

ENTRY ORDER

SUPREME COURT DOCKET NO. 2019-308

SEPTEMBER TERM, 2019

State of Vermont v. Travis N. Landry*	}	APPEALED FROM:
	}	
	}	Superior Court, Franklin Unit,
	}	Criminal Division
	}	
	}	DOCKET NO. 884-6-19 Frcr

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

Defendant Travis N. Landry appeals from the trial court's denial of defendant's motion to review bail. We affirm.

Following defendant's arraignment for assault and battery in violation of 13 V.S.A. § 608(a), the trial court set bail at \$5000 and imposed other conditions of release. Defendant did not post bail and remained in state custody. Defendant filed a motion to review bail, requesting to be released into the custody of his mother as a responsible adult. Following a hearing, the trial court denied defendant's motion. On appeal, defendant argues that the court erred in denying his request to have his mother approved as a responsible adult and seeks to submit additional evidence to this Court demonstrating that his mother does not have a felony conviction. Defendant also challenges the monetary bail imposed at arraignment and requests that this Court impose an unsecured appearance bond rather than bail.

We review an appeal from conditions of release on the record. V.R.A.P. 9(a)(2). We will affirm if the trial court's decision "is supported by the proceedings below." 13 V.S.A. § 7556(b); see also State v. Pratt, 2017 VT 9, ¶ 20, 204 Vt. 282.

Defendant argues that the court erred in denying his request to have his mother designated as a responsible adult and, in support, attempts to introduce new evidence demonstrating that she was not convicted of a felony. On appeal, our review is limited to the record presented to the trial court and therefore we do not consider the additional evidence proffered by defendant on appeal. See V.R.A.P. 9(a)(2).

The trial court denied defendant's request for release into his mother's custody based on its conclusion that the placement was unsuitable because mother had a felony conviction and there was another felon on parole in the household. The court further explained that defendant's extensive criminal record showed he was a "high-risk defendant" and ill-suited to release into mother's custody. This decision is supported by the record. The mother testified that she had a felony conviction and that her other son, who lived with her, also had a felony conviction. It was uncontested that defendant has an extensive criminal record, including violations of conditions of release and probation and a conviction for simple assault. These facts support the court's conclusion that release into defendant's mother's custody was unsuitable. In keeping with our deferential standard of review, we will not disturb the court's decision. See Pratt, 2017 VT 9, ¶ 20 ("Our consideration is heavily informed by the applicable standard of review: on appeal, this Court should affirm an order setting conditions of release 'if it is supported by the proceedings below.' We review the trial court's bail decision for abuse of discretion." (quoting 13 V.S.A. § 7556(b))).

Defendant also challenges the monetary bail that was imposed at arraignment. Defendant argues that the court erred in imposing this amount because he does not present a risk of flight from prosecution. See 13 V.S.A. § 7554(a)(1)(E) (allowing court to impose least-restrictive conditions, including executing a surety bond, if the court finds that defendant “presents a risk of flight from prosecution”); see also Pratt, 2017 VT 9, ¶ 13 (“[B]ail may be used only to assure the defendant’s appearance in court and cannot be used as a means of punishing the defendant, nor of protecting the public.” (quotation omitted)). As set forth above, this Court’s review of conditions of release, including the imposition of bail, is based on the record in the trial court. See V.R.A.P. 9(a)(2) (stating that appeal from conditions of release will be “determined on the record as presented by the parties”); V.R.A.P. 9(c) (“[T]he record consists of the charging document, all docket entries, affidavits, all pertinent parts of the transcript of the proceeding of which appeal or review is sought, and any order or orders entered therein.”). Defendant did not challenge the bail amount in the bail-review hearing, so there is no record on that matter for us to review.

Affirmed.

FOR THE COURT:

Paul L. Reiber, Chief Justice