ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-014

JANUARY TERM, 2008

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 2, Bennington Circuit
Jonathan Hoyt	}	
	}	DOCKET NO. 1229-10-07 BnCr

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

Defendant Jonathan Hoyt appeals from the district court's denial of his motion to return bail. We reverse and grant his motion.

On October 25, 2007, defendant was charged with two felony counts of selling narcotics in violation of 18 V.S.A. § 4234(b)(1). At defendant's arraignment, which was held on October 30, 2007, the district court set bail at $1,000 and imposed conditions of release. On November 16, 2007, defendant's partner posted $1,000 cash bail and defendant was released from state custody. Defendant filed a motion to return bail on December 31, 2007. Following a hearing, the district court denied the motion on January 8, 2008. Defendant appealed pursuant to 13 V.S.A. § 7556(b).

Pursuant to § 7556(b), this Court must affirm the district court's imposition of bail and other conditions of release as long as the order "is supported by the proceedings below." 13 V.S.A. § 7556(b). The sole constitutionally legitimate purpose of bail is to assure a defendant's appearance in court as ordered. State v. Brown, 2005 VT 104, ¶ 10, 179 Vt. 22, 26. Bail may not be set in order to punish a defendant or protect the public. State v. Cyr, 134 Vt. 460, 462 (1976); State v. Pray,. 133 Vt. 537, 541-42 (1975). Neither is bail an appropriate method of enforcing other conditions of release. State v. Ashley, 161 Vt. 65, 68 (1993); State v. Cardinal, 147 Vt. 461, 465 (1986).

In this case, the district court did not find that defendant presented a flight risk, nor would the record have supported such a finding. While defendant's criminal record reveals several convictions for parole violations and contempt of court, there is nothing in the record that indicates the nature of these offenses. Nor has defendant ever been cited for a failure to appear in court. Finally, the State concedes that defendant is not likely or expected to abscond. Thus, the imposition of bail is not supported by the proceedings below. The court gave no analysis as to why $1,000 in bail was necessary to secure defendant's presence in court, other than noting that he faced serious charges. Neither is the State's concern that the $1,000 may be used to

support defendant's drug habit a sufficient basis upon which to impose the condition, cf Cyr, 134 Vt. at 462 (bail may not be set in order to protect the public); defendant is prohibited from "buy[ing], hav[ing] or us[ing] regulated drugs without a valid prescription" pursuant to condition ten of his release. Cf Cardinal, 147 Vt. at 465. Accordingly, we reverse the district court's denial of defendant's motion to return bail, and order that the $1,000 be returned to the bailor immediately. We further order that standard conditions of release one, two, three, ten and seventeen as set by the district court remain in place.

Reversed.

FOR THE COURT:

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Marilyn S. Skoglund, Associate Justice