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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS**

A21-0862

A21-0873

State of Minnesota,
Respondent,

vs.

Tyreese Eugene Roberson, Defendant,

Midwest Bonding LLC,
Appellant.

Filed March 14, 2022
Affirmed
Bryan, Judge

Dakota County District Court
File No. 19HA-CR-19-2172

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

Kathryn M. Keena, Dakota County Attorney, Heather Pipenhagen, Assistant County Attorney, Hastings, Minnesota (for respondent)

James McGeeney, Doda McGenney, Rochester, Minnesota (for appellant)

Tyreese Roberson, St. Cloud, Minnesota (pro se defendant)

Considered and decided by Bryan, Presiding Judge; Jesson, Judge; and Rodenberg,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment under Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this consolidated appeal, appellant challenges the district court's decision to impose penalties for the reinstatement of bail bonds that had been forfeited when the defendant failed to appear. We conclude that the district court did not abuse its discretion when it reinstated and discharged a portion of the forfeited bail bonds.

FACTS

In February 2018, respondent State of Minnesota charged defendant Tyreese Eugene Roberson with second-degree burglary of a dwelling in violation of Minnesota Statutes section 609.582, subd. 2 (2016); threats of violence in violation of Minnesota Statutes section 609.713, subd.1 (2016); violation of a Domestic Abuse No Contact Order (DANCO) in violation of Minnesota Statutes section 629.75, subd. 2(b) (2016); and fifth-degree assault in violation of Minnesota Statutes section 629.224, subd. 1(2) (2016) (together, the 2018 charges). In August 2019, the State of Minnesota charged Roberson with two counts of first-degree criminal sexual conduct in violation of Minnesota Statutes section 609.342, subd. 1 (2018). Over the course of the proceedings in Roberson's cases, appellant Midwest Bonding, LLC (Midwest Bonding) posted two bail bonds on his behalf, one in the amount of \$40,000 relating to the 2018 charges, and a second in the amount of \$325,000 relating to the first-degree criminal sexual conduct charges from 2019. Roberson was subject to several conditions of release and fitted with a GPS monitor.

The first-degree criminal sexual conduct charges proceeded to a jury trial on August 10, 2020, but the trial ended in a mistrial on August 20, 2020. The retrial began on

September 21, 2020, and the jury was sworn on September 25, 2020. On September 30, 2020, Roberson failed to appear at trial in violation of the court's order. After "a significant morning delay," the court recessed for the day and sent the jurors home. The state rescheduled two witnesses to appear the next day. One of the witnesses was an expert who traveled from out-of-state to testify. The district court issued a warrant for Roberson's arrest. The monitoring staff for Roberson's GPS equipment located the equipment in a ditch near the courthouse and observed that the equipment had been cut off and intentionally removed. Roberson failed to appear again on October 1, 2020. The trial resumed in Roberson's absence; he was absent for the final witnesses in the state's case as well as for closing arguments, jury instructions, and verdicts. The jury found Roberson guilty and concluded that the state proved the presence of aggravating factors.

On October 2, 2020, the district court forfeited both bail bonds. On October 12, 2020, Dakota County Sheriff's Deputies arrested Roberson at a hospital in Minneapolis. Midwest Bonding did not apprehend Roberson.

On December 9, 2020, Midwest Bonding petitioned for reinstatement of the two forfeited bail bonds. Midwest Bonding detailed its efforts to locate Roberson, which consisted of calling him, electronically searching all Minnesota jails, and hiring a professional fugitive recovery agency (the agency). According to Midwest Bonding's petition, the agency investigated Roberson's contact information and used investigative software to search until Midwest Bonding learned Roberson was apprehended in Minneapolis.

In February 2021, the district court denied Midwest Bonding's petition to reinstate the entire appearance bond in the amount of \$325,000 relating to the first-degree criminal sexual conduct charges and ordered 50% of the appearance bond, or \$162,500, to be reinstated and discharged. The district court ordered Midwest Bonding to pay the remaining 50%, or \$162,500, within 30 days. For Roberson's 2018 charges, the district court denied Midwest Bonding's petition to reinstate the entire appearance bond in the amount of \$40,000 and ordered 90% of the appearance bond, or \$36,000, to be reinstated and discharged. The district court then ordered Midwest Bonding to pay the remaining 10%, or \$4,000, within 30 days.

