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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1009**

State of Minnesota,
Respondent,

vs.

Christopher Dylan Martinez,
Defendant,
AnyTime Bail Bonds Inc.,
Appellant.

**Filed April 8, 2019
Reversed and remanded
Reyes, Judge**

Anoka County District Court
File No. 02-CR-16-1188

Keith Ellison, Minnesota Attorney General, St. Paul, Minnesota; and

Kurt Glaser, Centerville City Attorney, Catherine Crane, Assistant City Attorney, Smith & Glaser, LLC, Minneapolis, Minnesota (for respondent)

Eric A. Rice, Law Office of Eric A. Rice, LLC, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Hooten, Judge; and Cochran,
Judge.

UNPUBLISHED OPINION

REYES, Judge

Appellant bail-bonding company challenges the district court's vacation of its
earlier order granting appellant's petition to reinstate and discharge a forfeited bail bond,

arguing that Minnesota law and court rules permit the reinstatement and discharge of a forfeited bond after it has been paid in full. We reverse and remand.

FACTS

Defendant Christopher Dylan Martinez pleaded guilty to a gross-misdemeanor offense, and the district court placed him on probation. Following an alleged probation violation, appellant Anytime Bail Bonds Inc. posted a \$1,000 bond to allow for defendant's release. Defendant failed to appear at a hearing, and on October 4, 2017, the district court issued a warrant for his arrest and an order forfeiting appellant's bond. Minnesota court rules required appellant to pay the forfeited bond within 90 days of the order. Appellant requested an extension of the 90-day deadline while it continued its efforts to locate defendant, but the district court denied appellant's request and ordered forfeiture of the bond. Appellant paid the \$1,000 bond to the district court.

Appellant subsequently located defendant and brought him into custody. On March 12, 2018, 159 days after the order of forfeiture, appellant filed a petition for reinstatement and discharge of its forfeited bond. At the hearing on the petition, counsel for appellant and for respondent State of Minnesota agreed that reinstatement and discharge of the bond, minus a \$250 penalty, was appropriate. The district court accepted the parties' agreement and, before the parties, signed an order for reinstatement and discharge of appellant's forfeited bond, minus a \$250 penalty. However, the district court later vacated its order.

Appellant moved for remittance of the \$1,000 it paid on its forfeited bond, minus the agreed-upon \$250 penalty, with the district court. At the motion hearing, appellant explained that, prior to the district court vacating its order for reinstatement and discharge,

the court administrator advised appellant that the balance of appellant's forfeited bond could not be released because appellant had already paid it in full and the district court's order for reinstatement and discharge "did not contain specific language to remit the [bond]."¹ The district court informed appellant that it did not think appellant had a right to petition for reinstatement and discharge of the forfeited bond after it had paid it in full, adding "I think . . . once the bond has been paid in full, I think that's the end of it." The district court denied appellant's motion for remittance. This appeal follows.

D E C I S I O N

Appellant argues, and the state agrees, that the district court incorrectly concluded that payment of a forfeited bond precludes a subsequent petition for reinstatement and discharge of that bond. We agree.

We review a district court's denial of a motion to reinstate, discharge, and refund a forfeited bail bond for an abuse of discretion. *State v. Vang*, 763 N.W.2d 354, 356 (Minn. App. 2009). A district court abuses its discretion if its decision is based on an erroneous view of the law. *Almor Corp. v. County of Hennepin*, 566 N.W.2d 696, 701 (Minn. 1997).

If a defendant is admitted to bail and fails to appear, the district court shall declare the bond forfeited by a proper order. Minn. Stat. § 629.18 (2018). When the district court orders the forfeiture of a bond, the surety or bondsman must pay the bond within 90 days from the date of the order of forfeiture. Minn. R. Gen. Prac. 702(e). A petition for reinstatement and discharge of a forfeited bond filed between 90 and 180 days from the

¹ Appellant included with its motion for remittance a revised proposed "Order for Remittance," which contained language ordering the repayment of the bond.

date of forfeiture shall be heard by the judge who ordered forfeiture, and reinstatement may be ordered on such terms and conditions as the district court may require. Minn. R. Gen. Prac. 702(f). If the district court orders reinstatement, it must do so on the condition that a minimum penalty of not less than ten percent of the forfeited bail be imposed. *Id.*

The district court determined that appellant did not have the right to petition for reinstatement and discharge of the forfeited bond because it had already paid the bond in full. Neither statute nor court rules support this position. Court rules expressly permit appellant to file a petition for reinstatement and discharge between 90 to 180 days after the date of the order of forfeiture and are silent as to preclusion due to payment of a forfeited bond. *See* Minn. R. Gen. Prac. 702(f). Here, appellant timely filed its petition 159 days after the district court's order of forfeiture, and after it had paid the bond in full. Furthermore, caselaw allows courts to adjudicate petitions for reinstatement and discharge after payment of a forfeited bond. *See In re Shetsky*, 60 N.W.2d 40, 45 (Minn. 1953) (stating district court's inherent power to remit forfeited bond may be exercised, not only before payment of forfeited bond, but also thereafter upon showing of no prejudice to state); *see also State v. Storkamp*, 656 N.W.2d 539, 541 (Minn. 2003) (reversing district court's denial of petition for reinstatement, discharge, and refund of a forfeited bail bond).

Because the district court based its determination on an erroneous view of the law, we conclude that the district court abused its discretion. We reverse and remand for a new hearing on appellant's petition for reinstatement and discharge of its forfeited bond.

Reversed and remanded.