

CRIMINAL LAW: BONDS:
SUPREME COURT RULES:
SURETIES: BAIL BONDS:
MUNICIPAL COURTS:

A person is not disqualified as a surety in municipal and traffic courts solely because he employs persons who have been convicted of a felony but this fact together with other facts and circumstances may be considered by the court in determining whether the person meets the reputable person requirement of Section 37.107, Rules of the Supreme Court of Missouri.

April 4, 1961 ✓



Honorable Jasper M. Brancato
Member Missouri State Senate
Capitol Building
Jefferson City, Missouri

Dear Sir:

This is in response to your request of January 31, 1961, for an opinion of this office, which request reads as follows:

"I am contemplating on introducing a bill in the Senate - subject matter pertaining to the legality of any person who has been convicted of a felony, whether or not, he can be employed in a bonding company where they come in contact with a Municipal Judge.

"I would appreciate a legal opinion on this matter at your earliest convenience."

In a subsequent letter you advised that the bonding company referred to in your request is owned by an individual and is not incorporated.

Rule 37 of the Rules of the Supreme Court of Missouri relates to the practice and procedure to be followed in municipal and traffic courts. The qualifications for individual sureties on bail bonds in municipal and traffic courts are set out in Sections 37.107 and 37.108, Vernon's Annotated Missouri Rules. These Sections read as follows:

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Section 37.107:

"No person shall be accepted as a surety on any bail bond taken under these Rules unless he possesses the following qualifications:

"1. He shall be a reputable person, at least twenty-one years of age and a bona fide resident of the State of Missouri.

"2. He shall not have been convicted of a felony under the laws of any state or of the United States.

"3. He shall not be an attorney-at-law, a peace officer, a constable or a deputy constable.

"4. He shall not be an elected or appointed official or employee of the State of Missouri or of any county or of any other political subdivision or any municipality of this state.

"5. He shall have no outstanding final forfeiture or unsatisfied final judgment thereon entered upon any bail bond in any court in this state or of the United States." (Emphasis ours)

Section 37.108:

"In addition to the qualifications specified in Rule 37.107, no person shall be taken as a surety on any bail bond unless he shall be the owner of real estate or personal property having a reasonable market value in excess of all encumbrances, exemptions and all other liabilities, at least equal to the amount specified in the bond which he proposes to execute. In order to qualify upon the basis of real estate owned, a person must be the sole, legal and equitable record owner in fee simple. Where there are several sureties, the aggregate reasonable market value of real estate or personal property owned by them in excess of all encumbrances, exemptions and all other liabilities, shall be at least equal to the amount specified in the bond."

It would appear that the qualifications contained in the above quoted portions of Rule 37, supra, apply only to an individual who desires to sign as surety on a bail bond in municipal and traffic courts. Therefore, a person would not be disqualified as a surety

under numbered paragraph two of Section 37.107, supra, because he has a person or persons in his employ who have been convicted of a felony. However, it is believed that the court may consider the fact that a person has in his employ persons who have been convicted of a felony together with other facts and circumstances in determining whether the person meets the "reputable person" requirement of numbered paragraph one of Section 37.107, supra.

CONCLUSION

Therefore, it is the opinion of this department that a person is not disqualified as a surety in municipal and traffic courts solely because he employs persons who have been convicted of a felony but this fact together with other facts and circumstances may be considered by the court in determining whether the person meets the reputable person requirement of Section 37.107, Rules of the Supreme Court of Missouri.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Calvin K. Hamilton.

Yours very truly,

THOMAS F. EAGLETON
Attorney General