STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1613

State of Minnesota,
Respondent,

vs.

Elijah Willard James Guinn, Sr.,
Defendant,

Midwest Bonding, LLC,
Appellant.

Filed July 1, 2024
Affirmed
Ede, Judge

St. Louis County District Court
File No. 69DU-CR-20-3668

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

Kimberly J. Maki, St. Louis County Attorney, Victoria Wanta, Assistant County Attorney, Duluth, Minnesota (for respondent)

James McGeeny, Doda & McGeeney, P.A., Rochester, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Ede, Judge; and Jesson, Judge.*

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

NONPRECEDENTIAL OPINION

EDE, Judge

Appellant challenges the district court's denial of its petition to reinstate and discharge a bail bond. Because we conclude that the district court did not abuse its discretion in determining that three of the four *Shetsky*[1] factors support bond forfeiture and in denying appellant's bond-reinstatement petition, we affirm.

FACTS

In December 2020, respondent State of Minnesota charged defendant Elijah Willard James Guinn Sr.[2] with two counts of second-degree controlled-substance crimes. Guinn failed to make his first appearance at a scheduled hearing in January 2021. The district court issued a bench warrant for Guinn's arrest and set bail at $5,000.[3]

In June 2021, Guinn again failed to appear for a hearing, and the district court issued another warrant for his arrest. Appellant Midwest Bonding LLC posted a $5,000 appearance bond on Guinn's behalf. In July 2021, Guinn again failed to appear, and the district court issued another bench warrant, ordering forfeiture of the $5,000 bond that Midwest Bonding had posted.

Guinn was later apprehended by law enforcement. In August 2021, Midwest Bonding posted a $10,000 bond for Guinn. Guinn's next hearing was scheduled for

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[1] *Shetsky v. Hennepin County*, 60 N.W.2d 40 (Minn. 1953).

[2] Guinn is not a party to this appeal.

[3] The record does not reflect the resolution of this bench warrant.

September 2021, but he again failed to appear. The district court issued another bench warrant for Guinn's arrest and ordered forfeiture of the $10,000 bond that Midwest Bonding had posted.

Over the next two months, Midwest Bonding filed separate petitions to reinstate and discharge the $5,000 and $10,000 bonds. Meanwhile, Guinn yet again failed to appear for his next hearing in December 2021, and the district court issued another bench warrant for his arrest.

In May 2022, the district court held a hearing regarding Midwest Bonding's petitions to reinstate the $5,000 and $10,000 bonds. Following the hearing, the district court denied Midwest Bonding's request to reinstate and discharge the bonds, but did order the bonds reinstated. The district court ordered that it would revoke and discharge both bonds if Midwest Bonding could recover Guinn and bring him back into the jurisdiction of the district court within 90 days. But the district court also ordered that, if Midwest Bonding failed to return Guinn to the district court's jurisdiction, it would revoke and forfeit the $5,000 bond and it would revoke and discharge the $10,000 bond.

By June 2022, law enforcement had again apprehended Guinn and taken him into custody. In August 2022, Midwest Bonding filed another petition to reinstate and discharge the $5,000 bond. In September 2022, Midwest Bonding posted another bond on Guinn's behalf, this time in the amount of $25,000.

But Guinn failed to appear for a November 2022 hearing, and the district court issued another bench warrant for his arrest. In December 2022, noting that it had stayed

forfeiture of the $5,000 and $25,000 bonds to provide Guinn an opportunity to appear in court and that he had not done so, the district court ordered forfeiture of both those bonds.

In January 2023, Midwest Bonding posted a $110,000 bond for Guinn. And in March 2023, Midwest Bonding petitioned the district court to reinstate and discharge the $5,000 and $25,000 bonds.

In June 2023, the district court held a hearing on Midwest Bonding's petition and motion to reinstate and discharge the $5,000 and $25,000 bonds. At the hearing, the district court decided that it would not reconsider reinstatement of the $5,000 bond because it had resolved that issue in its May 2022 order, which provided that Midwest Bonding's failure to return Guinn to the district court's jurisdiction would result in revocation and forfeiture of that bond. Following the June 2023 hearing, the district court filed an order, supported by a memorandum, in which the district court denied Midwest Bonding's latest petition to reinstate and discharge the $5,000 and $25,000 bonds.

