

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-346

SEPTEMBER TERM, 2008

State of Vermont	}	APPEALED FROM:
	}	
v.	}	District Court of Vermont,
	}	Unit No. 2, Franklin Circuit
Dennis Rooney, Jr.	}	
	}	DOCKET NO. 712-6-08 Frcr, 1027-8-08 Frcr,
	}	1029-8-08 Frcr

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

Defendant appeals from an August 27, 2008 order of the district court revoking his right to bail pursuant to 13 V.S.A. § 7575. The district court issued its ruling from the bench at defendant’s arraignment on a variety of charges, including obstruction of justice (Docket No. 1027-8-08 Frcr).

On June 27, 2008, the State charged defendant with burglary of an occupied dwelling under 13 V.S.A. § 1201(a) (Docket No. 712-6-08 Frcr). Defendant was arraigned and bailed on certain conditions, including, among others, that defendant “NOT have contact with [the complaining witness] This includes in person, in writing, by telephone, by e-mail, or through a third person.”

According to the police, on August 12, 2008, the complaining witness in the burglary matter reported that she had received “threatening text messages” from defendant. The police observed several offensive text messages on the complaining witness’ phone, including statements such as, “[f]uck U I go 2 jail u get beat [sic],” that apparently were sent by defendant. These text messages formed the basis of the State’s obstruction of justice charge against defendant.

Section 7556(b) requires us to affirm the district court’s decision “if it is supported by the proceedings below.” 13 V.S.A. § 7556(b). The district court did not hold the required evidentiary hearing at defendant’s arraignment on August 27, 2008; therefore, its order revoking defendant’s right to bail pursuant to 13 V.S.A. 7575 is without support, and we hereby remand this matter to the district court for an evidentiary hearing to be conducted on an expedited basis. See 13 V.S.A. § 7556(b).

The matter is remanded to the district court for the purpose of conducting an evidentiary hearing on an expedited basis. Defendant shall remain in custody pending the outcome of this hearing.

FOR THE COURT:

Paul L. Reiber, Chief Justice