

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Case Type: Criminal

State of Minnesota,

Plaintiff,

**ARGUMENT IN SUPPORT OF
MOTION FOR BOND
REINSTATEMENT AND DISCHARGE**

Court File No.: 27-CR-18-18391

vs.

Aesha Ibrahim Osman,

Defendant,

TO: The Honorable Judge of Hennepin County District Court and the State of Minnesota,
Hennepin County Attorney:

FACTS

On or about September 12, 2018 Bail Bonds Doctor posted bail bond FCS25-1875596 in the amount of \$20,000.00 on behalf of the Defendant. (Exhibit 1). On September 19, 2018 the Defendant failed to appear for a hearing in the matter, at which time the bond was ordered forfeited. (Exhibit 1). Bail Bonds Doctor made attempts to get the Defendant to turn herself in. This included contacting the co-signer on the bond and hiring an investigator to find the Defendant. (Exhibit 1). The Defendant was arrested on November 17, 2018 in Hennepin County. (Exhibit 1). On March 5, 2019, this court denied Bail Bonds Doctor's request to reinstate and discharge the bond in this matter.

ARGUMENT

- 1. The bail bond in this matter should be reinstated and discharged.**

First, 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 in favor of reinstatement. Pursuant to Rule 7.02 of the Minnesota General Rules of Practice, a bond company has ninety days to file a petition for reinstatement. The Defendant was returned well within that ninety-day window. In addition, the court did not take into consideration the cause of the Defendant's absence. In proceedings occurring after the forfeiture of the bond at question, the Defendant was ordered to undergo a Rule 20 evaluation. The results of this evaluation showed that the Defendant was not competent to stand trial. Given these new findings, it is clear that the cause of the Defendant's absence was not necessarily willful, but instead that she was mentally incapable of understanding the need to show up to court or turn herself in when instructed to do so by Bail Bonds Doctor.

Second, when considering the good faith of the surety as measured by the fault or willfulness of the Defendant, this factor weighs in favor of the bond company. In its denial, the court states that the Defendant's absence was willful. However, given the above - mentioned results of the Rule 20, it is more likely that the Defendant's absence was not willful, as this court concluded that she is mentally incompetent. As such, the Defendant likely was unable to engage in the court process due to mental incapacity.

When considering the good faith efforts of the surety, if any, to apprehend and produce the Defendant, this factor weighs in favor of reinstatement. As noted in the court's denial, the company contacted both the co-signer of the bond and a private investigator. Hiring a private investigator costs Bail Bonds Company money that it does not get back. The brief time that the Defendant was in active warrant status did not allow for any additional efforts to be made. Bail Bonds Doctor did not simply sit back and allow the Defendant to

skip court. Instead it used its own time, money and resources in order to make every reasonable attempt possible to located and apprehend the Defendant.

When considering any prejudice to the state in its administration of justice, this factor weighs in favor of the bond company. Looking at the court file, this case has been significantly delayed, but not but the Defendant's brief warrant status. The next hearing for the case was scheduled several months out due to the findings of the Rule 20 evaluation. This was the doing of the specific parties, and not the bond company. It is likely the court may have considered reinstatement and discharge of the bail had this matter concluded, as noted by this court's order. Instead, through no fault of the bond company, this case has been set months out. As such, the state has not been prejudiced in this matter.

CONCLUSION

Because the Defendant has now been found incompetent causing several delays in this case that were not caused by the bond company, the Bail Bonds Doctor bail bond FCS25-1875596 in the amount of \$20,000.00 on behalf of the Defendant must be reinstated and discharged.

Respectfully submitted,

DALY & MARUISH PLLP

Dated: 7/2/2019


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ATTORNEY FOR DEFENDANT



MINNESOTA
JUDICIAL
BRANCH

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

AFFIDAVIT OF DIANNA O'BRIEN

vs.

AESHA IBRAHIM OSMAN,

Court File No. 27-CR-18-18391

Defendant.

IN RE: The application of the Bail Bonds Doctor, Inc.

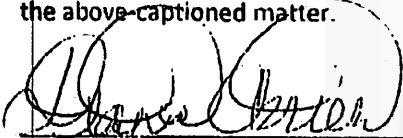
Dianna O'Brien, being first duly sworn upon oath, states and deposes to the court as follows:

1. I am the president of the Bail Bonds Doctor, Inc. (hereinafter referred to as 'BBDI'), a closely held corporation organized and existing under the laws of the state of Minnesota.
2. BBDI's primary business is the procurement and issuance of surety bonds for bail.
3. On or about September 12, 2018, BBDI posted bail bond FCS25-1875596 in the amount of \$20,000.00.
4. The defendant had been charged with felony fifth degree assault.
5. BBDI notified the defendant by both email and text messaging of her upcoming court date three days prior to her scheduled court appearance.
6. On September 19, 2018, the defendant failed to appear in court for a hearing in the matter herein, at which time the bond was ordered forfeited by the presiding judge, the Honorable Katherine L. Quaintance.
7. BBDI received notice of the bond forfeiture on September 23, 2018 and immediately began inquiring as to the defendant's whereabouts. BBDI contacted the cosigner and advised him to instruct the defendant to turn herself in. When the defendant refused to comply, BBDI referred the file to its primary investigator. Before BBDI's investigator could make contact, the defendant was arrested on

Exhibit 1

new charges and brought into the custody of the Hennepin County Sheriff's Office on November 17, 2018, well within the ninety day filing deadline provided for in General Practice Rule 702. Ms. Osman remains in the Hennepin County Jail with a bail of \$20,000.

8. I have nothing further to add except this affidavit is offered in support of BBDI's petition for reinstatement and discharge of the bail bond issued on behalf of Defendant, Aesha Ibrahim Osman, in the above-captioned matter.



Dianna O'Brien

Subscribed and sworn to before me
this 21st day of November, 2018.



Notary Public

MINNESOTA
JUDICIAL
BRANCH