s treatment and possible transition for eventual conditional release from Elgin Mental Health Center into the community.

I do—I was concerned about the doctor’s as the State pointed out—statement that the best chance of success for the defendant would be inpatient treatment, however I have been satisfied that granting the request of supervised off-grounds passes is part of the inpatient treatment. ***

At this time, the defendant's petition for conditional release is denied. I want to see how defendant's doing with the off-grounds passes first. I believe that the off-grounds supervised passes will be the next step before conditional release is granted."

¶ 23

ANALYSIS

¶ 24

On appeal, defendant seeks reversal of the circuit court's denial of his petition for conditional release. Because "both experts testified that [he] is not reasonably expected to inflict serious physical harm upon himself or others," defendant argues that he "no longer meets the standard of inpatient commitment." Accordingly, defendant contends that the circuit court's judgment is against the manifest weight of the evidence.

¶ 25

The State responds that "defendant failed to meet his burden of showing that he is not likely to inflict serious injury upon himself or another and that he is no longer in need of inpatient mental health treatment and, therefore, the circuit court's decision denying his request for conditional release [i]s not against the manifest weight of the evidence."

¶ 26

In Illinois, when an individual has been acquitted of a crime by reason of insanity, his subsequent treatment is governed by section 5-2-4 of the Code (730 ILCS 5/5-2-4 (West 2012)); *People v. Jurisec*, 199 Ill. 2d 108, 115 (2002). This statutory provision authorizes the involuntary commitment of an individual found not guilty of an offense by reason of insanity to the Department in order " 'to treat the individual's mental illness, and at the same time protect him and society from his potential dangerousness.' " *People v. Pastewski*, 164 Ill. 2d 189, 197 (1995) (quoting *People v. Williams*, 140 Ill. App. 3d 216, 228 (1986)). "Section 5-2-4 of the Code promulgates standards for involuntarily committing insanity acquittees, for computing the length of commitment, and for granting a conditional release or discharge." *Jurisec*, 199 Ill. 2d at 116. In accordance with that Code section, a defendant will be committed to the custody of

the Department if the court finds that he is "in need of mental health services on an inpatient basis." 730 ILCS 5/5-2-4(a) (West 2012). "In need of mental health services on an inpatient basis" is a term of art defined by the statute to mean "a defendant who has been found not guilty by reason of insanity but who due to mental illness is reasonably expected to inflict serious physical harm upon himself or another and who would benefit from inpatient care or is in need of inpatient care." 730 ILCS 5/5-2-4 (a-1)(B) (West 2012); *Jurisec*, 199 Ill. 2d at 116. Once an individual has been committed to the custody of the Department, he may be detained only as long as he continues to be in need of mental health services on an inpatient basis. 730 ILCS 5/5-2-4(a) (West 2012). That is, he may be detained only as long as he is both mentally ill *and* dangerous. 730 ILCS 5/5-2-4 (a-1)(B) (West 2012); see also *People v. Bethke*, 2014 IL App (1st) 122502, ¶ 18 (recognizing that is unconstitutional for a state to confine a harmless mentally ill person); *People v. Robin*, 312 Ill. App. 3d 710, 716 (2000) (same); *People v. Hagar*, 253 Ill. App. 3d 37, 41 (1993) (same). Accordingly, if, subsequent to his initial admission, the court determines that "the defendant is found to be in need of mental health services, but not on an inpatient care basis, the Court shall conditionally release the defendant, under such conditions *** as will reasonably assure the defendant's satisfactory progress and participation in treatment or rehabilitation and the safety of the defendant and others." 730 ILCS 5/5-2-4(a) (West 2012). At a conditional release hearing, it is the burden of the defendant to prove by clear and convincing evidence that he is no in need of mental health services on an inpatient basis.¹ 730 ILCS 5/5-2-4(g) (West 2012); *People v. Youngerman*, 361 Ill. App. 3d 888, 895 (2005). Accordingly, if a mentally ill defendant establishes by clear and convincing evidence that he is

¹ We note that the prior version of the statute placed the burden of proof on the State rather than on the NGRI defendant to prove his eligibility for conditional release by clear and convincing evidence. 730 ILCS 5/5-2-4(g) (West 2000); *People v. Wolst*, 347 Ill. App. 3d 782, 795 (2004).

not reasonably expected to inflict injury upon himself or another, then his petition for conditional release must be granted. 730 ILCS 5/5-2-4 (a), (a-1)(B), (g) (West 2012).

