

ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-067

FEBRUARY TERM, 2007

State of Vermont	}	APPEALED FROM:
	}	
v.	}	Rutland District
	}	
Jerry Williams	}	DOCKET NO. 255-2-07 RdCr

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

Defendant Jerry Williams appeals the Rutland District Court’s order setting his bail at \$100,000. Defendant argues that the district court abused its discretion in imposing bail without stating the reasons underlying its decision or making findings in support thereof. Defendant does not challenge the other conditions imposed. Because the record reflects no findings in support of the district court’s conclusion, we remand for findings. 13 V.S.A. § 7556(b).

Defendant is charged with two counts of lewd and lascivious conduct with a child, 13 V.S.A. § 2602, and one count of sexual assault on a child by a person in a parental role. Id. § 3252(d). The lewd-and-lascivious-conduct charges are punishable by imprisonment of up to fifteen years. Id. § 2602(b)(1). The sexual-assault charge is punishable, under the comprehensive 2006 amendments to the sexual-assault statutes, by imprisonment for life. Id. § 3271(a)(2).

When a defendant is charged with an offense carrying a potential term of life imprisonment, and the evidence of guilt is great, the district court may in its discretion deny bail altogether. 13 V.S.A. § 7553. The district court also has “extremely broad” discretion to impose bail in cases where it might otherwise have denied bail under § 7553. State v. Blackmer, 160 Vt. 451, 458 (1993). Our holding in Blackmer, of course, does not mean that the district court may entirely withhold its discretion or act without expressing reasons therefor. State v. Duff, 151 Vt. 433, 435-36 (1989). When a district court does impose bail in a life-imprisonment case, it is to do so in accordance with § 7554. 13 V.S.A. § 7553. Section 7554(b), in turn, sets out the familiar factors that shall guide bail and conditions-of-release determinations:

[T]he nature and circumstances of the offense charged, the weight of the 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 or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

Here, the State sought to impose \$250,000 bail. Defendant opposed the imposition of bail in any amount, arguing that conditions of release were sufficient to protect the public, and that he posed no risk of flight. Although we take no issue with the “extremely broad” scope of the district court’s discretion under Blackmer, the record here is insufficient to support the bail determination even under that standard. We therefore remand in order that the district court have the opportunity to express the reasons for its imposition of bail in the amount that it did.

Remanded.

FOR THE COURT:

Paul Reiber, Chief Justice