

ENTRY ORDER

SUPREME COURT DOCKET NO. 02-283

JULY TERM, 2002

	}	APPEALED FROM:
	}	
State of Vermont	}	District Court of Vermont, Unit No. 3,
	}	Lamoille Circuit
v.	}	
	}	
Scott W. Langdell	}	DOCKET NOS. 289/290-6-02 Lecr
	}	
	}	
	}	

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

Defendant appeals a Lamoille District Court order denying his request to reduce bail imposed at \$250,000 as a condition of defendant's release. Defendant argues on appeal that bail is excessive and that the court failed to consider that defendant is indigent.

On May 31, 2002, defendant was charged with intent to commit larceny, in violation of 13 V.S.A. 1201(a)(c), grand larceny, in violation of 13 V.S.A. 2501, unlawful mischief, in violation of 13 V.S.A. 3701(c), and possession of heroin, in violation of 13 V.S.A. 4233(a)(2). The trial court imposed bail at the amount requested by the State, \$250,000. On the same day, defendant was arrested for violation of his conditions of parole set for an earlier conviction.

On June 14, 2002, defendant filed a motion to review and reduce bail and on June 17, 2002, the Honorable Judge Martin, after a hearing, denied defendant's motion. The court found defendant had an extensive record and that the State's case was strong. On June 25, 2002, defendant appealed this decision, pursuant to 13 V.S.A. 7556(b).

In reviewing the conditions of release imposed by the trial court, this Court must affirm the trial court's order "if it is supported by the proceedings below." 13 V.S.A. 7556(b). In determining which conditions of release to impose, the judicial officer shall take into account "the 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." 13 V.S.A. 7554(b).

Defendant argues that the bail amount is excessively high and was imposed for the impermissible purpose of detaining defendant, and that the court failed to consider that defendant was indigent. We have previously held that bail is not excessive solely because a defendant is indigent and cannot make bail. State v. Duff, 151 Vt. 433, 436, 563 A.2d 258, 261 (1989). "The purpose of bail is to assure appearance in court, and the defendant need not be capable of meeting bail in order for the amount to be supported by the record." Id. (internal citations omitted); see also State v. Wood, 157 Vt. 286, 289, 597 A.2d 312, 313 (1991) (the sole legitimate purpose of monetary bail is to assure defendant's attendance in court).

Although defendant asserts that his appearances in connection with an extensive criminal record should compel the conclusion that he poses no risk of non-appearance, we cannot say that the court was clearly unreasonable in deriving a different conclusion from an arrest record which included several felony convictions, a conviction for resisting arrest, a violation of conditions of probation, and records of conviction in Connecticut, Florida and Massachusetts. 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.") Moreover, defendant's arrest after allegedly conducting a drug transaction in Springfield, Massachusetts, and his statement to police that he made several trips to Massachusetts to obtain narcotics, notwithstanding that such conduct was in violation of his parole conditions which included that he not leave the state without permission from his parole officer, suggest he may now have difficulty in honoring his commitment to appear in court.

Unlike State v. Duff where "the sole support" for high cash bail was that defendant was faced with a very serious crime and faced a long period of incarceration, defendant's accumulation of offenses in this state and others, the evidence of interstate travel for the purposes of purchasing narcotics, and his inability to abide by the conditions of his parole from an earlier conviction support the trial court's imposition of \$250,000 bail. Compare Duff, 151 Vt. at 437, 563 A.2d at 260 (\$150,000 bail was excessive where defendant had no criminal record).

Affirmed.

FOR THE COURT:

Jeffrey L. Amestoy, Chief Justice