In considering a petition for reinstatement and discharge of bail, the district court considered the factors identified in *In re Shetsky*, 60 N.W.2d 40, 46 (Minn. 1953). The district court found that because Roberson absconded during his jury trial and given the severity of the charges against him, his absence weighed against reinstatement. Although the length of Roberson's absence was shorter than in other cases, the district court found that his absence interrupted and delayed the administration of justice. The district court also found that Roberson cut and removed his GPS bracelet, absconded during trial, and Midwest Bonding did not provide any evidence to suggest the cause and purpose of Roberson's absence was anything but willful. The district court found that these actions weighed heavily against reinstatement. The district court also found that Roberson's apprehension did not result from any actions of Midwest Bonding. The district court considered the nature of the charges and the conditions of release, concluding that this was not a "routine case," but that Midwest Bonding "made no more than 'routine' efforts to

assure” Roberson’s appearance. The district court found that this factor weighed in favor of reinstatement, but “only minimally.”

As for whether the state was prejudiced in its administration of justice, the district court found that, for the bond corresponding to the August 2019 charges, the state incurred undue expenses in retrieving and prosecuting Roberson because the trial was performed in absentia for three days. In addition, the district court determined that the state incurred costs of apprehension and increased costs of prosecution. The district court took judicial notice that the jury was paid an additional day while the court decided whether to proceed with the trial and that the presentation of the state’s case was disrupted. The state’s expert witness returned to her home state and had to testify the next day remotely, rather than in person. The district court found that the state was adversely affected because of the delay and this factor weighed against reinstatement. For the bond corresponding to the charges filed in February 2018, the district court found that this factor weighed in favor of reinstatement because that bond was associated with the criminal sexual conduct case and Roberson was not in trial for the 2018 charges. Midwest Bonding appeals.

DECISION

Midwest Bonding challenges the district court’s order denying its petition to reinstate and discharge its forfeited bonds and imposing penalties, arguing that the court abused its discretion in weighing the *Shetsky* factors. Because the district court’s conclusions are not against logic or the facts in the record, the district court did not abuse its discretion when it reinstated and discharged a portion of the bail bonds.

When a bail bond is forfeited, the district court “may forgive or reduce the penalty according to the circumstances of the case and the situation of the party on any terms and conditions it considers just and reasonable.” Minn. Stat. § 629.59 (2020); *see also* Minn. R. Gen. Prac. 702(f) (specifying procedure for petitioning for reinstatement and discharge of forfeited bail bond). But in considering a petition for reinstatement and discharge of bail, the district court must consider the four factors identified in *Shetsky*. *State v. Askland*, 784 N.W.2d 60, 62 (Minn. 2010). The first factor is “the purpose of bail, the civil nature of the proceedings, and the cause, purpose and length of a defendant’s absence.” *Id.* Bail serves several purposes, including minimizing pretrial incarceration, ensuring penalty payment, and encouraging sureties “to locate, arrest, and return defaulting defendants to the authorities.” *State v. Storkamp*, 656 N.W.2d 539, 542 (Minn. 2003). The second factor is “the good faith of the bond company as measured by the fault or willfulness of the defendant.” *Askland*, 784 N.W.2d at 62. This factor imputes the “[d]efendant’s willfulness or bad faith . . . to the surety.” *State v. Vang*, 763 N.W.2d 354, 358 (Minn. App. 2009). Third, the district court must consider “the good-faith efforts of the bond company to apprehend and produce the defendant.” *Askland*, 784 N.W.2d at 62. The final factor is “any prejudice to the State in its administration of justice.” *Id.* (citing *Shetsky*, 60 N.W.2d at 46).

The bonding company bears the burden of showing that the first three factors weigh in its favor, and the state bears the burden of proving prejudice. *Askland*, 784 N.W.2d at 62. We review a district court’s decision on the reinstatement and discharge of a forfeited bail bond for an abuse of discretion. *Id.* A district court abuses its discretion when its

decision is against logic or the properly established factual findings of the district court. *See State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019). To determine whether the district court abused its discretion, we examine each factor in turn.

Midwest Bonding argues that the first *Shetsky* factor favors reinstatement of the bond because Roberson was apprehended approximately 13 days after failing to appear, and in three other cases, appellate courts have reversed forfeitures of bond where the defendant was at large for more than 13 days. We are not convinced by this argument. First, Midwest Bonding focusses on only one component of the first *Shetsky* factor: the length of the absence. The other components, such as “the purpose of bail, the civil nature of the proceedings, and the cause, purpose, and length of a defendant’s absence,” *Askland*, 784 N.W.2d at 62, support the district court’s conclusion that Roberson’s absence affected the scheduling and presentation of witnesses, caused inconvenience to the jury, and delayed the administration of justice.

