

SUPREME COURT OF VERMONT

State v. Whittemore

196 Vt. 608 (2005) · Decided March 4, 2005

SUMMARY

The Vermont Supreme Court reviews the denial of bail to a defendant charged with first-degree aggravated sexual assault of a minor under 13 V.S.A. § 7553. The court holds that the State presented sufficient evidence of guilt to establish that the defendant was not bailable as a matter of right, but explains that this finding did not compel detention because the trial court retained broad discretion. The case is remanded for the trial court to articulate the legitimate governmental interests supporting its discretionary denial of bail.

CASE DETAILS

COURT	Supreme Court of Vermont
JURISDICTION	Vermont
DECIDED	March 4, 2005
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed the Lamoille District Court's denial of bail under 13 V.S.A. § 7553.
STANDARD OF REVIEW	The State must show substantial, admissible evidence legally sufficient on each element of the charged crime to sustain a guilty verdict. In reviewing the evidence, the court must view the State's evidence in the light most favorable to the State and may not weigh the evidence. The trial court's discretionary bail decision must be supported by articulated legitimate governmental interests so that appellate review can determine that the detention is not arbitrary.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Lynwood Whittemore v. State

TOPICS

- bail
- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

- Criminal procedure
- Bail
- Appellate procedure
- Evidence

QUESTIONS PRESENTED

1. Whether the evidence of guilt was great under 13 V.S.A. § 7553.
2. Whether the victim's police-interview transcript was a sufficiently sworn and admissible statement for purposes of bail review.
3. Whether the interview's leading or suggestive questioning rendered the evidence insufficient for bail review.
4. Whether the district court properly exercised its discretion to deny bail after finding that the evidence of guilt was great.

HOLDINGS

1. The State satisfied its burden of presenting substantial, admissible evidence legally sufficient on each element of the charged offense to sustain a guilty verdict.
2. The interview transcript was competent evidence for purposes of the bail-review hearing because the victim affirmed that her statements were the truth and invoked the seriousness of an oath, sufficiently approximating an oath despite the affirmation occurring at the end of the interview.
3. Any flaws in the interview techniques affected the weight of the evidence at trial, not its use to satisfy the State's burden during bail review.
4. A finding that evidence of guilt is great and that the defendant is not bailable as a matter of right does not compel denial of bail; the district court must exercise its broad discretion and articulate a legitimate governmental interest supporting detention.

KEY QUOTATIONS

“Although we conclude that the State has met its burden of showing that, pursuant to 13 V.S.A. § 7553, defendant is not entitled to bail as a matter of right, we remand because the record of the proceedings below does not indicate how the court exercised its discretion in deciding not to grant defendant’s bail request.”
(610)

“Therefore, the district court must articulate some legitimate government interest in detaining defendant so that this Court can be assured that defendant is not being arbitrarily detained.” (610)

FACTUAL BACKGROUND

Whittemore was charged with first-degree aggravated sexual assault of a child under ten, a crime punishable by life imprisonment. The State relied on a police-interview transcript and an officer's affidavit, including the victim's detailed account of an alleged sexual assault when she was six or seven years old. At the bail hearing, the district court found the interview sufficiently sworn and the evidence sufficiently substantial to satisfy the statutory standard, but denied bail without identifying the governmental interests supporting its discretionary decision.

PROCEDURAL HISTORY

The Lamoille District Court found that defendant was charged with a crime punishable by life imprisonment and that the evidence of guilt was great. It concluded that defendant was not bailable as a matter of right and denied bail after a hearing. The Vermont Supreme Court affirmed the determination that defendant was not entitled to bail as a matter of right but remanded for the district court to articulate the reasons supporting its discretionary denial of bail.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court shall supplement or modify its order forthwith, stating the reasons supporting its exercise of discretion in denying bail.

CASES CITED

- State v. Turnbaugh, 174 Vt. 532, 534-35, 811 A.2d 662, 665-66 (2002) (mem.)
- State v. Blackmer, 160 Vt. 451, 456, 458, 631 A.2d 1134, 1138-39 (1993)