

SUPREME COURT OF VERMONT

State v. Steuerwald

193 Vt. 663 (2012) · Decided November 14, 2012

SUMMARY

The Vermont Supreme Court reviewed de novo the denial of conditional release for a defendant held without bail under 13 V.S.A. § 7553a. The court concluded that clear and convincing evidence established a substantial threat of physical violence and that release to the custody of the defendant's mother at a monastery would not reasonably prevent that threat.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Vermont
DECIDED	November 14, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed the criminal division's order holding him without bail under 13 V.S.A. § 7553a. The appeal received de novo review by an associate justice of the Vermont Supreme Court under 13 V.S.A. § 7556(d) and V.R.A.R. 9.
STANDARD OF REVIEW	The reviewing justice owes no deference to the trial court's findings or conclusions but may adopt unchallenged findings. A challenged legal conclusion receives de novo review, requiring an independent determination based on the record. The clear-and-convincing-evidence standard applies to whether the defendant poses a substantial threat of physical violence and whether no condition or combination of conditions can reasonably prevent that violence.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential
PARTIES	Defendant v. State of Vermont

TOPICS

[bail](#) [criminal procedure](#) [appellate procedure](#) [standard of review](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the proposed release conditions placing defendant in his mother's care and custody at a Buddhist monastery would reasonably prevent his substantial threat of physical violence to any person under 13 V.S.A. § 7553a.

HOLDINGS

1. The proposed conditions of release to defendant's mother's care and supervision at a monastery would not reasonably prevent his threat of physical violence. Because the evidence clearly and convincingly established both a substantial threat of physical violence and the inadequacy of any proposed conditions, defendant was properly held without bail under 13 V.S.A. § 7553a.

KEY QUOTATIONS

“Short of actual custody without access to alcohol, the real risk of defendant drinking and resorting to life-threatening violence cannot, as a practical matter, be reasonably controlled.” (193 Vt. at 665)

FACTUAL BACKGROUND

Defendant was accused of violently strangling his girlfriend while intoxicated, continuing to choke her after police arrived and intervened. Police observed that the complainant was unresponsive, with her eyes rolled back and blood coming from one eye, and an officer believed defendant would have killed her absent prompt intervention. Defendant had a blood-alcohol concentration of .218 despite a prior court-ordered condition prohibiting alcohol. Defendant proposed release to his mother's supervision at a monastery, but the court found that arrangement insufficient to control the risk of renewed alcohol use and serious violence.

PROCEDURAL HISTORY

Defendant was charged with aggravated domestic assault, furnishing alcohol to a minor, and violating conditions of release. The criminal division held him without bail and denied release to his mother's custody at a Buddhist monastery. On de novo appeal, the parties relied on the existing record and introduced no new evidence. The reviewing justice adopted unchallenged trial-court findings and continued the order holding defendant without bail.

DISPOSITION

other

CASES CITED

- State v. Madison, 163 Vt. 390, 393, 659 A.2d 124, 126 (1995)
- State v. Madison, 163 Vt. 360, 363, 658 A.2d 536, 539 (1995)

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