In addition, although Midwest Bonding cites three cases to support its argument, none of the three cases directly applies to the facts of this case. They do not involve persons absconding midtrial, but rather after entry of a guilty plea or prior to arraignment. *See Askland*, 784 N.W.2d at 63 (reversing forfeiture of bond where defendant failed to appear at arraignment and where the state “did not even argue, much less attempt to prove, that any witnesses or evidence were lost during Aksland’s absence”); *State v. Stellmach*, No. A14-0920, 2015 WL 134174, at *1, 3 (Minn. App. Jan. 12, 2015) (reversing forfeiture of bond by district court where defendant entered a guilty plea, failed to appear at sentencing, and was at large for 64 days); *Farsdale v. Martinez*, 586 N.W.2d 423, 424-26 (Minn. App.

1998) (reversing forfeiture of bond where defendant entered a guilty plea, failed to appear at sentencing, and was at large for approximately “two months”). Our analysis of the effect of Roberson’s absence is necessarily different from that of the defendants in *Askland*, *Stellmach*, and *Farsdale* because of the important purpose of imposing bail for serious charges, such as the criminal sexual conduct charges in this case, and because Roberson contested these charges through a jury trial. For these reasons, we conclude that the district court did not abuse its discretion in concluding that the first factor weighs against reinstatement and discharge and in favor of imposing penalties.

Midwest Bonding next challenges the district court’s evaluation of the second *Shetsky* factor, arguing that the district court abused its discretion because it failed to consider Midwest Bonding’s good faith efforts to apprehend Roberson. Again, we are not convinced.¹ The district court found several facts indicating Roberson willfully absconded, including the undisputed fact that he cut off his GPS bracelet before doing so. Based on these facts, the district court’s analysis of the second *Shetsky* factor is not against logic.

¹ In its arguments to this court, Midwest Bonding does not assert that the district court clearly erred in making any factual findings. To the extent that the argument here necessarily contests the factual findings, we conclude that the district court did not clearly err. Under this standard of review, we view the record in the light most favorable to the findings and will not set them aside unless we are left with a firm conviction that a mistake has been made. *E.g.*, *In re Civil Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotations and citations omitted). Additionally, we do not reconcile conflicting evidence or “weigh the evidence as if trying the matter de novo,” and “[w]hen the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* at 221, 223 (quotations omitted). In our review of the record, Midwest Bonding presented no evidence that Roberson’s failure to appear was anything but willful and in bad faith. In fact, much of the evidence presented by Midwest Bonding supports the district court’s factual findings regarding willfulness, and given our standard of review, we must defer to the district court.

Midwest Bonding also argues that the district court abused its discretion regarding the third *Shetsky* factor, but we remain unpersuaded. Midwest Bonding is correct to observe that the defendant was not at large for a long period of time and that Midwest Bonding had only “just begun to commence efforts to locate the defendant.” Nevertheless, Midwest Bonding makes no argument and presented no evidence that its efforts directly facilitated law enforcement’s ability to find the defendant, as occurred in *Farsdale*, 586 N.W.2d at 424-25. In addition, the district court also considered the absence of any evidence presented by Midwest Bonding to show specific costs incurred by the bonding company in trying to locate Roberson, as occurred in *Storkamp*, 656 N.W.2d at 541. For these reasons, on this record, we conclude that the district court did not abuse its discretion in concluding that the third factor weighs minimally in favor of reinstatement and discharge.

Finally, Midwest Bonding contests the district court’s analysis of the fourth *Shetsky* factor, arguing that the state presented no evidence that it was prejudiced by having to finish the trial without Roberson present. Midwest Bonding also argues that the one-day trial delay does not justify the penalties imposed. While the state could have made a stronger case by itemizing costs and presenting additional evidence to support its claim that Roberson’s absence caused prejudice, we discern no error in the district court’s decision to find prejudice or to take judicial notice of the costs of delaying the trial. The district court correctly determined that the costs of prosecution were increased and the jury was paid for an additional day while the trial was suspended. In addition, there is no dispute that the state’s presentation of evidence was disrupted and that when trial recommenced,

the state's expert witness had returned to her home state and testified remotely rather than in person. Based on our review of the applicable authorities, the state identified sufficient adverse impact to carry its burden regarding this factor, and we conclude that the district court did not abuse its discretion when it determined that this factor weighed against reinstatement and in favor of the penalties imposed.

For these reasons, we conclude that the district court did not abuse its discretion when it reinstated and discharged 50% of the bond imposed for the 2019 first-degree criminal sexual conduct charges and 90% of the bond imposed for the 2018 charges.

Affirmed.