

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
CRIMINAL DIVISION
FOURTH JUDICIAL DISTRICT

State of Minnesota,

**ORDER ON THE PETITION TO
REINSTATE AND DISCHARGE BOND
015-10653725**

v.

Court File No. 27-CR-20-13495

Eyuael Gonfa Kebede.

APPEARANCE

The above-captioned action came on administratively before the Honorable Michael K. Browne, Judge of District Court, on Wednesday, October 27, 2021. The Court is chambered at the Hennepin County Government Center, 300 South Sixth Street, Minneapolis Minnesota. The State of Minnesota is represented by Katherine Galler, Esq. Mr. Eyuael Kebede is represented by Gregory Renden, Esq. Bail Bonds Doctor, Inc. is represented by John Daly, Esq. There were no appearances.

BACKGROUND

In its affidavit, Bail Bonds Doctor, Inc. states that on February 22, 2021, Bail Bonds Doctor posted a bail bond in the amount of \$12,000.00 under Power # 015-10653725. On September 9, 2021, Defendant failed to appear for a hearing and the bond was ordered forfeited on that date. Bail Bonds Doctor agents attempted to locate Mr. Kebede. Bail Bonds Doctor, Inc.'s agent left messages with the cosigner of the bond indemnity agreement and the Defendant instructing the Defendant to turn himself in to the custody of the Hennepin County Jail.

Although Bail Bonds Doctor did not locate him, their investigator contacted family members and acquaintances of the Defendant. After several interviews and monitoring of social media sites, Bail Bonds Doctor, Inc.'s agent was able to locate the Defendant, who was living with his parents at a new address, 5710 Upper 179th St. West, Lakeville, MN.

On October 22, 2021, Bail Bonds Doctor's agent apprehended Mr. Kebede and transferred him, without incident, to the custody of the Hennepin County Jail. The Defendant's warrant was cleared and on October 25, 2021, Mr. Kebede was conditionally released. This constitutes a modified release condition which supersedes the bail bond.

On October 26, 2021, Bail Bonds Doctor filed paperwork requesting the Court reinstate and discharge bail bond Power # 015-10653725 posted by Bail Bonds Doctor in this file because the Defendant resolved his warrant after his failure to appear and that his bail was reduced to \$0. On October 27, 2021, the Court issued an order for submission so that all parties could respond to Bail Bonds Doctor's request. Additional submissions were due on November 10, 2021. As of date of this order, no additional documents were submitted for the Court's consideration, and Petitioner did not request a hearing per under MINN. R. GEN. PRACT. 702(f).

Based upon Petitioner's affidavit, as well as upon all the files, records, and proceedings herein, the Court now makes the below order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has considered the *Shetsky* factors¹ and finds that:

1. “One purpose of a bail bond is to encourage a surety to voluntarily pay the penalty for the failure to ensure the presence of the accused without requiring the state to undergo the expense of litigation to recover the defaulted amount.” *State v. Vang*, 763 N.W.2d 354, 358 (Minn. Ct. App. 2009). “Another is to encourage sureties to locate, arrest, and return defaulting defendants to the authorities to facilitate the timely administration of justice.” *Id.* 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 favors reinstatement. Specifically, the Defendant has returned to court since February, but this matter remains unresolved. Still, the Defendant is scheduled for court in the next month, and his absence seems to have had a minimal impact on the case. Nevertheless, on February 22, 2021, the surety did not achieve the purpose of bail which is to ensure the Defendant’s appearance in court, and the steps it took to foster the Defendant’s appearance in February is clear. Specifically, it appears that the surety found the Defendant through its agents’ investigation of social media and various interviews conducted.
2. When considering the good faith of the surety as measured by the fault or willfulness of the Defendant, this factor weighs in favor of reinstatement. Specifically, the Defendant’s absence was willful – whether due to chemical use or other factors. While the Defendant may have shown good faith after missing court on February 22, 2021, by appearing for court October 25, 2021, November 1, 2021, and November 2, 2021, it is clear that the surety helped secure appearances by bringing the Defendant into custody. Now, the Defendant has court set on December 30, 2021. For this matter, Defendant bail is currently set at \$0. In comparison, while the surety failed to ensure that the Defendant made his court appearance on February 22, 2021, the surety took steps to find and get the Defendant to re-engage in the process. Thus, the surety has contributed to the new court date, and these actions outweighed the willfulness of the Defendant.
3. When considering the good faith efforts of the surety to apprehend and produce the Defendant, this factor does favor reinstatement. Here, the surety took substantial steps to apprehend and produce the Defendant. While there was no evidence suggesting the surety incurred any cost to apprehend or produce the Defendant, as there were no itemized expenses, the submissions suggest that the surety called a co-signer, called the Defendant, called the Defendant’s family, conducted interviews, and monitored Defendant’s social media accounts. The surety’s agent was able to locate the Defendant, who was living with his parents at a new address, 5710 Upper 179th St. West, Lakeville, MN. On October 22, 2021, Bail Bonds Doctor’s agent apprehended Mr. Kebede and transferred him, without incident, to the custody of the Hennepin County Jail. As a result, of the surety’s actions, and not those of the Defendant, the Defendant now has a pre-trial date for December 30, 2021.

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

4. “Finally, in agreeing to act as a surety for a defendant, a bonding company assures the district court that the defendant will personally appear to answer the charges against him.” *State v. Vang*, 763 N.W.2d 354, 359 (Minn. Ct. App. 2009). When considering any prejudice to the state in its administration of justice, this factor supports re-instatement of the bond. Here, the Defendant has made some court appearance since the bond was forfeited. While this is a DWI case dating back to February 2021, there is no evidence showing prejudice to the State’s case. As a result, it is likely the State would be able to proceed with its case despite the Defendant’s brief absence.

ORDER

Based upon all the files, records and proceeding, **IT IS HEREBY ORDERED** that:

1. Bail bond power # 015-10653725 in the amount of \$12,000.00 be reinstated and discharged, due within 90 days of this order per MINN. R. GEN. PRACT. 702(h), without the need for a penalty due to the good father efforts of the surety in apprehending Mr. Kebede in order to ensure his appearance.
2. The Court Administrator is directed to take the necessary steps to carry out this order.

IT IS SO ORDERED.

BY THE COURT

MINNESOTA
JUDICIAL
BRANCH