¶ 27 On review, the circuit court's ruling on a petition for conditional release will not be disturbed unless it is against the manifest weight of the evidence. *Youngerman*, 361 Ill. App. 3d at 894; *Wolst*, 347 Ill. App. 3d at 790. A judgment will be found to be against the manifest weight of the evidence only if it is unreasonable, arbitrary and not based on the evidence or if the opposite conclusion is clearly evident. *People v. Bailey*, 2016 IL App (3d) 150115, ¶ 22; *Wolst*, 347 Ill. App. 3d at 790. "Given the delicacy of cases involving an individual's mental health treatment and its relationship to public safety, the discretion vested in the trial court is even greater than an ordinary appeal applying the manifest weight principle." *Bethke*, 2014 IL App (1st) 122502, ¶ 17.

¶ 28 Here, the undisputed evidence at the hearing established that defendant suffers from schizophrenia. Although schizophrenia is an incurable mental illness, it is treatable with proper medication. Prior to his inpatient admission to the Center, defendant experienced auditory hallucinations and delusions and acted in accordance with those hallucinations and delusions. He believed that there were devices implanted in his head and that he was a part of a reality game, which he termed the "intimidation game." According to defendant, he acted in accordance with the directives he received from the implanted devices. In addition, defendant was not compliant with his prescribed antipsychotic and mood stabilizing medications. Instead, he used alcohol and drugs to self-medicate. As a result, defendant was hospitalized "more than 10 times" due to the deterioration in functioning caused by his mental illness.

¶ 29 Doctors Malis and Echevarria, the two psychiatric experts who testified in this case, both agreed that defendant has made significant improvements since his inpatient commitment to the

Center in 2007. Doctor Malis testified that although defendant still believes that there are devices implanted in his head, he no longer experiences auditory hallucinations. In addition, he has completed the Clinic's substance abuse program and has maintained his sobriety since his commitment. Both doctors attributed the improvements in defendant's condition to be due, in significant part, to his compliance with his prescription medication regimen. While both doctors recognized that defendant's condition has significantly improved, neither recommended that defendant be granted conditional release. Rather, Doctors Malis and Echevarria both testified that defendant's best chance for success was continued inpatient care.

¶ 30 Defendant acknowledges both doctors' opinions that he is not ready for conditional release; however, he argues that their recommendations are immaterial because their testimony clearly established that he no longer meets the statutory requirement for continued inpatient commitment, and as such, that he must be conditionally released. Specifically, defendant notes that both doctors testified that he does not have a history of violence and that his mental illness has never caused him to physically hurt himself or others. Moreover, both Doctor Malis and Doctor Echevarria categorized defendant's future risk of inflicting harm upon himself and others to be low. Because neither the statute nor the constitutional guarantees of due process permit the commitment of harmless mentally ill individuals (730 ILCS 5/5-2-4 (a-1)(B) (West 2012); *Bethke*, 2014 IL App (1st) 122502, ¶ 18; *Robin*, 312 Ill. App. 3d at 716; *Hagar*, 253 Ill. App. 3d at 41), defendant argues that the court was required to grant his petition for conditional release.

¶ 31 We note that "reviewing courts have long 'recognized that predicting the future dangerousness of an individual is an inexact medical science, and therefore, [they] have held that orders of commitment will not be overturned when there is "a reasonable expectation that the respondent would engage in dangerous conduct." ' " *Youngerman*, 361 Ill. App. 3d at 895

(quoting *In re Knapp*, 231 Ill. App. 3d 917, 920 (1992), quoting *In re Powell*, 85 Ill. App. 3d 877, 880 (1980)). In this case, Doctors Malis and Echevarria both testified that prior to defendant's inpatient commitment, he had a history of not complying with treatment and discontinuing medication. The testimony of both doctors further established that when defendant discontinued treatment and medication in the past, he engaged in conduct that posed a risk to his safety as well as the safety of the community. For example, defendant regularly used alcohol and cocaine to self-medicate. He also argued with, and issued threats toward, his family members, which resulted in one or more of his hospitalizations. The testimony of Doctors Malis and Echevarria further established that defendant has a documented history of experiencing and acting upon his delusions and hallucinations when he is not properly medicated. Defendant reportedly told Doctor Echevarria that he jumped out a window because he was directed to do so by the devices in his head in order to succeed at the intimidation game. It is also apparent from the record that when defendant is not compliant with treatment, he engages in criminal behavior. Although defendant did not physically harm anyone during his burglary of the church, his propensity for criminal activity when he is not medicated certainly poses a risk to his safety and the safety of the community.

