
Standing Order re Assignment and Service of Bond Reinstatement Petitions

Judicial Assignment

WHEREAS, Rule 702(f) of the General Rules of Practice requires petitions for bond reinstatement to be “heard and determined by the judge who ordered the forfeiture, or the chief judge¹,” and

WHEREAS, assignment of bond reinstatement petitions to the judge ordering forfeiture or the chief judge would be impractical and result in undue delay, due to the high volume of cases and the criminal case assignment practices in the Fourth Judicial District; and

WHEREAS, “The chief judge may assign any judge of any court within the judicial district to hear any matter in any court of the judicial district,” pursuant to Minn. Stat. § 484.69, subd. 3; and

WHEREAS, the Executive Committee of the Fourth Judicial District has approved a bench policy governing assignment of bond reinstatement petitions, which takes into account blocking practices and judicial case assignments to ensure efficient, consistent, and practicable assignment of bond petitions; and

Service

WHEREAS, Rule 702(f) of the General Rules of Practice requires service of the petition and affidavit on the prosecutor and defendant (the principal of the bond) in the manner provided by Minn. R. Civ. P. 4.03(e)(1); and

WHEREAS, service on the prosecutor and defendant in such manner is not practicable or effective because Minn. R. Civ. P. 4.03(e)(1) governs personal service upon a public corporation and requires service by way of county board chair or county auditor; and

WHEREAS, Minn. R. Civ. P. 4.03(e) authorizes the court to direct the manner of service, if service cannot be made in accordance with that rule; and

WHEREAS, *State v. Nelson*, 773 N.W.2d 330, 332 (Minn. App. 2009), held Minn. Gen. R. Prac. 702(f) does not require personal service upon the defendant (the principal of the bond); and

WHEREAS, surety bonds are contracts governed by civil contract law (*State v. Rodriguez*, 775 N.W.2d 907 (Minn. Ct. App. 2009)), placing them outside of the necessary scope of criminal defense representation.

Based on the foregoing, the Chief Judge enters the following:

ORDER

1. Pursuant to the authority granted to the undersigned in Minn. Stat. § 484.69, subd. 3, bond reinstatement petitions filed in the Fourth Judicial District shall be assigned to judges in

¹ With respect to petitions filed within 90 days of forfeiture. Petitions filed between 90 and 180 days after forfeiture “shall be heard and determined by the judge who ordered forfeiture or the judge’s successor.” *Id.*

accordance with the applicable Fourth District Bench Policy.

2. The petition and affidavit, and any other documents pertaining to a petition for reinstatement of a bond petition, may be served upon the defendant and prosecutor by mail or e-service. Service must be made on the defendant, not criminal defense counsel. If a filer is required to e-serve, then service must be completed following Minn. R. Gen. Prac. 14.03(d).

DATED: 11/16/2022

BY THE COURT:



Toddrick Barnette
Chief Judge
Fourth Judicial District