

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-463

OCTOBER TERM, 2002

	}	APPEALED FROM:
	}	
	}	District Court of Vermont,
State of Vermont	}	Unit No. 1, Windham
	}	Circuit
v.	}	
	}	
Ricky Fagans	}	DOCKET NO. 1306-9-02
	}	WmCr
	}	
	}	Trial Judge: Howard
	}	VanBenthuisen

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

Defendant Ricky Fagans appeals from a ruling by the Windham District Court denying defendant' s request for a reduction in bail. Defendant is charged with one felony count of possession of cocaine and one misdemeanor count of possession of marijuana. At the arraignment hearing, bail was set at \$50,000 cash or surety bond. Defendant subsequently moved for a reduction or elimination of bail. At a hearing on October 2, 2002, the district court denied defendant' s motion. Defendant appealed this denial.

This Court must affirm the trial court' s order if it is supported by the proceedings below. 13 V.S.A. § 7556(b). The record reflects that the district court considered the statutory conditions-of-release factors pursuant to 13 V.S.A. § 7554(b) in denying the reduction in bail. Defendant is charged with possession of almost two pounds of cocaine, a significant amount which may bring a substantial jail sentence. He was arrested along with a codefendant while driving a van containing the cocaine into Vermont from out of state. Defendant is not employed and has very few assets. However, the amount of cocaine involved in the charge was very valuable, indicating the presence of significant amounts of money to finance drug sales. Although he has lived in Springfield, Vermont for his entire life and his entire family, including his fiancée and children, are in Springfield, he does not live with his family and there is no record that he pays child support. The district court found that these factors, taken together, created a risk that defendant would fail to appear in the future.

This case is distinguishable from State v. Duff, 151 Vt. 433, 436 (1989), in which we found that \$150,000 bail was excessive where there was no evidence on risk of flight beyond the charge. Here, the district court found additional evidence beyond the charge, such as defendant' s lack of employment, the significant quantity of the drugs involved, and the fact that the offense involved defendant traveling out of the state.

I must conclude that the bail amount is supported by the proceedings below and affirm the decision to impose it.

FOR THE COURT:

John A. Dooley, Associate Justice