Midwest Bonding appeals from the district court's June 2023 order, challenging the denial of its petition to reinstate and discharge the $25,000 bond.[4]

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[4] As explained above, the district court's June 2023 order denied Midwest Bonding's March 2023 petition to reinstate and discharge the $5,000 and $25,000 bonds. As to Midwest Bonding's request that the district court reinstate and discharge the $5,000 bond, however, the June 2023 order merely notes that the district court's May 2022 order had provided for the revocation and forfeiture of the $5,000 bond if Midwest Bonding failed to return Guinn to the district court's jurisdiction. And in December 2022, the district court ordered forfeiture of the $5,000 bond because Guinn had failed to appear in court. At oral argument before this court, Midwest Bonding conceded that, because it had failed to appeal the district court's May 2022 and December 2022 orders relating to the $5,000 bond, only the $25,000 bond remains at issue. Based on this procedural history, we accept Midwest Bonding's concession and focus our analysis below on the district court's decision to deny reinstatement and discharge of the $25,000 bond.

DECISION

Midwest Bonding contends that the district court abused its discretion in denying its petition to reinstate and discharge the $25,000 bail bond.[5] As explained below, we are unconvinced by Midwest Bonding's arguments in support of reversal.

We review a district court's "denial of a petition for reinstatement of a forfeited bail bond for [an] abuse of discretion." *State v. Askland*, 784 N.W.2d 60, 62 (Minn. 2010). "[The] district court abuses its discretion when it bases its conclusions on an erroneous view of the law." *Id.*

To determine whether to reinstate a forfeited bond, district courts apply the four *Shetsky* factors. *See id.*; *see also State v. Storkamp*, 656 N.W.2d 539, 542 (Minn. 2003). In "light of the facts of the individual case," district courts consider: (1) "the purpose of bail and the civil nature of the proceedings and the burden of proof as well as the cause, purpose, and length of defendant's absence;" (2) "the good faith of the surety as measured by the fault or wil[l]fulness of the defendant;" (3) "the good faith efforts of the surety—if any—to apprehend and produce the defendant;" and (4) "the prejudice—by way of delay or otherwise—to the state, in its administration of justice." *Shetsky*, 60 N.W.2d at 46.

Below, we review the district court's analysis of each *Shetsky* factor for an abuse of discretion.

[5] Because the state did not file a brief, we determine the case on the merits, as provided by Minnesota Rule of Civil Appellate Procedure 142.03.

(1) The Purpose of Bail; the Civil Nature of the Proceedings; the Burden of Proof; and the Cause, Purpose, and Length of Guinn's Absence

Midwest Bonding challenges the district court's determination that, "[w]ithout any evidence of the cause or purpose of [Guinn's] absences and an absence of over 6 months, the first factor weighs in favor of bond forfeiture." Midwest Bonding maintains that the district court abused its discretion by criticizing the bonding company for not taking steps to ensure Guinn's appearance at the December 2021 hearing and by stating that Guinn was absent for six months. We disagree.

"The primary purpose of bail in a criminal case is not to increase the revenue of the state or to punish the surety but to insure the prompt and orderly administration of justice without unduly denying liberty to the accused whose guilt has not been proved." *Shetsky*, 60 N.W.2d at 46. "The procurement or use of bail to enable the accused to evade, delay, or cripple the prompt and effective administration of justice is directly contrary to any legitimate purpose for which bail is authorized in any criminal proceeding." *Id.* "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. App. 2009) (citing *Shetsky*, 60 N.W.2d at 45). Bail "also serves to encourage sureties to locate, arrest, and return defaulting defendants to the authorities to facilitate the timely administration of justice." *Storkamp*, 656 N.W.2d at 542. "The surety bears the burden of proof to establish a justification for a mitigation of forfeited bail." *State v. Rosillo*, 645 N.W.2d 735, 740 (Minn. App. 2002) (quotation omitted).

