ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-274

JULY TERM, 2007

State of Vermont	}	APPEALED FROM:
	}	
	}	District Court of Vermont,
v.	}	Unit No. 2, Franklin Circuit
	}	
John Winn	}	
	}	DOCKET NO. 688-6-07 Frcr

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

Defendant appeals from the district court's denial of his motion to amend the conditions of release to allow him to work outside of his home. Under 13 V.S.A. § 7556(b), defendant may appeal a condition of release to a single justice of this Court. "Any order so appealed shall be affirmed if it is supported by the proceedings below." Id. This Court held a hearing with Deputy State's Attorney John Lavoie and defense counsel Steven Dunham on Wednesday, July 25, 2007.

The facts and procedural history are as follows. On the evening of June 4, 2007, defendant shot and killed Joshua Hall and Megan Patenaude. Defendant was arrested and charged with two counts of second degree murder under 13 V.S.A. § 2301. Defendant was arraigned and held without bail. On June 6, 2007, the State moved to amend the information. The district court granted the motion, and on June 8, 2007 count one of the information was amended from second degree murder to aggravated murder pursuant to 13 V.S.A. § 2311(a)(4) ("at the time of the murder, defendant knowingly created a great risk of death to another person").

Defendant moved for a review of bail, and on June 22, 2007, the court considered that motion at a re-arraignment on the amended information. The court set bail at $35,000 cash or surety and required defendant to abide by the standard conditions of release. In addition, he was required to have no contact with the victims' families and with potential witnesses in the case. One of the conditions read, "Curfew: Def[endant] shall abide by a twenty four hour curfew except for regularly scheduled court, att[orne]y & medical emerg[ency] appointments . . . ." On June 25, 2007, defendant posted bail and was released from jail. Defendant had some trouble finding housing upon his release from jail, and so in the course of twelve days his attorney notified the court of four different addresses. Defendant moved to amend his conditions of release on July 6, 2007, and on July 9, 2007 the court issued an order clarifying the twenty-four hour curfew requirement. It required defendant "to be inside the residence of 1906 Sweet Hollow Road at all times unless he is going to Court,

att[orne]y & medical emerg[ency]." On July 11, 2007, the court held a hearing on several matters, one of which was the bail conditions. At that hearing the court emphasized that defendant was to remain inside the residence at all times, that he was not to work at his employer's shop, and he was not to do work outside the house on the lawn or garden. Defendant appealed that condition to this Court on July 17, 2007.

In setting bail, the judicial officer must determine which conditions will "reasonably assure appearance and will not constitute a danger to the public." 13 V.S.A. § 7554(a)(1). Since a finding of danger to the public and the imposition of conditions for the protection of the public are the most crucial and restrictive aspects of bail, they should not be invoked lightly, and the finding of danger must have a strong factual foundation. State v. Roessell, 132 Vt. 634, 636, 328 A.2d 118, 119 (1974). Nevertheless, under 13 V.S.A. § 7556(b), this Court must affirm the district court's order setting bail conditions "if it is supported by the proceedings below." State v. Parda, 142 Vt. 261, 262, 455 A.2d 323, 324 (1982) (citing 13 V.S.A. § 7556(b)).

Given the seriousness of the crimes charged, the evidence of defendant's culpability, and the need to assure his appearance, the record supports the trial court's decision to limit defendant's mobility and, in effect, to place defendant under house arrest.

Affirmed.

FOR THE COURT:

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Marilyn S. Skoglund, Associate Justice