

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

DOCKET NO.: 2017-0557

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NEW HAMPSHIRE
SUPREME COURT

2018 FEB 27 A 9 46

STATE OF NEW HAMPSHIRE

v.

JAMES CASTINE

RULE 7 MANDATORY APPEAL FROM ROCKINGHAM SUPERIOR COURT

BRIEF OF SURETY
2ND CHANCE BAIL BONDS

Respectfully submitted,
2nd Chance Bail Bonds
By and through their attorney
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603-232-2085

Oral argument by: Joseph Prieto, Esq.

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QUESTIONS PRESENTED

- I. Did the trial court err when it ordered forfeiture of the bond based on non-appearance when the surety filed and the Court accepted an appearance bond and the Defendant never failed to appear?

This issue is preserved by the June 1, 2017 show cause hearing regarding bail forfeiture and in the trial court's Order Regarding Bail Forfeiture (July 5, 2017) found at A.3.¹

- II. Was the trial court's order forfeiting the entire \$10,000.00 bond excessive for alleged failure of conditions not regarding appearance and that caused little cost or inconvenience to the State?

This issue is preserved in Surety's Motion to Reconsider (July 31, 2017) found at A.14-A.16.

¹ References to the appendix are as follows: "A." followed by the page number

TEXT OF CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, RULES OR REGULATIONS

RSA § 597:31 Declaration of Forfeiture

If any party recognized to appear makes default, the recognizance shall be declared forfeited, and the state may cause proceedings to be had immediately for the recovery of such forfeiture.

RSA § 597:33 Judgment

The superior court may render judgment for the whole amount of any forfeited recognizance and interest and costs, or for such part thereof as, after hearing counsel, the court may think proper, according to any special circumstances in evidence affecting the case or the party liable.

STATEMENT OF THE CASE

The Defendant in this matter, James Castine, has been charged with three counts of sale of heroin. On April 6, 2017, 2nd Chance Bail Bonds, the Appellant, posted a \$10,000 bond and the Defendant was released from jail. On April 24, 2017, the Court (Delker, J.) revoked the Defendant's bail and scheduled a show cause hearing regarding forfeiture of the bail.

Said show cause hearing was held on June 1, 2017. The Appellant argued that it had only agreed to an appearance bond and that the Defendant had not failed to appear. The Court (Delker, J.), on July 5, 2017 ordered forfeiture of the full \$10,000 bond. The Appellant retained counsel and filed a Motion to Extend Time Limit on July 17, 2017. Said Motion was granted by the Court (Delker, J.). On July 31, 2017, the Appellant filed a Motion to Reconsider, which was denied by the Court (Delker, J.) on August 30, 2017. The Appellant commenced this appeal by Rule 7 Notice of Mandatory Appeal dated September 25, 2017. Finally, the Appellant filed a Motion to Stay Show Cause Hearing on September 27, 2017 while this appeal is pending. This Motion was granted by the Court (Delker, J.) on October 17, 2017.

STATEMENT OF FACTS

2nd Chance Bail Bonds is a commercial bail bondsman located in Londonderry, New Hampshire. On April 6, 2017, it posted a \$10,000 bond for the Defendant, James Castine, who was subsequently released from jail (A.2). As part of the bond agreement, it is stated that “[a]uthority of such Attorney-in-Fact is limited to appearance bonds” and that “[t]he named agent is appointed only to execute the bond consistent with the terms of this power of attorney.” Said agreement is provided by American Surety Company, a national property & casualty company specializing in the writing of bail bonds through independent licensed bail bond agents.

The Defendant’s bail conditions, in addition to the standard conditions imposed on a criminal defendant, included that he not commit any new crimes while on release; that he notify the court immediately of any change in address, that he appear at all proceedings, that he live at a specific address in Epping, NH, and that he refrain from any use of alcohol and the use of controlled drugs (A.7).

On April 18, 2017, the Rockingham County Attorney’s Office filed a Motion to Issue Arrest Warrant based on the Defendant’s alleged violation of his bail conditions. The Defendant and his girlfriend were discovered passed out in a vehicle in a Wal-Mart parking lot in Sturbridge, Massachusetts by police. EMTs were called, who administered several doses of Narcan and were able to revive the Defendant and his girlfriend (A.2-A.3). The Defendant allegedly told the police that they were moving to the Carolinas from New Hampshire (A.3). Police searched the vehicle and discovered drugs (A.3). As such, the Defendant was arrested and later released by Massachusetts (A.3).

The Court, on April 19, 2017, granted the State’s Motion and a warrant was issued for the Defendant’s arrest (A.3). The Defendant voluntarily turned himself in and was arrested on April

21, 2017 and appeared before the Court on April 24, 2017 where the Court revoked the Defendant's bail (A.3). A show cause hearing regarding bail forfeiture was then held on June 1, 2017 (A.3). There, the pro se surety argued that, like the thousands of prior bond cases, it had only agreed to an appearance bond and that the Defendant had not failed to appear (A.3). The surety further argued that it had no real means to supervise other conditions, such as the Defendant's use of illegal drugs, and should not be required to monitor such conditions (A.3).

The Court issued an order regarding bail forfeiture on June 30, 2017 and ordered that the entire \$10,000 bond be forfeited to the State (A.8). The Court found that the surety "took no steps whatsoever to supervise the defendant's compliance with conditions" (A.4). In support of this finding, the Court performed a totality of the circumstances test (A.6). The Court stated that the surety signed the bond form which states that bail may be forfeited if the Defendant fails to comply with any conditions and that the bond was to secure compliance with all conditions (A.6).

The Court found that the Defendant expressly violated the conditions that he live at a specific address, refrain from using any controlled drugs, and commit no crimes while released (A.7). The pro se surety stated that it took no steps to monitor the Defendant's drug use or require him to seek treatment because it had no power to force the Defendant to comply (A.7). The Court held that the surety has the power to surrender the Defendant to the Court if he failed to comply with the terms of the bail and rejected the surety's argument (A.5). The Court further held that the surety had the power to require the Defendant to engage in specific activities to ensure compliance but failed to do so (A.7-A.8).

SUMMARY OF ARGUMENT

The surety presents two arguments for the Court's consideration. Initially, the surety argues that the Superior Court was incorrect when it found that the surety had agreed to monitor the Defendant's compliance with all conditions of bail. The surety believed, based on normal and customary procedures, that it was only required to post an appearance bond and thus its duty was solely to monitor the Defendant's compliance with respect to his appearance at all court dates. In this matter, the Defendant never failed to appear. Thus, the appearance bond cannot be forfeited. While it is true that the surety did sign an agreement with the Court regarding all conditions, it has always been the practice that a surety is responsible for the Defendant's appearance and the Court accepted the surety's own form stating that it was responsible solely for appearance conditions.

