

STATE OF MINNESOTA  
COUNTY OF HENNEPINDISTRICT COURT CRIMINAL DIVISION  
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

**ORDER UPON MOTION FOR BOND  
REINSTATEMENT AND DISCHARGE**

Aesha Ibrahim Osman,

File No. 27-CR-18-18391

Defendant.

Bail Bond Power No. FCS25-1875596

Based upon Petitioner's affidavit, as well as upon all the files, records, and proceedings herein;

**The Court has considered the *Shetsky* factors<sup>1</sup> and finds that:**

1. When considering the purpose of bail and the civil nature of the proceedings, and the cause, purpose, and length of the defendant's absence, this factor:

☒ weighs against reinstatement. ☐ weighs in favor of reinstatement. ☐ is neutral.

The primary purpose of bail is to relieve the defendant of imprisonment and the state of the burden of detention, by placing the defendant in the protective custody of a surety to insure the defendant's presence at trial. *Application of Shetsky*, 239 Minn. at 471, 60 N.W.2d at 46. The surety is then encouraged to locate, arrest, and return defaulting defendants to authorities to facilitate the timely administration of justice. *State v. Storkamp*, 656 N.W.2d 539, 542 (Minn. 2003). By accepting the premium and agreeing to act as surety, the bonding agent assumes the risk that the defendant may not appear. *State v. Williams*, 568 N.W.2d 885, 888 (Minn. Ct. App. 1997).

Ms. Osman is charged with felony fifth degree assault. As Ms. Osman's counsel notes, Ms. Osman underwent a Rule 20 evaluation, which found her incompetent to stand trial. Bail Bonds Doctor ("Surety") was aware of the Rule 20 determination and Ms. Osman's flight risk. The Surety understood the risk of providing Ms. Osman bail and its obligation to ensure her appearance at the proceeding.

Ms. Osman failed to appear on September 19, 2018 for an omnibus hearing. For 59 days, the Court was unaware of her location until her apprehension on November 17, 2018. The Surety did not aid in her ultimate apprehension. The proceedings were delayed due to the Surety's failure to insure Ms. Osman's appearance. The purpose of bail was not achieved.

2. When considering the good faith of the surety as measured by the fault or willfulness of the defendant, this factor:

☒ weighs against reinstatement. ☐ weighs in favor of reinstatement. ☐ is neutral.

While Ms. Osman was found incompetent to stand trial, she was aware of the proceeding and her need to appear for the hearing. The Surety reminded her through e-mail and text of her appearance requirement. The evidence is not indicative of any mitigating factors which

<sup>1</sup> *In re Application of Shetsky*, 239 Minn. 463, 471, 60 N.W.2d 40, 46 (1953).

lead this Court to believe Ms. Osman absconded for any reason other than willful and intentional evasion of the swift administration of justice.

3. When considering the good faith efforts of the surety, if any, to apprehend and produce the defendant, this factor:
- ☒ weighs against reinstatement. ☐ weighs in favor of reinstatement. ☐ is neutral.

The good faith efforts of the surety to apprehend and produce the defendant must be weighed. *Shetksy*, 239 Minn. at 471. This Court acknowledges that the Surety texted and e-mailed Ms. Osman two-days before the hearing. However, the Surety ultimately failed to produce Ms. Osman at the hearing and subsequently failed to apprehend Ms. Osman. Although such good faith efforts may be taken into consideration by the Court when considering reinstatement, such efforts do not necessarily entitle a surety to reinstatement unless they are “extraordinary.” *State v. Rodriguez*, 775 N.W.2d 907, 913 (Minn. Ct. App. 2009).

Ms. Osman remained out of custody from September 19, 2018 to November 17, 2018. In this time, the Surety contacted the cosigner and referred the file to an investigator. According to the record, the investigator did not take additional steps to apprehend Ms. Osman during her two-month absence. Hennepin County Sheriff’s Office ultimately apprehend Ms. Osman.

The Surety’s efforts do not rise to the level of extraordinary. The Surety failed to apprehend and produce the defendant.

4. When considering any prejudice to the state in its administration of justice, this factor:
- ☒ weighs against reinstatement. ☐ weighs in favor of reinstatement. ☐ is neutral.

The State did not assert it suffered any specific prejudice due to Ms. Osman’s absence. However, the Court finds the duration of Ms. Osman’s evasion, and the nature of the offense sufficient to constitute prejudice to the State in its administration of justice.

The State suffered prejudice through the proceeding’s two-month delay and the resources it exerted to apprehend Ms. Osman. Further, Ms. Osman’s pending charge was a felony fifth degree assault. The person-on-person nature of the offense created a public safety concern. The Surety’s failure to produce Ms. Osman resulted in prejudice to the State.

5. When considered together, along with all other relevant statutes and Court Rules, the court finds the *Shetsky* factors support an order to:
- ☒ deny the petition. ☐ reinstate the bond in full. ☐ reinstate the bond with a penalty.

**Based on the above finding, IT IS HEREBY ORDERED:**

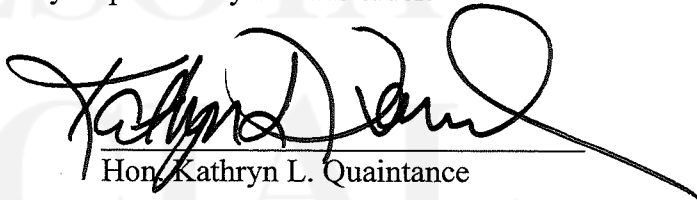
- ☒ Bail reinstatement of \$20,000 is denied. **Payment must be made in full by the original due date, unless that date has passed.** If the due date has passed, payment is due within 30 days of this order.
- ☐ Bail bond power \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ is reinstated.
- ☐ Bail bond power \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ is reinstated and discharged to \_\_\_\_\_ (Bond Company).
- ☐ Upon payment of the penalty(ies) listed below, bail bond power \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ will be reinstated and discharged to \_\_\_\_\_ (Bond Company). **Penalty is payable no later than 60 days from the date of this order or the entire bond will become due and owing.**
- ☐ 10% of forfeited bond for filing petition more than 90 but fewer than 180 days from the date of forfeiture. Remainder refunded if prepaid.
- ☐ \$ \_\_\_\_\_ for costs to apprehend defendant.
- ☐ Other: \_\_\_\_\_

This decision is a judgment of the court. Petitioner may request a hearing on this decision by letter to the undersigned, a copy of which must be provided to the prosecuting authority.

The Court Administrator is directed to take the necessary steps to carry out this order.

Dated:

9/27/19

  
Hon. Kathryn L. Quaintance  
Fourth Judicial District Court