The district court did not abuse its discretion by determining that the first *Shetsky* factor favors forfeiture. It is unclear from the record when and for how long Guinn was in custody each time he posted bail and later failed to appear at multiple hearings. But the record does reveal that, from the time Guinn was originally charged in December 2020 until the June 2023 hearing on Midwest Bonding's petition and motion to reinstate and discharge the $5,000 and $25,000 bonds, Guinn failed to appear six times, including at his first appearance. After each of Guinn's failures to appear, he was apprehended by law enforcement—not Midwest Bonding—and Midwest Bonding again posted bonds on his behalf. These failures to appear led to delays, such that Guinn's criminal case did not progress to the pretrial stage until September 2023, nearly three years after the state first charged him. Considering the facts of this individual case, reinstatement of the $25,000 bond is inconsistent with "the prompt and orderly administration of justice." *Shetsky*, 60 N.W.2d at 46. Instead, the procurement and use of bail enabled Guinn "to evade, delay, [and] cripple the prompt and effective administration of justice." *Id.*

In support of its argument that the length of Guinn's absence should not favor forfeiture, Midwest Bonding cites *Farsdale v. Martinez*. 586 N.W.2d 423, 424-25 (Minn. App. 1998). In *Farsdale*, the defendant was at large for more than two months. *Id.* at 425. Focusing on the period following Midwest Bonding's posting of the $25,000 bond, Midwest Bonding argues that Guinn was absent for 56 days, "from November 1st to December 26th when he was rearrested by the St. Louis County Sheriff." But *Farsdale* is distinguishable because, in that case, the defendant failed to appear for sentencing. *Id.* at 424. Unlike *Farsdale*, Guinn failed for months to make even a first appearance on the

controlled-substance charges he faced. Moreover, the defendant's absence at sentencing in *Farsdale* followed the district court's decisions to grant "the state's motion to postpone sentencing" and to grant the defendant's "request to go to Texas to relocate his family." *Id.* No such facts exist here, where Midwest Bonding presented no evidence of "the cause, purpose, and length of [Guinn's] absence[,]" *Shetsky*, 60 N.W.2d at 46, despite its "burden of proof to establish a justification for a mitigation of forfeited bail[,]" *Rosillo*, 645 N.W.2d at 740 (quotation omitted).

Nor is there evidence that Midwest Bonding itself ever located, recovered, and returned Guinn to custody at any point throughout this case. Instead, Guinn's apprehensions were accomplished by law enforcement each time. And following Guinn's arrests after failing to appear, Midwest Bonding posted additional bonds for Guinn. Reinstatement of the $25,000 bond under these circumstances therefore conflicts with the purpose of bail as encouraging "sureties to locate, arrest, and return defendants who have absconded." *Storkamp*, 656 N.W.2d at 543. And the district court's determination that the first *Shetsky* factor favors forfeiture aligns with the purpose of bail as "encourag[ing] 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." *Vang*, 763 N.W.2d at 358.

Even assuming without deciding that the district court erred in finding that Guinn was absent for six months as to the $25,000 bond, we are not persuaded that the district court abused its discretion in determining that the first *Shetsky* factor favors forfeiture. "Where a decisive finding of fact is supported by sufficient evidence and is adequate to

sustain the conclusions of law, it is immaterial whether some other findings are not so sustained." *Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979). As explained above, we conclude that the district court's decisive findings of fact on this factor are that there is no evidence of the cause or purpose of Guinn's absence and that the facts of this individual case reflect that reinstatement of the $25,000 bond runs contrary to the prompt and orderly administration of justice. These findings adequately sustain the district court's conclusion of law that the first factor favors forfeiture.

We therefore discern no abuse of discretion in the district court's treatment of this factor.

(2) Midwest Bonding's Good Faith, as Measured by Guinn's Fault or Willfulness

Midwest Bonding asserts that, because it made good-faith efforts to locate and apprehend Guinn, and because the district court relied on an erroneous view of the law, this factor supports reinstatement and discharge of the entire bond. We are unconvinced.