The surety also asserts that forfeiture of the entire \$10,000 bond was excessive. The Superior Court has the ability to reduce the amount of forfeiture and is not required to order forfeiture of the entire bond. The amount forfeited does not bear any reasonable relation to the cost and inconvenience to the State. Forfeiture should not be used as a punitive tool and the amount forfeited in this matter was clearly used to punish the surety for its failure to ensure compliance with non-appearance conditions. Here the cost and inconvenience to the State was the drafting and execution of a warrant for the Defendant's arrest. The Defendant voluntarily turned himself in once notified of the warrant. No state resources were expended and the Defendant missed no hearings.

The court, in determining the amount of forfeiture, utilized a non-exclusive and non-binding 9 factor test laid out by the New Jersey Supreme Court. As an initial matter, this has never been the law of New Hampshire. No one, including the surety, has been put on notice that

they would be strictly liable for all of a defendant's conduct. In utilizing this test, the Court placed too much focus on the fact that it found the surety did not take enough steps to ensure compliance and allegedly failed to earn its fee. The Court only had a short window of time to determine the surety's efforts and gave no deference to what the surety would do throughout the pendency of the entire case to earn its fee. The remaining factors are not as determinative and tend to favor no forfeiture or a significantly reduced forfeiture. The New Jersey Supreme Court was clear that the factors it gave were not exclusive and the Court could consider other relevant factors. Here, the Court should have also considered the lack of notice to the parties as this test had no precedence. The Court should also have considered the chilling effect it would have on sureties should they be strictly liable for any violation of a defendant's bail conditions.

ARGUMENT

The Surety Agreed Solely to an Appearance Bond and the Defendant Did Not Fail to Appear

It is undisputed that the surety signed the bond form provided by the Superior Court. However, it has generally been the practice in New Hampshire courts that the surety is responsible for the Defendant's appearance. The surety reasonably relied on the prior custom and practices. The surety also filed a bond agreement, signed by the Defendant, with the Court stating that it was ensuring solely the Defendant's appearance. The Court accepted this agreement and never required a general bond. Less than three weeks later, the Defendant turned himself in on a warrant and bail was revoked. At this point, the surety lost the ability to supervise him and enforce compliance. Despite there being no appearances for the Defendant to miss, the entire appearance bond was forfeited and the surety ordered to pay.

In a rare case regarding bail forfeiture, the New Hampshire Supreme Court recognized that there is a distinction between performance and appearance bonds when it found that "the court's order makes clear that it forfeited the bonds because the defendant failed to appear, not because of his criminal activity. The bonds guaranteed the defendant's appearance, so this forfeiture was entirely appropriate." *State v. McGurk*, 163 N.H. 584, 587 (2012). Further, New Hampshire RSA 597:31 provides that "[i]f any party **recognized to appear makes default**, the recognizance shall be declared forfeited, and the state may cause proceedings to be had immediately for the recovery of such forfeiture." (emphasis added). The statute makes no mention of non-appearance conditions. It is clear that the primary purpose is to ensure appearance. This is true in other jurisdictions as well. Although the rule adopted in New Jersey allows for the imposition of conditions other than appearance, appearance conditions remain the

primary emphasis of the bail system. *State v. Korecky*, 777 A.2d 927, 929 (N.J. 2001). “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.” *In Re App., Shetsky For Return, Bail Mny*, 239 Minn. 463, 471 (Minn. 1953). Similarly, Arizona Courts have held that “the commission of other crimes while released justified revocation of release but not forfeiture of the bond.” *State v. Surety Ins. Co*, 127 Ariz. 493, 496 (Ariz. Ct. App. 1981).

Here the Defendant never failed to appear. A warrant was issued and he turned himself in promptly. It cannot be said that the surety failed so as to order the forfeiture of the appearance bond.

Forfeiture of the Entire Bond is Excessive

In New Hampshire, the Superior Court has the authority upon default to remit, reduce, or change the forfeiture. 1-16 NH Practice Series: Criminal Practice & Procedure § 16.24 (2016). This is seen in New Hampshire RSA 597:33 where it is stated that the “court may render judgment for the whole amount of any forfeited recognizance and interest and costs, or for such part thereof as, after hearing counsel, the court may think proper.” Here the Superior Court ordered the entire \$10,000 appearance bond be forfeited to the State. In doing so, it utilized a non-binding and non-exclusive 9 factor list outlined by the New Jersey Supreme Court. Initially, this has never been the standard in New Hampshire and the surety was never on notice that it would be held to this standard. Nor was the surety aware that it could be held strictly liable for the Defendant’s actions. For the following reasons, forfeiture of the entire bond is excessive and does not deter the Defendant’s actions.

Federal Courts have held “that forfeiture ought to bear some reasonable relation to the cost and inconvenience to the government of regaining custody and again preparing to go to trial.” *United States v. Kirkman*, 426 F.2d 747, 752 (4th Cir. N.C. May 26, 1970). Other jurisdictions also support this notion. Two of the nine factors considered by the Superior Court when analyzing whether to order forfeiture were “the appropriateness of the amount of the recognizance of bail” and “the cost, inconvenience, prejudice, or potential prejudice suffered by the State as a result of the breach.” *Korecky*, 777 A.2d at 934-35. The Vermont Supreme Court has stated that the “factors can be used only to determine the amount of forfeiture of bail, if any, appropriate to ensure that bail-bond sureties uphold their duties in good faith, and not as a punitive tool.” *State v. Mottolese*, 199 Vt. 470, 478 (Vt. June 12, 2015).

Kentucky Courts have held that “[a]lthough our statutes and rules permit forfeiture for breach of a nonappearance condition, the trial court's discretion is not unfettered and must be exercised by applying various factors.” *Coomer v. Commonwealth*, 2013 Ky. App. LEXIS 73 (Ky. Ct. App. May 3, 2013). This was seen where the 8th Circuit held that while there was “evidence the breach was willful, the expense, inconvenience and delay to the Government were minimal” such that “justice does not require forfeiture of \$25,000, and that all but \$1,000 should be remitted.” *Appearance Bond Surety v. United States*, 622 F.2d 334, 336 (8th Cir. 1980).

