

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-076

MARCH TERM, 2005

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 1, Windham Circuit
Glenn Prior	}	
	}	DOCKET NO. 253-2-05 Wmcr

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

Defendant appeals from the February 16, 2005 order of the district court revoking defendant's conditions of release and holding him without bail under 13 V.S.A. § 7575. The court issued its ruling from the bench following an evidentiary hearing on the State's motion to revoke conditions of release at which seven witnesses testified. Pursuant to 13 V.S.A. § 7556(b), this Court held a telephonic hearing on Tuesday, March 8, 2005 with Deputy State's Attorney Tracy Shriver and defense counsel Eileen Hongisto. For the reasons explained below, the district court's order is affirmed.

By way of background, defendant had been convicted of first degree aggravated domestic assault on his wife in 1998 and served four years. Upon his release from the correctional facility, defendant and his wife resumed living together.

On January 19, 2005, wife obtained a Relief from Abuse Order from the Windham County Family Court, which was served on defendant. On February 2, 2005, defendant was arraigned on two counts of violation of the Relief from Abuse Order. On February 14, 2005, defendant was charged with two new counts of violations of the Relief from Abuse Order, alleging: (1) that he placed himself within 100 feet of his wife, her residence, place of employment or her motor vehicle; and (2) that he followed or stalked his wife. On February 14, 2005, defendant was also charged with three counts of violations of conditions of release, alleging: (1) that he left the county without the court's permission; (2) that he failed to abide by all Family Court orders in effect; (3) and that he knowingly was within 100 feet of a person named in Condition 14 of the Conditions of Release, namely, his wife, the subject of the Relief from Abuse Order. He was arrested and held without bail.

The charges in this docket resulted from an incident on February 11, 2005, when Mrs. Prior was traveling by car and observed defendant following her in his car along multiple legs of her route that day in Vermont and New Hampshire. Mrs. Prior called 911 from her car and immediately stopped when she encountered New Hampshire State Police Trooper Peter McConnell. At defendant's arraignment on February 14, the court granted the State's request to revoke defendant's conditions of release and scheduled the February 16 evidentiary hearing.

Based on the testimony at the hearing, the court concluded that defendant's conduct on February 11 was meant to intimidate Mrs. Prior and succeeded in doing so, as evidenced by her reactions—calling 911, stopping when she saw Officer McConnell (who testified that Mrs. Prior appeared "nervous" and "concerned" when she approached him that day), lodging a complaint against defendant with the Windham County Sheriff Department, and making several calls to

the Sheriff to find out if defendant had been taken into custody. Accordingly, the court found that defendant's conduct caused Mrs. Prior "to feel extremely intimidated." The court also concluded that the conditions that defendant avoid contact with Mrs. Prior and not leave the State of Vermont were "unambiguous" and "not susceptible of misunderstanding," especially in light of defendant's "extensive experience with court orders and conditions of release." Accordingly, the court revoked bail pursuant to § 7575(1) & (3), which provide that

[t]he right to bail may be revoked entirely if the judicial officer finds that the accused has:

(1) intimidated or harassed a victim, potential witness, juror or judicial officer in violation of a condition of release; or

...

(3) violated a condition or conditions of release which constitute a threat to the integrity of the judicial system.

Defendant then filed this appeal pursuant to 13 V.S.A. § 7556(b).

Under § 7556(b), defendant may appeal the district court's order to a single justice of this Court. This Court applies the standard of review set forth in the statute: "Any order so appealed shall be affirmed if it is supported by the proceedings below." § 7556(b). In light of the district court's familiarity with defendant, defendant's undisputed and extensive prior experience with relief from abuse orders and conditions of release, and the testimony adduced at the hearing and relied upon by the district court, I find that the district court's conclusion that defendant intimidated Mrs. Prior in violation of both the Relief from Abuse Order and defendant's conditions of release within the meaning of § 7575(1) is supported by the proceedings.

Further, the record supports the court's ruling that the defendant's violations of his conditions of release threaten the integrity of the judicial system in violation of § 7575(3). The court concluded, based on the testimony, that defendant had previously engaged in conduct intended to control his wife to the extent of influencing her testimony concerning the 1998 incident for which defendant was convicted of domestic assault. The court also found, based on the evidence at the hearing, that defendant's current behavior was another attempt to intimidate and control his wife, and thereby control his legal situation.

Accordingly, for the reasons set forth above, I affirm the district court's order revoking defendant's conditions of release and holding him without bail.

Affirmed.

FOR THE COURT:

Marilyn S. Skoglund, Associate Justice