Under the second *Shetsky* factor, a "[d]efendant's willfulness or bad faith is attributable to the surety." *Vang*, 763 N.W.2d at 358 (citing *Shetsky*, 60 N.W.2d at 46); *see also State v. Williams*, 568 N.W.2d 885, 888 (Minn. App. 1997) ("A willful and unjustifiable default by the defendant weighs against forgiveness of a bond penalty."), *rev. denied* (Minn. Nov. 18, 1997). And "even an untimely apprehension and return of defendant [by the surety] would not require that the forfeited bail bond be fully reinstated and discharged." *Vang*, 763 N.W.2d at 358.

Here, the district court considered "the good faith of the bond company as measured by the fault or willfulness of the defendant." The district court found that Midwest Bonding had "not provided any information regarding the reasons for [Guinn's] failures to appear in court." And the district court noted that Midwest Bonding "issued additional bonds despite knowledge that [Guinn] had multiple failures to appear, and while filing petitions asking for reinstatement of previously forfeited bonds." Because Midwest Bonding presented no evidence of measures taken to minimize the risk of bond forfeiture, the district court determined that this factor favored forfeiting the bonds.

Midwest Bonding relies on *Storkamp*, 656 N.W.2d at 542-43, maintaining that "bad faith by a defendant's willful failure to appear does not automatically outweigh the surety's good faith efforts at apprehending and producing a defendant." Midwest Bonding insists that the appropriate test for this factor is whether the surety made good-faith efforts, not whether those efforts were ultimately successful. In *Storkamp*, the district court "focused on the fact that the defendant had acted in bad faith" and denied the surety's motion to reinstate the forfeited bond. 656 N.W.2d at 542. Because the district court did not explain why the defendant's bad-faith conduct was determinative over the surety's good-faith efforts and the lack of prejudice to the state, the supreme court concluded that the district court abused its discretion "when it found that the defendant's bad faith controlled its decision." *Id.* at 542-43.

Storkamp does not support Midwest Bonding's position on the second *Shetsky* factor. Nothing in the district court's June 2023 order denying Midwest Bonding's petition suggests that the district court determined that Guinn's apparent bad faith outweighed

Midwest Bonding's alleged good-faith efforts to locate him. Instead, as explained above, the district court's determination that this factor favored forfeiture turned on the lack of evidence of measures taken by Midwest Bonding to minimize the risk of forfeiture.

Based on our careful review of the record, we conclude that the district court did not base its decision on the second *Shetsky* factor on an erroneous view of the law. Thus, the district court did not abuse its discretion in determining that this factor favors bond forfeiture.

(3) Midwest Bonding's Good-Faith Efforts to Apprehend and Produce Guinn

Arguing that it made good-faith efforts to apprehend and produce Guinn, Midwest Bonding contends that the district court relied on an erroneous view of the law in determining that this factor favors forfeiture. This assertion is unavailing.

The district court found that an affidavit Midwest Bonding submitted with its March 2023 petition "mirror[ed] the many other affidavits filed by [Midwest Bonding] in prior cases" and did "not appear to be specific" to Guinn because it did "not detail what measures were taken by the fugitive recovery agency to locate [Guinn] other than seeing if he's in custody already."

In that affidavit, Midwest Bonding alleged that its agents learned of Guinn's failure to appear at the November 2022 hearing before receiving notice of the bail bond forfeiture and "immediately began investigative efforts" to locate him. According to the affidavit, these efforts included "further attempts to contact [Guinn] and [the] Indemnitor via telephone and running an electronic search of all the jails in Minnesota." When those efforts failed, Midwest Bonding hired "a professional fugitive recovery agency . . . at [its

own] added expense . . . to locate and apprehend" Guinn. According to Midwest Bonding, the recovery agency's efforts to apprehend Guinn included "investigating the contact information collected at the time the Bond was posted" and using "investigative software to search" for Guinn.