Here the decision to forfeit the entire \$10,000 bond bears no reasonable relation to the cost and inconvenience to the State. The Defendant was arrested in Massachusetts in April of 2017. The State applied for a warrant for the Defendant’s arrest, which was granted on April 21, 2017. The Defendant was in custody at his appearance before the Superior Court on April 24, 2017. While there is a cost and inconvenience to drafting and executing a warrant, it is certainly not close to \$10,000. The decision of the Superior Court is punitive for the alleged “total and

utter lack of effort” on the part of the surety and is excessive based on the facts of this case, especially in light of no prior precedence or warnings.

Further, when examining the amount forfeited under the other factors outlined by the New Jersey Supreme Court, it is clear that the decision to forfeit the entire bond is excessive. The New Jersey Supreme Court states:

“In cases involving a condition other than appearance, courts should consider (1) whether the applicant is a commercial bondsman; (2) the extent of the bondsman’s supervision of the defendant; (3) whether the defendant’s breach of the recognizance of bail conditions was willful; (4) any explanation or mitigating factors presented by the defendant; (5) the deterrence value of forfeiture; (6) the seriousness of the condition violated; (7) whether forfeiture will vindicate the “injury to public interest” suffered as a result of the breach; (8) the appropriateness of the amount of the recognizance of bail; (9) the cost, inconvenience, prejudice or potential prejudice suffered by the State as a result of the breach.” *Korecky*, 777 A.2d 934-35 (citations omitted).

The Court found it clear that the Defendant violated conditions that he live at a specific address, refrain from the use of controlled drugs, and not commit any new crimes while on release. The Court paid particular attention to the extent of supervision as it held that “Second Chance “made no effort to supervise defendant to ensure that he would comply with the [bail] provision” (A.21). The Court further held that there was “no evidence that Second Chance took any steps to evaluate the defendant’s risk level when it made the decision not to provide any supervision of him” (A.23).

The Court placed too much focus on the surety’s alleged lack of supervision and rendered a punitive decision. The Court only had the period from April 6, 2017 to April 18, 2017 to evaluate this factor. It did not consider what the surety would have done to ensure the Defendant

appeared for all hearings. The fee charged by the surety was based on supervision the surety was to perform for the life of the case and not a 12-day period. This is a significant mitigating factor that the Court overlooked.

The Court also put too much weight on the argument that forfeiture of the bond deters the conduct the Defendant is accused of. The Court did not explain why this factor weighed in favor of forfeiture of the entire bond. In its Order on the Surety's Motion to Reconsider, it specifically stated that "it is unlikely that forfeiture of the bail will deter the defendant from continuing to use drugs," but that forfeiture would deter his attempts to move out of state (A.24). The Court further stated that "the issue in this case, is protection of both the defendant and the public" (A.24). However, it is the arrest and incarceration of the Defendant as a result of revocation that deters him from attempting to move out of state and would protect the defendant and the public (not forfeiture). Forfeiture has virtually no effect on the Defendant's conduct. Forfeiture also has a minimal effect on vindicating the injury to the public interest. The injury to the public interest is low in this case. It is revocation of one's bail leaving them locked up in a cage with no chance of release pre-trial while still cloaked in the presumption of innocence that vindicates any injuries to the public.

Ultimately, the cost, inconvenience, prejudice or potential prejudice suffered by the State is not commensurate with forfeiture of the entire bond. The State made a Motion for a warrant on April 18, 2017 that was granted the following day. The Defendant turned himself in and was arrested on April 21, 2017. He was in custody when he appeared in front of the Court on April 24, 2017. The Court, in its Order, concedes that the State suffered very little (A.24).

Finally, the *Korecky* court was clear that the factors outlined are not an exclusive list. "The wholesale imposition of conditions regulating defendants' behavior could result in a

dramatic increase in the cost of surety bonds. That in turn may impair the ability of defendants, particularly defendants without significant financial resources, to obtain bonds. Such a result would not only defeat the purpose of the bail bond, but would result in gross unfairness.”

Korecky, 777 A.2d at 939. The Court should have also considered the precedence set by its order to forfeit the entire bond. If bail bondsmen were required to supervise defendants as stringently as the Court would require them to under its order, it is unlikely they would be able to stay in business. It is entirely possible that countless defendants would be instantly surrendered to the Court and subsequently sent to jail. With many defendants, it is simply too risky a gamble for bail bondsmen to be confident said defendants will comply with non-appearance conditions. While bail bondsmen have specific powers to help ensure compliance, those powers are not unfettered and it is not cost-effective to have to constantly monitor each and every defendant.

CONCLUSION

Based on the foregoing, the Appellant, 2nd Chance Bail Bonds, respectfully requests that this Honorable Court:

- A. Reverse the decision of the trial court;
- B. Rule that since the Defendant never failed to appear, the appearance bond should not have been forfeited; or
- C. Rule that the decision of the trial court was excessive and remand for further proceedings; and,
- D. Grant such further relief as may be just and appropriate.

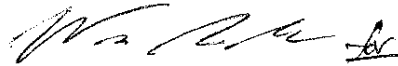
ORAL ARGUMENT

The Appellant requests no more than five (5) minutes for oral argument with a 3JX panel to be presented by Joseph Prieto, Esq.

APPELLANT'S CERTIFICATION

Undersigned counsel hereby certifies that the appealed decision is in writing, a copy of which is appended to this brief.

Respectfully submitted,
2nd Chance Bail Bonds
By and through their attorney,



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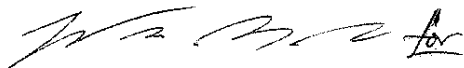
CERTIFICATE OF SERVICE

I hereby certify that two (2) true and accurate copies of the foregoing Brief of Surety, 2nd Chance Bail Bonds, and Appendix thereto, have been forwarded by First Class United States

Mail to:

Officer of the Attorney General
33 Capitol Street
Concord, NH 03301

Neal J. Reardon, Esq.
472 State Rte. 111
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Joseph Prieto

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**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

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NOTICE OF DECISION

File Copy

Case Name: **State v. James Castine**
Case Number: **218-2017-CR-00308 435-2017-CR-00385**

Enclosed please find a copy of the court's order of June 30, 2017 relative to:

Order Regarding Bail Forfeiture

July 05, 2017

Maureen F. O'Neil
Clerk of Court

(273)

C: Rockingham County Attorney; Neil J. Reardon, ESQ; 2nd Chance Bail Bonds

**The State of New Hampshire
Superior Court**

Rockingham

STATE OF NEW HAMPSHIRE

V.

