

ENTRY ORDER

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

SUPREME COURT DOCKET NO. 2009-217

JUL 9 2009

JULY TERM, 2009

State of Vermont

v.

Arthur Bruce

} APPEALED FROM:
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}
}

} District Court of Vermont,
} Unit No. 2, Franklin Circuit
}

} DOCKET NO. 596-6-09 Frer
}

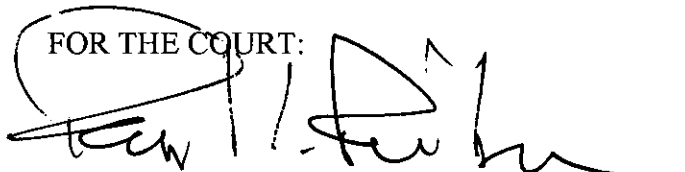
} Trial Judge: Michael S. Kupersmith
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In the above-entitled cause, the Clerk will enter:

Defendant appeals from the district court's denial of his motion to review bail. Defendant was charged with two felony counts of false pretenses, 13 V.S.A. § 2002, one misdemeanor count of marijuana possession, 18 V.S.A. § 4230(a)(1), and one misdemeanor count of operating a vehicle without the owner's consent, 23 V.S.A. § 1094(a). The district court, upon defendant's motion to review bail, held a hearing and considered other evidence. The court found that defendant had virtually no ties to the community, had committed a "very sophisticated" set of crimes, and had committed similar crimes recently in Connecticut. See generally 13 V.S.A. § 7554(b) (enunciating factors relevant to setting conditions of release). Bail was set at \$50,000 and defendant is currently incarcerated for inability to post a bond in that amount.

We review the district court's bail decision under a deferential standard, affirming if the decision is "supported by the proceedings below." 13 V.S.A. § 7556(b); State v. Parda, 142 Vt. 261 (1982). Defendant's attorney argued below that bail should be lower because defendant was only able to obtain a \$10,000 bond, but bail is not excessive merely because a defendant cannot pay it. State v. Duff, 151 Vt. 433, 436, 563 A.2d 258, 261 (1989). Defendant's only other arguments in favor of more lenient conditions of release were (1) that he has never failed to appear in a Vermont court proceeding before, and (2) that these were "paper" crimes. While both do militate in favor of release generally, neither weighs heavily in the balance on these facts. As to the first, defendant has only lived in Vermont for roughly three months, and thus the absence of failures to appear does not strongly support his argument. The district court did not err in upholding the \$50,000 bail amount, which is supported by the findings detailed in the previous paragraph.

FOR THE COURT:



Paul L. Reiber, Chief Justice