

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-004

JANUARY TERM, 2008

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 2, Rutland Circuit
	}	
Roger Howard	}	DOCKET NO. 1885-12-07 Rdcr

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

Defendant appeals from an order imposing conditions of release including a requirement that defendant post bail in the amount of \$20,000. On appeal, defendant argues that the court did not consider whether less restrictive conditions of release could guarantee defendant's appearance in court and did not adequately consider the factors set forth in 13 V.S.A. § 7554(b). I disagree and affirm.

On December 26, 2007, defendant was arraigned in Rutland District Court and charged with felony unlawful trespass and impeding a public officer, as well as misdemeanor unlawful mischief. The court also heard argument from both parties on bail. The State argued for the conditions of release and the bail requirement ultimately imposed on several grounds, including the seriousness of the charges against defendant, past incidents in which defendant had failed to appear at trial, and the extent of defendant's past criminal record. Defense counsel countered that defendant had a job and represented to his attorney that his employment was still ongoing. Defense counsel also noted that many, though not all, of the offenses committed by the defendant occurred some years ago and that defendant had more recently demonstrated a willingness to appear in court and comply with court orders.

Ultimately, the court imposed the conditions of release and bail requested by the State. The court based this conclusion on "the seriousness of the offenses charged," "the extensive criminal record of the defendant," and "the risk of flight" demonstrated by defendant's past behavior.

We will affirm any bail order of the court "if it is supported by the proceedings below." Id. Defendant argues that the court failed to consider the factors set forth in 13 V.S.A. § 7554(b), which requires the judicial officer to consider "the nature and circumstances of the offense charged, the weight of evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of residence in the community, record of convictions, and record of appearance at court proceedings." Defendant

does not directly contest the amount of the current bail requirement. Instead, his proposal is that he be released without a monetary bail requirement.

Our review of the record demonstrates that the court did adequately consider and hear argument on the 13 V.S.A. § 7554(b) factors. The court explicitly mentioned the nature of the offenses charged against defendant and record of past convictions, and testimony before the court further reasonably established defendant's past failures to appear in court and recent criminal convictions. Although defendant argues that the court did not adequately consider remaining § 7554(b) factors, such as defendant's ongoing employment, we cannot say that the court was clearly unreasonable in concluding that the conditions of release imposed were necessary to ensure defendant's appearance at trial. State v. Patch, 145 Vt. 344, 353, 488 A.2d 755, 761 (1985) ("To support a claim of error there must be a showing that the court failed to exercise its discretion, or exercised it for reasons clearly untenable or to an extent clearly unreasonable."). The court does not have to mention every factor that was not critical to its decision.

Affirmed.

FOR THE COURT:

John A. Dooley, Associate Justice