JAMES CASTINE

No. 218-2017-CR-0308

ORDER REGARDING BAIL FORFEITURE

The defendant was charged with three counts of Sale of Heroin in Circuit Court. The Circuit Court set bail in the amount of \$10,000 cash or corporate surety and required a source of funds hearing before bail was posted. After the matter was bound over to superior court, the defendant filed a request for a source of funds hearing. The Court held a hearing on April 6, 2017. At that hearing, this Court modified the defendant's bail to eliminate the requirement for a source of funds hearing before the defendant was released. Among other conditions, the Court also required the defendant to live in Epping, New Hampshire, notify the court of any change of address, and to refrain from the use of controlled drugs.

That same day Second Chance Bail Bond posted a \$10,000 bond. The defendant was released from jail. Less than two weeks later the State filed an expedited motion for a warrant based on the defendant's alleged breach of bail conditions. The police found the defendant and his girlfriend passed out in a vehicle in the parking lot of Wal-Mart parking in Sturbridge, Massachusetts. The police believed that they were overdosing so EMTs were called. The medical personnel administered several doses of

Narcan. Both individuals were eventually revived. The defendant told the officer he and his girlfriend were moving from New Hampshire to the Carolinas. The police observed that the bed of the defendant's truck was filled with suitcases and other belongings. A subsequent search of the vehicle revealed drugs and drug paraphernalia. The defendant and his girlfriend were arrested and released after booking. After their release, the police learned that the defendant's girlfriend texted her sister that she was now living in South Carolina. The text message further stated, "Don't give [the address] to anyone!"

Based on this information, this Court issued a warrant for the defendant's arrest for violating bail conditions. The warrant required that the bail be forfeited but gave the corporate surety 45 days to show cause why the bail should not be forfeited for the defendant's violation of bail conditions. The defendant was arrested and appeared before the Court on April 24, 2017. The Court revoked the defendant's bail based on the violations of bail conditions. A show cause hearing regarding the bail forfeiture was held on June 1, 2107.

Second Change Bail Bond appeared through Julie Carkhuff (the "Surety"). She argued that the Court should not forfeit the bail because the Surety had only agreed to an "appearance bond" and the defendant had not missed any court dates. She asserted that the Surety should not be required to monitor compliance with other bail conditions. The Surety asserted it had no means to supervise the defendant's drug use or other conduct. For the following reasons, the Court finds that the Surety is incorrect as a matter of law. Moreover, based on the circumstances the Court finds that the

Surety took no steps whatsoever to supervise the defendant's compliance with bail conditions. Accordingly, the bond shall be forfeited.

In State v. Laniefsky, Rock. Cnty. Super. Ct., No. 218-2012-CR-0813, 2012 WL 6813519 (Dec. 18, 2012) (Order, Delker, J.), this Court issued a detailed order ruling that cash bail can be set to ensure a defendant's compliance with bail conditions other than the defendant's appearance in court. The analysis of this order is incorporated fully herein. The question presently before this Court is whether the corporate surety can be held responsible for the defendant's failure to comply with conditions of bail other than appearance in court.

"Historically, the release of a criminal defendant on a bail bond had the effect of transferring custody to the surety." State v. Moccia, 120 N.H. 298, 302 (1980) (citing Restatement (First) of Security (1941)). As such, the surety is responsible for the defendant's compliance with bail conditions upon release. The Restatement (First) of Security provides the following explanation of the connection between bail bonds, performance bonds, and recognizance:

The Chapter does not contain any special treatment of surety obligations on recognizance as distinguished from bail bonds, since the rules in respect of sureties on bail bonds and recognizance are substantially the same even in a jurisdiction in which both bail bonds and recognizance are both used.

A recognizance is an obligation in a penal sum of record, entered into before some court, conditioned upon the performance, or the refraining from performance of some particular act specified therein. A recognizance resembles a bail bond and is usually required for the same purpose, although occasionally a recognizance is required in other than criminal cases and for purposes having nothing to do with the appearance of a defendant. The recognizance is a conditional judgment. It acknowledges an existing debt and is entered on the court records, but is suspended so long as the principal does or does not do certain acts in accordance with the orders of the court. The recognizance is usually by both principal and

surety. If the court finds that the condition of the recognizance is not fulfilled, since the recognizance is a judgment the property of the recognizer is subject to levy without further action. A recognizance, unlike a bail bond, which is always taken pending adjudication of a case, may be taken at any time, even after final process. Instances of recognizances, other than to secure the appearance of defendants in criminal trials, include those offered in place of bonds to procure attachment and of bonds to keep the peace.

In some jurisdictions the distinction between recognizance and bail bonds has ceased to exist and the terms are used interchangeably.

Restatement (First) of Security, Div. II, Ch. 9 Intro. Note (1941) (emphasis added). This passage makes it clear that the bond or recognizance requires compliance with conditions other than appearance and applies to both the defendant and the surety.

If the surety cannot fulfill its responsibility to monitor the defendant's compliance with bail conditions, it has the authority to surrender the defendant to the court or the jail. See RSA 597:27; RSA 597:28; see also Restatement of Security § 204 cmt. b. A corporate surety undertakes the promise that the defendant will comply with bail conditions in exchange for the premium bail for the bond. See State v. Korecky, 777 A.2d 927, 934 (N.J. 2001). Thus, "[t]he driving force behind a surety's provision of a bond is the profit motive." Id. If the defendant complies with bail conditions, the bond is released and the surety keeps the premium. Because the surety stands to profit from its undertaking it must also assume the risk and associated liability if the defendant does not comply with the conditions of release.

Under New Hampshire law the Court may strike off a default of any condition of recognizance "for good cause" or "upon substantial compliance with the condition." RSA 597:32. The Court may also render judgment against the whole recognizance or may order a lesser forfeiture "according to any special circumstances in evidence

affecting the case or the party liable." RSA 597:33. The New Jersey Supreme Court has outlined a non-exclusive list of factors courts may consider in determine whether to order forfeiture based on a breach of a bail condition:

In cases involving a condition other than appearance, courts should consider: (1) whether the applicant is a commercial bondsman; (2) the extent of the bondsman's supervision of the defendant; (3) whether the defendant's breach of the recognizance of bail conditions was willful; (4) any explanation or mitigating factors presented by the defendant; (5) the deterrence value of forfeiture; (6) the seriousness of the condition violated; (7) whether forfeiture will vindicate the "injury to public interest" suffered as a result of the breach; (8) the appropriateness of the amount of the recognizance of bail; and (9) the cost, inconvenience, prejudice or potential prejudice suffered by the State as a result of the breach.

