

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-092

MARCH TERM, 2003

| | | |
|------------------|---|--|
| | } | APPEALED FROM: |
| | } | |
| State of Vermont | } | District Court of Vermont, Unit No. 1, |
| | } | Windham Circuit |
| v. | } | |
| | } | |
| Rebecca Scelza | } | DOCKET NO. 1522-10-02 Wmcr |
| | } | |
| | } | |
| | } | |

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

Defendant appeals, pursuant to 13 V.S.A. ' 7556(b), an order of the Windham District Court imposing cash bail in the amount of \$20,000 pending trial on charges of drug possession. We affirm.

On February 27, 2003, the district court denied defendant= s motion to strike the cash bail condition. The district court order so appealed must A be affirmed if it is supported by the proceedings below.@ 13 V.S.A. ' 7556(b). In Vermont, ' 7554(a)(1) of Title 13 requires the judicial officer to impose the least restrictive conditions or combination of conditions which will reasonably assure a person= s appearance. On the basis of available information, the judicial officer is required to take into account the accused= s history of appearance at court proceedings or flight, in addition to the weight of the evidence against the accused. Id. ' 7554(b).

Defendant first argues that the condition of cash bail is unwarranted because the weight of the evidence against the accused is insufficient to support a condition of cash bail. Defendant asserts that her suppression motion heard February 14, 2003, and currently under advisement, is likely to be granted pursuant to this Court= s opinion in State v. Sprague, 2003 Vt. 20 (Feb. 21, 2003). The State correctly responds, however, that absent suppression of the evidence, the weight of the evidence against defendant is substantial. The statute requires the judicial officer to determine conditions of release A on the basis of available information@ 13 V.S.A. ' 7554(b). No ruling on defendant= s motion to suppress had been made at the time of the bail appeal hearing on February 27, nor has one been made as of this appeal. The weight of the evidence against the accused remains substantial.

Defendant next argues that she poses no risk of flight. Defendant has previous failures to appear. Moreover, in the instant case, defendant absconded from Phoenix House treatment center two weeks after the court had granted a stipulation to suspend defendant= s bail.

Thus, in light of these facts and the deferential standard of review, we hold that the evidence before the court supported its conclusion that the cash bail amount was appropriate.

Affirmed.

FOR THE COURT:

Jeffrey L. Amestoy, Chief Justice