Vang is instructive as to our analysis of Midwest Bonding's documented efforts to recover Guinn. 763 N.W.2d at 355-59. There, a surety posted a $10,000 appearance bond, the defendant later failed to appear for sentencing, and the district court ordered forfeiture. *Id.* at 355. The surety petitioned for two separate extensions of the bond, submitting an affidavit with each request that detailed specific recovery efforts such as "looking for defendant at Wisconsin addresses where defendant had been known to live" and "doing surveillance on a new address in an attempt to apprehend defendant." *Id.* at 355-56. The surety ultimately petitioned for reinstatement and discharge of the bond, submitting a new affidavit detailing its attempts to locate the defendant, "including re-interviewing defendant's parents in Wisconsin and interviewing other relatives of defendant in Wisconsin[,]" which revealed "that defendant was living in Toronto." *Id.* at 356. The surety never apprehended the defendant and "the district court forfeited $9,500 of the bond." *Id.*

On appeal, we analyzed the four *Shetsky* factors. *Id.* at 358-59. As to the third factor, because there was no evidence that the surety's fugitive-recovery expenses were more than $500, we concluded that "the district court did not abuse its discretion in reinstating a fraction of the bail bond[,]" despite noting that "it [was] difficult to tell how the district court arrived at the reinstatement and discharge figure of $500, because there [were] no findings of fact or conclusions of law in its order." *Id.* at 359. In particular, we observed

that, "although [the surety] detailed the steps it took to regain custody of [the] defendant, [the surety] never itemized its expenses in attempting to locate and apprehend [the] defendant." *Id.*

Here, Midwest Bonding claimed that it hired a professional fugitive-recovery agency to locate and apprehend Guinn. But other than checking jail rosters and calling Guinn and the indemnitor, Midwest Bonding's efforts to find Guinn did not appear to be specific and in no way approached the detailed measures taken by the surety in *Vang*. At the same time, like the surety in *Vang*, Midwest Bonding did not itemize any of its purported fugitive-recovery expenses in its affidavit, and Midwest Bonding did not apprehend Guinn.

Consistent with our decision in *Vang,* we therefore conclude that the district court did not abuse its discretion in determining that this factor favors forfeiture.

(4) Prejudice to the State in its Administration of Justice

Finally, Midwest Bonding challenges the district court's determination that, although the fourth *Shetsky* "factor weighs in favor of reinstatement and discharge," it "should be given the least weight in the negative as delays in the administration of justice are always problematic for the system even if there is no actual prejudice." Midwest Bonding maintains that "there is no case law supporting the contention that the fourth *Shetsky* factor should be given the least weight in this type of analysis" and that "[t]he district court's conclusion in this regard is erroneous." This contention does not lead us to reverse.

We agree with Midwest Bonding that "the prejudice-to-the-State factor in the *Shetsky* analysis is concerned solely with prejudice to the state in prosecuting the defendant." *Askland*, 784 N.W.2d at 63. And "the burden is on the State to prove any claimed prejudice." *Id.* at 62. As the district court acknowledged and Midwest Bonding points out, the state did not identify "any particular prejudice in this matter other than the general prejudice of delay which creates backlogs," such that "[t]his factor weighs in favor of reinstatement and discharge[.]"

That said, "the question of whether to reinstate a forfeited bond is committed to the sound exercise of judicial discretion." *Id.*; *see also State v. Anthony*, No. A22-0132, 2022 WL 3581660, at *3 (Minn. App. Aug. 22, 2022) (affirming the district court's denial of a petition to reinstate a forfeited bond where "three of the four *Shetsky* factors weigh[ed] against reinstatement of the bail bond"); *State v. Gill*, No. A19-1356, 2020 WL 1130321, at *3 (Minn. App. Mar. 9, 2020) (affirming the district court's denial of a petition to reinstate a forfeited bond where the district court determined that the prejudice-to-the-state factor favored reinstatement of the bond).[6] Based on the district court's thorough and reflective analysis of all four *Shetsky* factors and given the individual facts of this case, we cannot say that the district court unsoundly exercised its discretion in deciding how to weigh the fourth factor against the other three.

[6] Under Minnesota Rule of Civil Appellate Procedure 136.01, subdivision 1(c), we cite these nonprecedential opinions not as binding authority but for their persuasive value.

In sum, we conclude that the district court did not abuse its discretion in determining that three of the four *Shetsky* factors favor bond forfeiture and in denying Midwest Bonding's bond-reinstatement petition.

Affirmed.