¶ 32 Defendant's history of noncompliance is cause for special concern in light of his repeated statements disavowing his belief in the need for medication. Doctor Malis testified that defendant has reported that he "doesn't necessarily see the benefit of [his] medication." More recently, defendant informed personnel at the Stepping Stones facility that he did not believe he was mentally ill or that he required medication. Doctors Malis and Echevarria both testified that defendant's more prominent symptoms could return within a week of him stopping medication. Given defendant's aforementioned statements and his documented propensity to engage in

potentially dangerous and criminal behavior when he is not properly medicated, we conclude that the circuit court's determination that defendant is still in need of mental health services on an inpatient basis is not against the manifest weight of the evidence; rather, the evidence reveals that it is likely that defendant would engage in dangerous behavior and inflict injury on himself or others if he were to be released. See, *e.g.*, *Bailey*, 2016 IL App (3d) 150115, ¶ 23 (finding that the circuit court's determination that the defendant was in need of mental health services on inpatient basis was not manifestly erroneous, where the defendant had a "history of noncompliance with medications on an outpatient basis" and lacked insight into his mental illness and substance abuse); *Youngerman*, 361 Ill. App. 3d at 896 (affirming the circuit court's denial of the defendant's petition for conditional release, based in part, on the fact that he never accepted that he suffered from a mental illness, never fully accepted therapy and was therefore reasonably expected to pose a danger to himself and others if released).

¶ 33 Defendant nonetheless argues that the circuit court's order denying his petition for conditional release must still be reversed because its decision was based, in large part, on the fact that he had not yet been granted supervised off-grounds privileges. He contends that the successful "use of off-grounds passes is not an element of the statutory standard for an order of conditional release" and that the circuit court necessarily erred when it relied on the fact that defendant had not been granted off-grounds privileges to deny his petition for conditional release.

¶ 34 Section 5-2-4(g) of the Code sets forth the evidence that the circuit court may consider when ruling on an NGRI defendant's petition for conditional release. 730 ILCS 5/5-2-4(g) (West 2012).

"Such evidence may include, but is not limited to: (1) whether the defendant appreciates the harm caused by the defendant to others and the community by his or her prior conduct that resulted in the finding of not guilty by reason of insanity; (2) whether the person appreciates the criminality of conduct similar to the conduct for which he or she was originally charged in this matter; (3) the current state of the defendant's illness; (4) what, if any, medications the defendant is taking to control his or her mental illness; (5) what, if any, adverse physical side effects the medication has on the defendant; (6) the length of time it would take for the defendant's mental health to deteriorate if the defendant stopped taking the prescribed medication; (7) the defendant's history or potential for alcohol and drug abuse; (8) the defendant's past criminal history; (9) any specialized physical or medical needs of the defendant; (10) any family participation or involvement expected upon release and what is the willingness and ability of the family to participate or be involved; (11) the defendant's potential to be a danger to himself, herself, or others; and (12) *any other factor or factors the Court deems appropriate.*" (Emphasis added.) 730 ILCS 5/5-2-4(g) (West 2012).

¶ 35 In this case, when the court denied defendant's petition for conditional release, it explained: "I want to see how defendant's doing with the off-grounds passes first. I believe that the off-grounds supervised passes will be the next step before conditional release is granted." We find no error. As set forth above, section 5-2-4(g) sets forth a nonexclusive list of factors that may be considered by the circuit court when ruling on an NGRI defendant's petition for conditional release. Although defendant is correct that the statute does require an NGRI defendant to have successfully utilized supervised off-grounds privileges before being granted conditional release, we note that the circuit court is statutorily authorized to consider any factor it deems relevant to make its determination as to whether conditional release is appropriate. 730

ILCS 5/5-2-4(g)(12) (West 2012). At the hearing, Doctor Echevarria testified that supervised off-grounds privileges usually precede conditional release. Doctors Echevarria and Malis were both in agreement that defendant was ready for supervised off-grounds privileges, but was not ready for conditional release. Doctor Malis explained that the privileges would afford defendant the opportunity to demonstrate that he could maintain appropriate behavior and follow rules while out in the community. Based on the testimony of both experts, the court deemed it appropriate to consider whether defendant could successfully utilize supervised off-grounds passes while remaining an inpatient at the Center before granting his petition for conditional release. After reviewing the statute and the evidence presented to the circuit court, we are unpersuaded that the court erred when it considered the propriety of supervised off-grounds privileges during the hearing on defendant's petition for conditional release.

¶ 36

CONCLUSION

¶ 37

The judgment of the circuit court is affirmed.

¶ 38

Affirmed.