

Filed 5/16/19 by Clerk of Supreme Court

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

2019 ND 117

State of North Dakota,

Plaintiff and Appellee

v.

Ronald David Johnson,

Defendant and Appellant

No. 20180429

Appeal from the District Court of Williams County, Northwest Judicial District, the Honorable Benjamin J. Johnson, Judge.

AFFIRMED.

Per Curiam.

Nathan K. Madden, Assistant State's Attorney, Williston, ND, for plaintiff and appellee; submitted on brief.

Ronald D. Johnson, self-represented, Duluth, MN, defendant and appellant; submitted on brief.

State v. Johnson
No. 20180429

Per Curiam.

[¶1] Ronald Johnson appealed from an order denying his motion to return a \$5,000 bond. He argues on appeal that he was denied due process and the district court abused its authority and discretion in forfeiting the bond without effectuating service on him or providing him notice.

[¶2] While the underlying criminal complaint was dismissed with prejudice in February 2018, the district court had previously ordered the \$5,000 bond forfeited in orders filed with the clerk of court in April 2013 and April 2015. Johnson filed his motion to return bond in October 2018. In its order denying his motion, the court stated that the \$5,000 cash bond “ha[d] already been forfeited due to [Johnson] failing to appear.” To the extent the court further states, “the matter of returning the bond was previously addressed with [the district court] on April 17, 2015, and such return was denied,” we consider that to mean his present motion to return bond was untimely because it was not filed within ninety days of the forfeiture order. *See* N.D.R.Crim.P. 46(f)(2)(B) (“Any motion for a bail forfeiture to be set aside must be filed with the clerk of court within ninety days of the date of the order of forfeiture.”). Moreover, Johnson failed to raise his issues to the district court in his motion to return bond. We summarily affirm under N.D.R.App.P. 35.1(a)(2), (4), and (7); *see State v. Kensmoe*, 2001 ND 190, ¶ 17, 636 N.W.2d 183 (“[A] question not raised or considered in the trial court cannot be raised for the first time on appeal. This general rule applies to constitutional issues.” (internal citations and quotation marks omitted)).

[¶3] Gerald W. VandeWalle, C.J.
Jerod E. Tufte
Daniel J. Crothers
Lisa Fair McEvers
Jon J. Jensen