Korecky, 777 A.2d at 934-35 (citations omitted).

Turning to the facts of this case, it is clear that Second Chance Bail Bond assumed responsibility to monitor the defendant's bail conditions and not just to secure his appearance in court. Julie Carkhuff, on behalf of Second Chance Bail Bond, signed the bond form which states in relevant part:

Corporate Surety Bail Bond to secure the defendant's compliance with Conditions of Bail written below.

1. The defendant shall appear in this court to answer to this charge on TO BE DETERMINED.
2. The defendant shall appear in any New Hampshire Court to answer this charge when notified to report to the court.
3. The defendant immediately shall notify any New Hampshire Court in which this case is pending of any change of address.
4. The defendant shall keep the peace and be of good behavior.
5. Other:

If the defendant complies with the Conditions of Bail, this obligation shall be null and void on final disposition of this charge.

If the defendant does not comply with any condition(s) Cash Bail shall be forfeited to the State and execution may issue against the defendant for Personal Recognizance and against the corporate surety or surety. In addition, the court may order the arrest of the defendant.

(Doc. #5 (emphasis added)). Thus, the express terms of the bond made it clear that breach of "any condition(s)" could result in proceedings against the corporate surety for forfeiture of the bond. At a minimum, Second Chance Bail Bond assumed responsibility to ensure that the defendant to not commit any new crimes and notified the court immediately of any change of address.

There appears to be no dispute that the defendant failed to comply with at least two categories of bail conditions. With respect to his appearance for proceedings, the bail order required the defendant to live at a specific address in Epping, New Hampshire. He was also required to immediately notify the court if he changed his address. There is no dispute that the defendant was headed to South Carolina to live with his mother. His truck was packed for the trip. This was a plain violation of the bail condition that he remain living in Epping.


Second, and more importantly, the bail order prohibited the defendant from using controlled drugs and required that he not commit any new crimes while on release. In the context of this case, these conditions were designed to protect the safety of the defendant. The defendant overdosed on drugs in a parking lot in Massachusetts. The EMTs had to use several doses of Narcan to revive him. Second Chance Bail Bond conceded that it took no steps to monitor the defendant's drug use. It did not require him to seek substance abuse treatment. The Surety presented no evidence that it even informally supervised the defendant.

The Surety claimed it did not have the power to force the defendant to comply with bail conditions. That claim is somewhat dubious because the Surety has the statutory power to surrender a defendant to jail for failure to comply with the terms of

bail. RSA 597:38. It may do so in order to avoid liability on the bond if it is concerned about the defendant's compliance with bail conditions. See id. Even without police powers, as a matter of contract law the Surety has the ability to require the defendant to engage in certain actions to monitor his compliance with bail conditions. For example, as a condition of posting the bail bond, the Surety could require the defendant to attend treatment, take drug tests, or submit to home visits. If the defendant refused or failed to comply with these terms, the Surety could request that it be released from its bond. Here, Second Chance Bail Bond did nothing to supervise the defendant. As a result, Second Chance Bail Bond failed to fulfill its role as surety. Accordingly, the \$10,000 bond shall be forfeited to the state.

SO ORDERED.

6/30/2017
DATE



N. William Delker
Presiding Justice

STATE OF NEW HAMPSHIRE

Rockingham, ss.

Superior Court

STATE OF NEW HAMPSHIRE

v.

JAMES CASTINE

218-2017-CR-00308

SURETY'S MOTION TO EXTEND TIME LIMIT

NOW COMES the Surety, 2nd Chance Bail Bonds, by and through counsel, Joseph J. Prieto, and respectfully requests that this Honorable Court extend the time period which the Surety has to respond to the Court's order dated July 5, 2017. In support thereof, the following is stated:

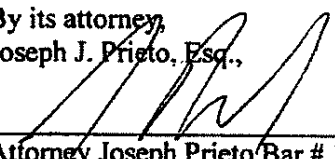
1. The Defendant has been charged with three counts of sale of heroin.
2. On April 6, 2017, 2nd Chance Bail Bonds posted a \$10,000 bond and the Defendant was released from jail.
3. On April 24, 2017, the Court revoked the Defendant's bail. A show cause hearing regarding the bail forfeiture was held on June 1, 2017.
4. Julie Carkhuff appeared for 2nd Chance Bail Bonds and argued that she had only agreed to an appearance bond and the Defendant had not missed any court dates.
5. The Court disagreed and found that 2nd Chance Bail Bonds "took no steps whatsoever to supervise the Defendant's compliance with bail conditions." The Court further found that 2nd Chance Bail Bonds "assumed responsibility to monitor the defendant's bail conditions and not to just secure his appearance in court." Due to this, the Court ordered that the bond be forfeited by order dated July 5, 2017.

6. Superior Court Rule 12(e) provides that a Motion for Reconsideration or other post-decision relief shall be filed within 10 days of the date on the written Notice of the order or decision.
7. 2nd Chance Bail Bonds had previously appeared pro so, but has now hired counsel to assist in this matter and wishes to file a Motion to Reconsider. As the Court's order is dated July 5, 2017, today's date (July 17, 2017) is the final day to file said Motion.
8. Contemporaneous with this filing is counsel's Appearance in this matter.
9. It is therefore requested that this Court afford 2nd Chance Bail Bonds an additional 14 days in order to meaningful respond to the Court's order.

WHEREFORE, the Defendant respectfully requests that this Court:

- A. Extend the period of time which the Surety has to respond until July 31, 2017;
and,
- B. Grant such further and additional relief as the Court deems necessary.

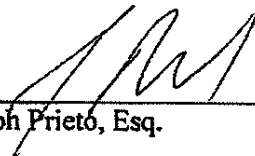
Respectfully submitted,
2nd Chance Bail Bonds
By its attorney,
Joseph J. Prieto, Esq.,



Attorney Joseph Prieto/Bar # 15040
Prieto Law
121 Bay Street
Manchester, New Hampshire 03104
603-232-2085
603-232-3473 (fax)
207-752-2098 (cell)

CERTIFICATION

I hereby certify that a copy of the foregoing has been forwarded to the State via the Rockingham County Attorney's Office and to the Defendant via Neil J. Reardon, Esq. on this 17th day of July, 2017.



Joseph Prieto, Esq.

STATE OF NEW HAMPSHIRE

Rockingham, ss.

Superior Court

STATE OF NEW HAMPSHIRE

v.

JAMES CASTINE

218-2017-CR-00308

SURETY'S MOTION TO RECONSIDER

NOW COMES the Surety, 2nd Chance Bail Bonds, by and through counsel, Joseph J. Prieto, and respectfully requests that this Honorable Court reconsider its order of July 5, 2017 regarding bail forfeiture. In support thereof, the following is stated:

1. The Defendant has been charged with three counts of sale of heroin.
2. On April 6, 2017, 2nd Chance Bail Bonds posted a \$10,000 bond and the Defendant was released from jail.
3. On April 24, 2017, the Court revoked the Defendant's bail. A show cause hearing regarding the bail forfeiture was held on June 1, 2017.
4. Julie Carkhuff appeared for 2nd Chance Bail Bonds and argued that she had only agreed to an appearance bond and the Defendant had not missed any court dates.
5. The Court disagreed and found that 2nd Chance Bail Bonds "took no steps whatsoever to supervise the Defendant's compliance with bail conditions." The Court further found that 2nd Chance Bail Bonds "assumed responsibility to monitor the defendant's bail conditions and not to just secure his appearance in court." Due to this, the Court ordered that the bond be forfeited by order dated July 5, 2017.

I. Appearance of the Defendant is the Primary Purpose of the Bail System

-
6. Although the rule adopted in New Jersey allows for the imposition of conditions other than appearance, appearance conditions remain the primary emphasis of the bail system. *State v. Korecky*, 777 A.2d 927, 929, 2001 (N.J. 2001).
 7. This is a well established concept in other jurisdictions as well. See *State v. Wurtzberger*, 265 S.W.3d 329, 344 (Mo. Ct. App. 2008) (holding that the primary objective of posting a bail bond is the appearance of the defendant at his trial proceedings); *In re Miller*, 185 Vt. 550, 557 (2009) (finding that conditions of release are intended to ensure appearance at trial); *Commonwealth v. Sloan*, 589 Pa. 15, 25 (2006) (holding that additional conditions of bail are permitted in order to ensure appearance); *Prof'l Bail Bonds, Inc. v. State*, 85 Md. App 226, 236 (2009) (holding that if accused does not appear then bail may be forfeited as an incentive to have accused appear and not to punish the surety); *In re Pipinos*, 33 Cal. 3d 189, 199 (1982) ("the primary purpose of bail is assurance of continued attendance at future court proceedings).
 8. This concept is recognized in New Hampshire as well. The "primary purpose of any bail bond in a criminal case is to secure the defendant's appearance to resolve the pending charges." *State v. Laniesky*, Rock. Cnty. Super. Ct., No. 218-2012-CR-0813, 2012 N.H. Super. LEXIS 54, 2012 WL 6813519 (Dec. 18, 2012) (Order, *Delker, J.*).
 9. "Trial courts are cautioned to weigh carefully the totality of circumstances present when determining to impose a bond condition other than appearance, and to exercise the authority to forfeit a bond for a breach of such condition sparingly." *Korecky*, 777 A. 2d at 929.

10. Here the bail forfeiture is not based on a failure to appear. Rather, it is based on the Defendant attempting to change addresses without notifying the Court and failing to refrain from the use of controlled drugs.

11. While moving to South Carolina and using controlled drugs may make it more difficult for the Defendant to appear, there is no evidence that the Defendant's purpose was to avoid appearance.

II. The Surety Was Not Given a Chance to Ensure Compliance

12. Here the Defendant was found passed out in a vehicle in Sturbridge, Massachusetts.

At this same time, it was discovered, for the first time, that the Defendant had plans to move to South Carolina.

13. While the surety is granted specific powers to ensure compliance, those powers are not unlimited. "The surety does not exercise this custody as the Commonwealth would. The principal is not shackled, confined, or impeded in his daily movements. Indeed, the surety cannot arrogate to itself these coercive aspects of the Commonwealth's power." *Commonwealth v. Stuyvesant Ins. Co.*, 366 Mass. 611, 615 (Mass. 1975).

14. New Hampshire RSA 597:32 provides that "Any court, for good cause, may strike off a default upon a recognizance or order it to be struck off at a future day, upon a substantial compliance with the condition."

15. Here the surety was given no chance to obtain substantial compliance. Once the Defendant was found to be in violation, a warrant was issued and the surety lost any recourse to attempt to cure.

III. Forfeiture of the Entire Bond is Excessive

16. In the event that this Court holds forfeiture proper in this matter, the forfeiture of the entire bond is excessive.
17. The Superior Court has the authority upon default to remit, reduce, or change the forfeiture. 1-16 NH Practice Series: Criminal Practice & Procedure § 16.24 (2016).
18. Federal Courts have held “that forfeiture ought to bear some reasonable relation to the cost and inconvenience to the government of regaining custody and again preparing to go to trial.” *United States v. Kirkman*, 426 F.2d 747, 752 (4th Cir. N.C. May 26, 1970).
19. The case law from New Jersey cited by this Court supports this notion. Two of the nine factors enumerated when analyzing whether to order forfeiture based on a breach of a condition other than appearance are “the appropriateness of the amount of the recognizance of bail” and “the cost, inconvenience, prejudice, or potential prejudice suffered by the State as a result of the breach.” *Korecky*, 777 A.2d at 934-35.
20. When forfeiture is for breach of a nonappearance condition, the imposition of broad conditions to control a defendant’s behavior not only defeats the purpose of a bail bond but could result in increased difficulty in obtaining a bond surety. *Id.* at 939.
21. The Vermont Supreme Court further echoes this concept. It has stated that the “factors can be used only to determine the amount of forfeiture of bail, if any, appropriate to ensure that bail-bond sureties uphold their duties in good faith, and not as a punitive tool.” *State v. Mottolese*, 199 Vt. 470, 478 (Vt. June 12, 2015).
22. Additionally, Kentucky Courts apply similar reasoning. “Although our statutes and rules permit forfeiture for breach of a nonappearance condition, the trial court’s

discretion is not unfettered and must be exercised by applying various factors.”

Coomer v. Commonwealth, 2013 Ky. App. LEXIS 73 (Ky. Ct. App. May 3, 2013).

23. Here the State was not prejudiced as a result of the breach and was only mildly inconvenienced, at best, as the Defendant was arrested in Massachusetts before he had changed his address.
24. Neither of the breaches explicitly affected the Defendant’s appearance for any future hearings.
25. Finally, the Defendant *voluntarily* appeared from South Carolina when he learned of the warrant and *voluntarily* appeared at the bail revocation hearing.

WHEREFORE, the Defendant respectfully requests that this Court:

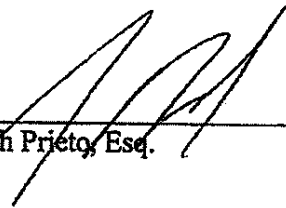
- A. Reconsider its order of July 5, 2017; and,
- B. Return the surety it \$10,000 bond; or
- C. Hold a hearing on this matter; and
- D. Grant such further and additional relief as the Court deems necessary.

Respectfully submitted,
2nd Chance Bail Bonds
By its attorney
Joseph J. Prieto, Esq.,

Attorney Joseph Prieto Bar # 15040
Prieto Law
121 Bay Street
Manchester, New Hampshire 03104
603-232-2085
603-232-3473 (fax)
207-752-2098 (cell)

CERTIFICATION

I hereby certify that a copy of the foregoing has been forwarded to the State via the Rockingham County Attorney's Office and to the Defendant via Neil J. Reardon, Esq. on this 31st day of July, 2017.



Joseph Prieto, Esq.

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Rockingham Superior Court
Rockingham Cty Courthouse/PO Box 1258
Kingston NH 03848-1258

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

FILE COPY

Case Name: **State v. James Castine**
Case Number: **218-2017-CR-00308**

Please be advised that on August 01, 2017 Judge Delker made the following order relative to:

Surety's Motion to Extend Time Limit; Granted.

August 03, 2017

Maureen F. O'Neil
Clerk of Court

(811)

C: Neil J. Reardon, ESQ; Joseph J. Prieto, ESQ; Ryan Christopher Ollis, ESQ

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

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NOTICE OF DECISION

File Copy

Case Name: **State v. James Castine**
Case Number: **218-2017-CR-00308**

Enclosed please find a copy of the court's order of August 29, 2017 relative to:

Court Order

August 30, 2017

Maureen F. O'Neil
Clerk of Court

(834)

C: Neil J. Reardon, ESQ; 2nd Chance Bail Bonds; Joseph J. Prieto, ESQ; Ryan Christopher Ollis,
ESQ

**The State of New Hampshire
Superior Court**

Rockingham

STATE OF NEW HAMPSHIRE

V.

JAMES CASTINE

No. 218-2017-CR-0308

ORDER ON MOTION TO RECONSIDER BAIL FORFEITURE

On June 30, 2017, this Court issued a detailed order forfeiting the \$10,000 corporate surety bond posted by Second Chance Bail Bond ("Second Chance" or "the surety") based on the defendant's violation of bail conditions. The surety has filed a motion to reconsider. The surety's motion for reconsideration is denied. Second Chance argues that even if forfeiture of the bond is appropriate, the order to forfeit the full amount of the bond in this case is excessive. Upon review of this Court's June 30 order, the Court notes that it did not adequately explain why forfeiture of the full bond was appropriate. Accordingly, the Court issues this order to supplement the original forfeiture order.

As this Court recognized in its earlier order, the New Jersey Supreme Court has outlined a non-exclusive list of factors courts should consider in determine whether to order forfeiture based on a breach of a bail condition:

In cases involving a condition other than appearance, courts should consider: (1) whether the applicant is a commercial bondsman; (2) the extent of the bondsman's supervision of the defendant; (3) whether the defendant's breach of the recognizance of bail conditions was willful; (4) any explanation or mitigating factors presented by the defendant; (5) the deterrence value of forfeiture; (6) the seriousness of the condition violated;

(7) whether forfeiture will vindicate the "injury to public interest" suffered as a result of the breach; (8) the appropriateness of the amount of the recognizance of bail; and (9) the cost, inconvenience, prejudice or potential prejudice suffered by the State as a result of the breach.

State v. Korecky, 777 A.2d 927, 934–35 (2001) (citations omitted). "No single factor alone is determinative in a proceeding to vacate a bail bond forfeiture, and the relative importance of each factor is for the trial judge to determine inasmuch as it may vary from case to case" 8A Am. Jur. 2d Bail and Recognizance § 173 (Aug. 2017 update) (citing numerous cases).

The burden is on the surety "to demonstrate that forfeiture was inequitable." Korecky, 777 A.2d at 935. Here, the surety argues that it was not given a chance to ensure compliance with the bail conditions. Motion to Reconsider at ¶¶12-15. In fact, Second Chance was given a chance to monitor the defendant's compliance. As this Court explained in its earlier order, by agreeing to act as Mr. Castine's surety, Second Chance could have imposed conditions on him, such as attending drug treatment or submitting to random drug screens, or submitting to home visits.

As in Korecky, here, Second Chance "made no effort to supervise defendant to ensure that he would comply with the [bail] provision. . . . [Second Chance was] allowed to post a bond, collect the premium and 'forget the whole thing.' . . . The surety seems to have been content to post the bonds and then forget the whole thing. It was only when called upon to make good the bonds that they awakened to what had occurred." Id. This total and utter lack of effort is particularly appalling in the context of a corporate surety which profits from the defendant's release. Id. ("As the trial court observed, a surety 'is in the business

of risk venture ... engaged in an entrepreneurial venture, the object of which is profit.' The court added that 'the return it seeks for assumption of risk is substantial, and its fees [are] commensurate with the risk,' and that occasional losses therefore must be expected." In this case, according to the defendant's own bail motion, Second Chance charged the defendant \$2,040.00 to secure the bond. (Doc. #2). It is difficult to understand what the surety did to earn its fee in this case.

This Court is well-aware of the difference between a corporate surety and a family member or friend who agrees monitor the defendant's compliance with bail conditions. It has considered this difference in past bail forfeiture hearings. A corporate bail bond company should have the tools and experience to adequately supervision a defendant. Indeed, as this Court noted during the hearing, some bail bond companies have quite a sophisticated supervision system. The level of monitoring varies in those other cases depending on the level of risk posed by the defendant. At least one other bail bond company that acts as a surety in this Court provides supervision ranging from electronic monitoring through GPS for the highest risk defendants to periodic in-person or telephonic check-in for lower risk defendants. Depending on a defendant's needs and risks, that surety also requires drug treatment and/or random drug tests. Indeed, in other cases even family members who act as a surety have undertaken more substantial steps to ensure compliance with bail conditions, such as enrolling the defendant in counseling. Second Chance has not even made a pretext of supervising the defendant in the case at bar.

This Court does not suggest that the surety must impose intense supervision on every defendant in order to avoid the risk of forfeiture. A surety may certainly evaluate a defendant and make an informed judgment that the defendant presents a low risk of violating bail conditions. In that situation, the surety's judgment that less rigorous supervision is needed could establish a bona fide effort to police the bail conditions. Again, there is no evidence that Second Chance took any steps to evaluate the defendant's risk level when it made the decision not to provide any supervision of him.

The other factors outlined in Korecky also weigh in favor of forfeiture in this case. The willfulness of the defendant's conduct, any mitigating factors, the seriousness of the violation, and the deterrent value of forfeiture can all be analyzed together. The defendant was released on bond on April 6, 2017, on the condition that he live at a specific address in Epping, refrain from drug use, and not commit any new crimes. Just over a week later, Massachusetts police found the defendant and his girlfriend overdosing in a rest stop with the key in the ignition of the defendant's truck. EMTs administered multiple doses of Narcan to revive the couple and a subsequent search of the vehicle uncovered 9 grams of heroin, as well as cocaine, buprenorphine, and hypodermic needles. The defendant also had \$1125 in cash on him. The evidence establishes that the defendant and his girlfriend were in the process of relocating to South Carolina when the defendant was arrested for a number of crimes, including operating under the influence of drug, negligent operation of a motor vehicle, and possession of controlled drugs.

This conduct constituted a willful violation of the bail conditions. While it is unlikely that forfeiture of the bail will deter the defendant from continuing to use drugs, forfeiture may entice the defendant or surety to seek treatment for the addiction. In addition, the defendant violated other bail provisions including attempting to move out of state without the Court's permission. This conduct could be deterred by forfeiture. Further the issue in this case, is protection of both the defendant and the public. In the case at bar, the defendant is charged with three counts of sale of a controlled drug. After he was released on bail, he was arrested for possession of a number of drugs and had a large amount of cash on him. The defendant's bail violations, therefore, were serious and implicate all three bail considerations: availability of the defendant to answer the charges, danger to himself, and danger to others.

The defendant never challenged the appropriateness of the amount of the bond in this case in light of the seriousness of the charges and his criminal history. See Korecky, 777 A.2d at 935. Finally, although the State did not suffer much, if any, "cost, inconvenience, prejudice or potential prejudice . . . as a result of the breach," this factor is not determinative. See id. at 939 (citing several cases for the proposition that forfeiture of bond is appropriate even when the State incurred little costs and inconvenience based on the breach of bail conditions). Nonetheless, this factor does not weigh in favor of Second Chance in this case either. Contrary to the surety's argument, Motion to Reconsider at ¶25, the defendant did not appear "voluntarily" before this Court. Rather, the State filed an expedited motion for an arrest warrant based on the defendant's

interaction with the Massachusetts police. (Doc. #6). This Court issued the warrant and the defendant was arrested on that warrant on April 21, 2017. (Doc. #7, #10). He was in custody when he reappeared before the Court on April 24, 2017. (Doc. #9). Thus, while the defendant may have returned to New Hampshire voluntarily it was only after the State sought and obtained a warrant for his arrest for breach of bail conditions.

For all of these reasons, the surety's motion to reconsider is denied. The \$10,000 bond shall be forfeited to the state.

SO ORDERED.

8/29/2017
DATE



N. William Delker
Presiding Justice

STATE OF NEW HAMPSHIRE

Rockingham, ss.

Superior Court

STATE OF NEW HAMPSHIRE

v.

JAMES CASTINE

218-2017-CR-00308

SURETY'S MOTION TO STAY SHOW CAUSE HEARING

NOW COMES the Surety, 2nd Chance Bail Bonds, by and through counsel, Joseph J. Prieto, and respectfully requests that this Honorable Court stay the show cause hearing presently scheduled for October 3, 2017 at 8:00 a.m. In support thereof, the following is stated:

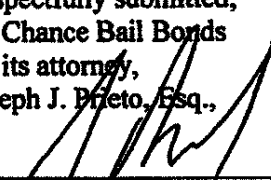
1. The Defendant has been charged with three counts of sale of heroin.
2. On April 6, 2017, 2nd Chance Bail Bonds (2nd Chance) posted a \$10,000 bond and the Defendant was released from jail.
3. On April 24, 2017, the Court revoked the Defendant's bail. A show cause hearing regarding the bail forfeiture was held on June 1, 2017.
4. On July 31, 2017, 2nd Chance submitted its Motion to Reconsider.
5. On August 30, 2017, the Court denied 2nd Chance's Motion to Reconsider.
6. It is now alleged that the surety has failed to pay the forfeited bail. As such, the Court scheduled a show cause hearing for October 3, 2017 at 8:30 a.m.
7. On September 26, 2017, 2nd Chance appealed the Court's order by filing a Notice of Appeal with the Supreme Court. A copy of said appeal has been forwarded to this Court.

8. Perfection of an appeal vests exclusive jurisdiction in the Supreme Court over those matters arising out of, and directly related to, the issues presented by the appeal. *Rautenberg v. Munnis*, 107 N.H. 446, 447 (1966).
9. Further, a decree does not go to final judgment if a timely appeal is taken to the Supreme Court. *Rollins v. Rollins*, 122 N.H. 6, 9 (1982).
10. Thus it is respectfully requested that this Court stay the show cause hearing and any other further hearings regarding the surety while the surety's appeal is pending.

WHEREFORE, the Defendant respectfully requests that this Court:

- A. Stay the show cause hearing; or
- B. Grant such further and additional relief as the Court deems necessary.

Respectfully submitted,
2nd Chance Bail Bonds
By its attorney,
Joseph J. Prieto, Esq.,



Attorney Joseph Prieto Bar # 15040
Prieto Law
121 Bay Street
Manchester, New Hampshire 03104
603-232-2085
603-232-3473 (fax)
207-752-2098 (cell)

CERTIFICATION

I hereby certify that a copy of the foregoing has been forwarded to the State via the Rockingham County Attorney's Office and to the Defendant via Neil J. Reardon, Esq. on this 27th day of September, 2017.



Joseph Prieto, Esq.

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Rockingham Superior Court
Rockingham Cty Courthouse/PO Box 1258
Kingston NH 03848-1258

Telephone: 1-855-212-1234
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<http://www.courts.state.nh.us>

NOTICE OF DECISION

FILE COPY

Case Name: **State v. James Castine**
Case Number: **218-2017-CR-00308**

Please be advised that on October 06, 2017 Judge Delker made the following order relative to:

Motion to Stay Show Cause Hearing: Granted.

October 17, 2017

Maureen F. O'Neil
Clerk of Court

(278)

C: Neil J. Reardon, ESQ; Joseph J. Prieto, ESQ; Ryan Christopher Ollis, ESQ

