

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-402

SEPTEMBER TERM, 2003

	} APPEALED FROM:
	}
State of Vermont	} District Court of Vermont, Unit No. 1, Windsor Circuit
	}
v.	} DOCKET NO. 933-8-03 WrCr
Dominick A. Bailey, Jr.	}
	}
	}

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

Defendant was arraigned in Windsor District Court on May 29, 2003, on charges of first degree aggravated domestic assault and criminal mischief. The court imposed several conditions of release, including a no-contact requirement with the purported victim, Yvette White, a no-felony arrest requirement and a \$1000 appearance bond. On July 2, 2003, defendant was arraigned on charges that he violated his conditions of release by contacting White. Once again, defendant was released on conditions, with the added requirement that defendant not come within 500 feet of White, her residence or place of employment. On July 30, 2003, while in the company of White, defendant was arrested for burglary and possession of stolen property. On Aug. 4, 2003, defendant was subsequently arraigned on charges of violation of conditions of release related to the July 30 arrest. This time, the court imposed a bail of \$15,000, cash or surety.

Defendant could not afford to meet the bail, and moved the court pursuant to 13 V.S.A. 7554(d)(1) to strike the condition or, alternatively, to reduce it to a \$5000 appearance bond with a ten percent posting. On Aug. 21, 2003, following a hearing, the court rejected defendant= s motion. Although the court acknowledged defendant= s ties to the community, it concluded, based upon defendant= s history of refusing to abide by his conditions of release and by the increasing number of charges stacking up against him, that a higher bail amount was necessary to ensure defendant= s compliance with the first condition of release, that he appear in court when required.

Defendant appeals the district court= s Aug. 21, 2003 order denying his motion to amend the conditions of release. In reviewing the conditions of release imposed by the trial court, this Court will affirm the trial court= s order A if it is supported by the proceedings below.@ 13 V.S.A. ' 7556(b). The district court held that defendant represented an increased risk of flight based on his prior history in the case, which included numerous alleged violations of conditions of release and a mounting number of charges pending against him. The court further concluded that the prior \$1000 appearance bond was insufficient incentive to gain defendant= s full compliance with the conditions of his release, and, therefore, continued the \$15,000 bail requirement. As the evidence indicates that defendant chooses which conditions of release to comply with and which to ignore, we cannot say that the court abused its discretion in concluding that a higher bail amount was necessary to guarantee that he appear in court as required. Thus, we affirm the court= s order. See also State v. Duff, 151 Vt. 433, 436, 563 A.2d 258 (1989) (A defendant need not be capable of meeting bail in order for the amount to be supported by the record@).

FOR THE COURT:

Marilyn S. Skoglund, Associate Justice