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ENTRY ORDER

2026 VT 46

SUPREME COURT CASE NO. 26-AP-329

SEPTEMBER TERM, 2026

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	Superior Court, Essex Unit
	}	Criminal Division
	}	
James Demore	}	CASE NO. 26-CR-06489

Trial Judge: Heather J. Gray

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

¶ 1. Defendant James Demore appeals the trial court’s hold-without-bail order issued under 13 V.S.A. § 7553. We affirm.

¶ 2. The record reveals the following. On June 25, 2026, the State charged defendant with the life offense of aggravated sexual assault of a child under the age of sixteen in violation of 13 V.S.A. §§ 3252 and 3253a(a)(8) based on allegations he repeatedly sexually assaulted his step-granddaughter. He was also charged with lewd and lascivious conduct with a child, lewd and lascivious conduct, and two misdemeanor offenses. The trial court held a weight-of-the-evidence hearing over two days on July 21 and August 7, 2026. It then granted the State’s motion to hold defendant without bail under 13 V.S.A. § 7553. Defendant appeals.

¶ 3. A defendant may be held without bail if the defendant is charged with an offense that is punishable by life imprisonment and the evidence of guilt is great. *Vt. Const. ch. II, § 40(1); 13 V.S.A. § 7553*. If both conditions are met, a “presumption against release arises, and the burden shifts to the defendant to present evidence that persuades the court to set bail or conditions of release.” *State v. Vialet*, 2021 VT 62, ¶ 3, 215 *Vt.* 648, 261 A.3d 642 (mem.). In exercising its discretion, the trial court may look to the factors in 13 V.S.A. § 7554, including but not limited to the nature and circumstances of the offense charged, the weight of the evidence against defendant, length of residence in the community, character and mental condition, employment, financial resources, record of convictions, record of appearances at court proceedings, and any flight to avoid prosecution or failure to appear. 13 V.S.A. § 7554(b)(1)-(2).

¶ 4. We review a trial court’s decision to hold a defendant without bail for abuse of discretion. State v. Buell, 2025 VT 57, ¶ 10, __ Vt. __, 350 A.3d 341 (mem.) (“The trial court’s exercise of discretion under the presumption is extremely broad, and our review is strictly limited, so long as the court gives the defendant an opportunity to be heard.” (quotation omitted)). In determining whether to release a defendant, the trial court may consider the § 7554(b) factors to determine whether conditions of release can mitigate flight risk and ensure safety of the public. State v. Shores, 2017 VT 37, ¶ 22, 204 Vt. 630, 168 A.3d 471 (mem.). If the trial court’s decision “reasonably serves those interests, it is not arbitrary.” Buell, 2025 VT 57, ¶ 11 (quotation and alteration omitted). Furthermore, “[w]hen the need for conditions is viewed in light of the possible punishment of life imprisonment, it is entirely appropriate for the court to deny bail unless it is fully convinced that the defendant will abide by the conditions that would be imposed if defendant were released.” State v. Samplatsky, 2026 VT 16, ¶ 9, __ Vt. __, 356 A.3d 1026 (mem.) (alteration in original) (quotation omitted). This is because “we consider a potential sentence of life imprisonment as a proxy for flight risk or risk to public safety.” State v. Green, 2024 VT 37, ¶ 4, 219 Vt. 646, 327 A.3d 769 (mem.) (quotation omitted).

¶ 5. In its written decision, the trial court determined that the weight of the evidence of defendant’s guilt was great. The court then examined the § 7554 factors to determine whether to exercise its discretion to release defendant on conditions despite the presumption against release. It discussed the evidence presented, which included defendant’s contact with his daughter despite a putative no-contact order.* The court concluded that it was not fully convinced that defendant would abide by conditions of release. In addition to the nature and circumstances of the offenses charged, it found particularly significant defendant’s apparent unstable mental state, his association with individuals involved in illicit drug use, and his efforts to continue seeing his step-granddaughter by promising her gifts. The court also expressed concern about the suitability of defendant’s wife as a custodian due to a threatening statement she made.

¶ 6. On appeal, defendant does not challenge the court’s conclusion that the weight of the evidence of guilt was great. Such being the case, a presumption against release was created. Vialet, 2021 VT 62, ¶ 3. Defendant argues the trial court abused its discretion in considering the § 7554 factors and denying his proposal to be placed on home detention under the supervision of his wife. Defendant argues that he did not knowingly violate a condition prohibiting contact with his daughter, he had not expressed suicidal thoughts recently, the evidence of his association with drug users was of limited probative value, he had not contacted his step-granddaughter since he was charged, and his wife’s statement did not demonstrate that he would violate conditions. Defendant contends that his release plan was restrictive and concrete enough to directly mitigate the State’s safety concerns such that the court erred by not exercising its discretion to release him under his proposed conditions.

* While the case was pending, the State asked this Court to take judicial notice of documents related to events that occurred after the notice of appeal was filed. Because we affirm based on the record as it was at the time of the appeal, we do not reach the issues raised in the State’s motion. See State v. Gurung, 2025 VT 52, ¶ 27 n.3, __ Vt. __, 346 A.3d 459 (recognizing request for judicial notice may be denied if the materials sought to be noticed are “unnecessary to resolve the issues before us”).

¶ 7. Defendant effectively asks this Court to reweigh the evidence on appeal, which we will not do. See State v. Calabrese, 2023 VT 19, ¶ 17, 218 Vt. 23, 297 A.3d 139 (stating Court’s role is “not to reweigh the evidence on appeal”). The trial court was required to consider evidence relating to whether the imposition of conditions of release was appropriate, State v. Memoli, 2008 VT 85, ¶ 4, 184 Vt. 564, 956 A.2d 575 (mem.), but was not required to expressly link each individual piece of evidence under § 7554 with defendant’s risk of flight or to public safety. The court’s decision makes clear that it applied the appropriate standard and that, viewed as a whole, the factors it cited led it to conclude that there was a significant risk that defendant would not obey conditions if released. See Samplatsky, 2026 VT 16, ¶ 9 (affirming hold-without-bail order where trial court explained it was not “fully convinced” defendant would “abide by the conditions that would be imposed” if released (quotation omitted)). The trial court did not abuse its discretion. Its order was supported by its findings and defendant did not satisfy his burden to overcome the presumption against release where the evidence of guilt was great. Vialet, 2021 VT 62, ¶ 3.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice