

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CRIMINAL DEPARTMENT

STATE OF KANSAS,
Plaintiff,

VS.

Case No. 2020-CR-001234

JOHN J. SMITH,
Defendant.

MOTION TO SET ASIDE BOND FORFEITURE

COMES NOW the Surety, _____, and moves the Court for an Order setting aside the bond forfeiture previously ordered on or about the ____ day of _____, 20____ as relates to the surety.

In support of this Motion the surety states the following facts:

1. K.S.A. 22-2807 states, in part, that “The Court may direct that a forfeiture may be set aside upon such conditions as it may impose, if it appears that justice does not require enforcement of the forfeiture. If the surety can prove that the defendant is incarcerated somewhere within the United States prior to judgment of default then the court **shall** set aside the forfeiture.” {Emphasis added}

2. That the Johnson County Jail is “somewhere with the United States;”

3. Judgment of default had not been granted on April 15, 2020 and has still not been granted;

4. That the surety surrendered the defendant to the custody of the Johnson County Sheriff on or about April 15, 2020. [Prisoner Body Receipt attached hereto]

WHEREFORE, the surety prays that the Court set aside the previously ordered bond forfeiture as it relates to the surety based upon the surety's surrender of the defendant.

Name
Bonding Company
ADDRESS
CITY, STATE, ZIP
PHONE
E-mail
Surety

NOTICE OF HEARING

Please take notice that the foregoing Motion will be heard in Court Number 9 of the District Court of Johnson County Kansas, at 10:00 A.M. on the 30th day of April, 2020, or as soon thereafter as counsel can be heard.

Name

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served on the Johnson County District Attorney's Office on this 20th day of April, 2020.

Name

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CRIMINAL DEPARTMENT

STATE OF KANSAS,
Plaintiff,

VS.

Case No. 2020-CR-001234

JOHN J. SMITH,
Defendant.

MOTION TO SET ASIDE BOND FORFEITURE

COMES NOW the Surety, _____, and moves the Court for an Order setting aside the bond forfeiture previously ordered on the 7th day of November, 2019, as relates to the surety.

In support of this Motion the surety states the following facts:

1. K.S.A. 22-2807(3) states: “The Court may direct that a forfeiture be set aside upon such conditions as it may impose, if it appears that justice does not require enforcement of the forfeiture. If the surety can prove that the Defendant is incarcerated somewhere within the United States prior to judgment of default by providing to the court a written statement, signed by the surety under penalty of perjury, setting forth details of such incarceration, then the court **shall** set aside the forfeiture. Upon the defendant's return, the surety may be ordered to pay the costs of that return.” {Emphasis added}

2. On January 3, 2020, the Surety filed its Notice of Incarceration, under penalty of perjury, advising the Court that the defendant was in custody in the Wyandotte County, KS Jail.

4. That the defendant, as of this filing, remains in the custody of the Wyandotte County Jail.

5. That the defendant's failure to appear was without the connivance, knowledge or consent of the surety.

6. That production of the defendant by the surety has been made impossible by his incarceration by the United States.

WHEREFORE, the surety prays that the Court set aside the previously ordered bond forfeiture as it relates to the surety and upon such conditions as it deems equitable, including the assessment of any costs or transportation fees against the surety.

Agent for the Surety
Bonding Company Name
ADDRESS
CITY, STATE ZIP
Surety

NOTICE OF HEARING

Please take notice that the foregoing Motion will be heard in the District Court of Johnson County Kansas, at 1:45 P.M. on the 30th of January, 2020, or as soon thereafter as counsel can be heard.

Name

CERTIFICATE OF SERVICE

I, Shane L. Rolf, hereby certify that a copy of the foregoing Motion was served on the Johnson County District Attorney's Office by delivering a copy on this 22nd day of January, 2020.

Name

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CRIMINAL DEPARTMENT

STATE OF KANSAS,
Plaintiff,

VS.

Case No. 2020-CR-001234

JOHN J. SMITH,
Defendant.

MOTION TO SET ASIDE BOND FORFEITURE

COMES NOW the Surety, _____, and moves the Court for an Order setting aside the bond forfeiture previously ordered on the 15th day of April, 2020.

In support of this Motion the surety states the following facts:

1. The defendant was not released pursuant to a bail bond agreement on April 15, 2020.
2. The Surety posted a \$5,000.00 bond for the defendant on March 13, 2019.
3. The defendant made all required appearances before the Court through October 17, 2019.
4. The defendant was convicted and sentenced on October 17, 2019.
5. This conviction and sentencing terminates any further liability on the bond posted on March 13, 2019, see **Jackson v. State**, 52 Kans. 249.
6. On April 15, 2020, the defendant was to appear pursuant to an Order to Appear for an Motion to Revoke Probation, not a bail bond.

WHEREFORE, the surety prays that the Court set aside the previously ordered bond forfeiture, as reflected in the Journal Entry, as the defendant was not on bond at the time of his failure to appear.

Agent for the Surety
Bonding Company
Address
City, State Zip
Phone
Email
Surety

NOTICE OF HEARING

Please take notice that the foregoing Motion will be heard in Court Number 8 of the District Court of Johnson County Kansas, at 11:00 A.M. on the 30th day of July, 2020, or as soon thereafter as counsel can be heard.

Name

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served on the Johnson County District Attorney's Office on this _____ day of July, 2020.

Name