

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

SANG EUN LEE,

Defendant-Appellee.

UNPUBLISHED

March 15, 2005

No. 251661

Washtenaw Circuit Court

LC No. 02-000235-FH

Before: Murray, P.J., and Markey and O’Connell, JJ.

MEMORANDUM.

Plaintiff appeals by delayed leave granted from the circuit court’s order granting defendant’s motion to release a portion of a retained bond amount. We reverse and remand.

Defendant was charged with second-degree criminal sexual conduct. Because defendant presented a flight risk, the circuit court set his bond at \$1 million. The court allowed defendant to post ten percent of the bond amount and, after \$100,000 was deposited, he was released. Subsequently, the circuit court granted the prosecutor’s motion for nolle prosequi because of defendant’s medical condition. The court entered an order releasing ninety percent of the deposited bond amount, and retaining ten percent, in accordance with MCR 6.106(I)(1). After defendant moved for release of the retained bond amount, the circuit court entered an order releasing eight percent, and retaining two percent as a service fee. On appeal, the parties agree that MCR 6.106(I) is applicable. The issue is whether the circuit court had the discretion to reduce the portion of the bond amount that must be retained under MCR 6.106(I).

Questions of court rule interpretation are reviewed de novo. *People v Petit*, 466 Mich 624, 627; 648 NW2d 193 (2002). If the plain language of a court rule is unambiguous, courts “must enforce the meaning expressed, without further judicial construction or interpretation.” *People v Phillips*, 468 Mich 583, 589; 663 NW2d 463 (2003).

MCR 6.106(I) states:

(1) If the conditions of the release order are met and the defendant is discharged from all obligations in the case, the court must vacate the release order, discharge anyone who has posted bond, and return the cash (or its equivalent) posted in the full amount of a bond, or, *if there has been a deposit of*

10 percent of the bond amount, return 90 percent of the deposited money and retain 10 percent. [Emphasis added.]

The plain language of MCR 6.106(I) states that when ten percent of a bond amount is posted, the court must return ninety percent and retain ten percent. Here, there is no dispute that only ten percent was posted. Consequently, the circuit court erred by retaining only two percent, rather than ten percent. The use of the term “must” in MCL 6.106(I)(1) indicates that the prescribed action is mandatory, not discretionary. See *Great Lakes Gas Transmission Ltd Partnership v Markel*, 226 Mich App 127, 130; 573 NW2d 61 (1997).

Although the trial court modified the plain language of MCR 6.106(I) under the guise of equity, court rules that are unambiguous must be enforced as written. *Phillips, supra*. We reject defendant’s claim that the trial court had general equity jurisdiction under MCL 600.601(1) to retain a reduced amount of two percent. Because that statute expressly subjects every aspect of the court’s jurisdiction to the court rules adopted by our Supreme Court, the circuit court had no authority to exercise equity jurisdiction contrary to the plain language of the court rule.

Reversed and remanded. We do not retain jurisdiction.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Peter D. O’Connell