

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1074**

State of Minnesota,
Respondent,

vs.

Michelle Kristine Boyd,
Defendant,

Liberty Bail Bond Agency,
Appellant.

**Filed April 17, 2023
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-20-12209

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

Kristyn Anderson, Minneapolis City Attorney, Michelle E. Johnson, Assistant City Attorney, Minneapolis, Minnesota (for respondent)

Richard A. Bowen, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant, a bonding company, challenges the district court's denial of its petition to reinstate a forfeited bail bond, arguing that the district court erred by not discharging the

bond at the time the defendant was sentenced and by assigning the petition to a judge other than the forfeiting judge or the chief judge, and abused its discretion by denying appellant's reinstatement petition. Because we see no error and no abuse of discretion, we affirm.

FACTS

In May 2020, respondent the City of Minneapolis charged M.B. with driving after cancellation—inimical to public safety, careless driving, and driving with no insurance. M.B. did not appear for hearings scheduled in June 2020, February 2021, March 2021, and June 2021. Bench warrants were issued.

In July 2021, appellant Liberty Bail Bonds Agency posted a \$3,000 appearance bond to ensure M.B.'s appearance at future hearings. M.B. signed a form stating that she was required to attend court at 9:00 on September 17, 2021, and that she and the Roche Surety and Casualty Company would be required to pay the district court \$3,000 if she failed to appear. She also signed a form that stated, "If you fail to report for court as directed, a bench warrant may be issued for your arrest."

M.B. did not appear at court on September 17, 2021, and a bench warrant was issued with a bail amount of \$5,000. A district court judge (the forfeiting judge) directed forfeiture of the \$3,000 bond appellant had posted previously, and the chief judge issued an order forfeiting the bond.

In October 2021, M.B. was taken into custody in Goodhue County on a bench warrant for failing to appear in another case. After appellant notified Goodhue County and let them know of the outstanding warrants on her in Hennepin County, M.B. was released on the Goodhue County warrant to appear on the Hennepin County warrant.

On October 12, 2021, appellant filed a petition to reinstate and discharge the forfeited bail bond. The supporting affidavit stated that, when appellant was notified of M.B.'s failure to appear, appellant attempted unsuccessfully to call M.B. and her family members, went to her last known address, went to places where she was known to have been, and conducted a skip trace, or online search, none of which located or apprehended M.B.

On October 13, 2021, a different judge (the bail bond judge) was assigned to handle the bail bond petition. On October 14, 2021, M.B. appeared in Hennepin County before another district court judge (the sentencing judge), who sentenced her and resolved her case.

In December 2021, the bail bond judge issued an order denying appellant's motion to reinstate the bond and granting the motion to discharge the bond. That order was superseded by a March 2022 order in which the bail bond judge clarified that the bond would be discharged only after it was paid in full.

Appellant requested a hearing. In June 2022, following the hearing, the bail bond judge issued an order. She found that the discharge of the bond had not been required at sentencing, determined that the assignment of the bail bond judge was appropriate and that she had the authority to decide the reinstatement petition, and denied the petition.

Appellant challenges that order, arguing that (1) the sentencing judge should have discharged the bond when M.B. was sentenced, (2) Hennepin County's practice of assigning a bail bond judge who was neither the forfeiting judge nor the chief judge to

decide issues on the bond violates Minn. R. Gen. Prac. 702(f), and (3) the bail bond judge abused its discretion by denying appellant's reinstatement petition.

DECISION

1. Timing of the Discharge

Appellant's argument on this point is limited to asserting that "there is no question [that] all elements for sentencing of [M.B. were] completed. The petition for the reinstatement and discharge of the bail bond should have been heard at that time. This is the standard practice that takes place at the time of sentencing." Appellant provides neither statutory nor caselaw support for the view that the sentencing judge is responsible for hearing petitions for the reinstatement and discharge of bail bonds. There is no indication that either appellant or M.B. asked that the petition, filed just one day before sentencing, be addressed at sentencing, and there was no error on the part of the sentencing judge in not addressing it.

