

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-352

AUGUST TERM, 2003

State of Vermont	}	APPEALED FROM:
	}	
	}	District Court of Vermont, Unit No. 2,
	}	Franklin Circuit
v.	}	
	}	
Eric R. Campbell	}	DOCKET NO. 419/420-4-03 Frcr
	}	
	}	Trial Judge: Michael S. Kupersmith
	}	

In the above-entitled cause, the Clerk will enter:

Eric Campbell appeals the Franklin District Court's imposition of bail in the amount of ten thousand dollars. The bail was initially imposed after defendant was arraigned on one count of felony burglary and two counts of aiding in the commission of a felony. Defendant moved the trial court to review bail. After a hearing, the trial court denied defendant's motion. This appeal followed. I affirm.

When a person has had bail imposed, and has appealed to the court having original jurisdiction pursuant to 13 V.S.A. ' 7556(a) and been denied relief, the person may appeal to a single justice of the Supreme Court, pursuant to ' 7556(b). Section 7556(b) requires that A [a]ny order so appealed shall be affirmed if it is supported by the proceedings below.@ Under this standard of review, the reviewing justice is precluded from amending an order if there is sufficient evidence in the proceedings below to justify the trial court's exercise of discretion.

At the hearing below, Defendant contended that ten thousand dollars cash bail was excessively high in his case because his actions, coupled with other circumstances in the case, do not support the inference that he is a flight risk. Defendant was residing in West Virginia at the time the warrant for his arrest issued. He learned of the warrant from family members who still reside in Vermont. Shortly after learning of the warrant, defendant traveled back to Vermont at his own expense and voluntarily turned himself in. Defendant also points out that many of his relatives, including his father, still reside in Franklin County where defendant grew up and resided until his departure for West Virginia earlier this year. At the hearing, defendant maintained that he would take up residence with an aunt and uncle in Swanton until this matter is resolved. In light of the foregoing, defendant argues that the record below does not support the imposition of ten thousand dollars bail because he is not a flight risk.

The court below fully considered defendant's arguments, but found other factors more persuasive. The court noted that defendant had a lengthy criminal record, past violations of probation, and a history of at least three failures to appear at prior proceedings. Furthermore, the court observed that though defendant does have family ties to Vermont, defendant had been living outside the state for approximately six months before returning to face prosecution. Finally, the court acknowledged defendant's cooperation in turning himself in, but noted that past behavior may not accurately predict future conduct because defendant now knows that he is facing a possible ten year prison sentence upon conviction. While it is possible that these considerations could lead to a conclusion about the appropriate bail amount other than the one reached by the trial court in this case, I cannot say that the trial court's decision is not supported by the record.

Affirmed.

FOR THE COURT:

Denise R. Johnson, Associate Justice