2. Assignment of Judges to Hear Bond Issues

The construction of the general rules of practice is subject to de novo review. *Cnty. Cares v. Faulkner*, 949 N.W.2d 296, 297 (Minn. App. 2020), *rev. denied*, (Minn. Nov. 17, 2020).

Minn. R. Gen. Prac. 702(f) provides that "[a] petition for reinstatement . . . shall be heard and determined by the judge who ordered the forfeiture, or the chief judge." But in 2018 Hennepin County enacted the "Fourth Judicial District Standing Order re Assignment and Services of Board Reinstatement Petitions," which provides that, pursuant to the authority granted to the chief judge by Minn. Stat. § 484.69, subd. 3 (2018), "bond

reinstatement petitions filed in the Fourth Judicial District shall be assigned to judges in accordance with the applicable Fourth District Bench Policy.”

Appellant disagrees with the standing order, relying on Minn. R. Gen. Prac. 702(f) to argue that the proper judge to have decided the bond issue was not the bail bond judge but either the forfeiture judge or the chief judge. But even if the appointment of a bail bond judge to handle bond issues were an error, it was a harmless error: appellant has shown no prejudice as a result. “Although error may exist, unless the error is prejudicial, no grounds exist for reversal.” *Kallio v. Ford Motor Co.*, 407 N.W.2d 92, 98 (Minn. 1987); Minn. R. Civ. P. 61 (providing that courts are to disregard any error that does not “affect the substantial rights of the parties”).¹

3. Denial of the Petition to Reinstate

This court reviews the denial of a petition to reinstate a forfeited bail bond for an abuse of discretion. *State v. Askland*, 784 N.W.2d 60, 62 (Minn. 2010). *Askland* quotes the four factors set out in *In re Shetsky*, 60 N.W.2d 40, 46 (Minn. 1953), for evaluating petitions for bond reinstatement: (A) the purpose of bail, (B) the good faith of the bond company as measured by the fault or willfulness of the defendant; (C) the good faith efforts of the bond company to apprehend and produce the defendant, and (D) the prejudice to the state in its administration of justice. Appellant has the burden of proving that the first three factors weigh in favor of reinstatement. *See Askland*, 784 N.W.2d at 62.

¹*See also State v. Banks*, No. A22-0774, 2022 WL 17574948 (Minn. App. Dec. 12, 2022), (a nonprecedential decision rejecting appellant’s argument and upholding the Hennepin County policy of appointing judges to handle bond reinstatement petitions.)

As to the purpose of bail, the bail bond judge, having found that a bond was posted in July 2021 to secure Boyd's appearance in September 2021; that she did not appear, thus frustrating the bond's purpose; and that law enforcement did apprehend her after about two weeks, concluded that "[t]he relatively small duration of [M.B.'s] absence slightly favors reinstatement."

As to appellant's good faith measured by M.B.'s willfulness or fault, the district court found that no one explained her absence and that appellant submitted no evidence that it had tried to remind M.B. of her court appearance. However, M.B. did have notice and willfully failed to appear. The bail bond judge concluded that her willful absence was attributable to appellant and weighed against reinstatement, as did appellant's failure to ensure her appearance.

As to appellant's good-faith effort to locate M.B., the district court found that, when appellant learned the bond had been revoked, it tried unsuccessfully to call M.B. and her family, then hired an agent to locate her. The agent conducted a skip trace, went to M.B.'s last known address, and went to places where she was known to have been. No details were provided as to the extent or frequency of any of these activities, or as to their cost to appellant. *See State v. Vang*, 763 N.W.2d 354, 359 (Minn. App. 2009) (criticizing failure to provide information on expenses incurred in attempt to find defendant). Moreover, appellant provided no information as to whether or how its activities assisted or resulted in apprehending M.B. Appellant has not met its burden of proving this factor weighs in favor of reinstatement.

Finally, as to the prejudice to the state, the bail bond judge found there was no evidence that the state was prejudiced except for the delay and the expense of law enforcement in apprehending M.B. and concluded that “[b]ecause [M.B.] pled guilty and has been sentenced in the above-entitled case, it is appropriate to discharge the bond but only *after* [appellant] pays the bond amount in full.”

The bail bond judge did not abuse her discretion in denying appellant’s petition to reinstate the forfeited bond.

Affirmed.