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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

FINANCIAL CASUALTY &
SURETY, INC.,

Defendant and Appellant.

B277803

(Los Angeles County
Super. Ct. No. OSJ1903)

APPEAL from a judgment of the Superior Court of
Los Angeles County. Kerry Bensinger, Judge. Affirmed.

Law Office of John Rorabaugh, John Mark Rorabaugh and
Crystal L. Rorabaugh for Defendant and Appellant.

Mary C. Wickham, County Counsel, Ruben Baeza, Jr.,
Assistant County Counsel, and David D. Lee, Associate County
Counsel, for Plaintiff and Respondent.

Defendant and appellant Financial Casualty & Surety, Inc. (Financial Casualty) challenges a summary judgment entered in favor of the People of the State of California (the People) following the forfeiture of a bail bond. Financial Casualty argues that the trial court erred in entering judgment because it was entitled to an additional extension of time pursuant to Penal Code section 1305.4. The People agree that the trial court erred in its calculation of Financial Casualty's extension period, but contend that summary judgment was otherwise properly granted.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 24, 2015, Bail Hotline Bail Bonds (the bail agent), as an agent for Financial Casualty, posted bond number FCS100-1474207 for the release of Ryan Thomas Delrosario (Delrosario) from custody.

On June 16, 2015, Delrosario was not present in court. The docket reflects that bail was ordered forfeited. The trial court file contains a notice of forfeiture with a certificate of mailing signed by the clerk of the court on June 17, 2015.

On December 16, 2015, the bail agent timely filed a motion to extend time on bail pursuant to Penal Code section 1305.4. On January 29, 2016, the trial court granted the bail agent's motion to extend time, and ordered time "be extended by 180 days until (and including) 06/16/16." June 16, 2016, was 139 days (not 180 days) from the order.

On June 16, 2016, Financial Casualty filed a motion to further extend time pursuant to Penal Code section 1305.4. The motion was set for hearing on July 8, 2016. Attached to the motion was a declaration from investigator Jon Schutz (Schutz) detailing the investigation that had been made into Delrosario's

location since the granting of the bail agent's motion to extend time. In particular, Schutz attempted to contact Delrosario's alleged girlfriend and cosigner, Phoebe Padilla (Padilla) as well as the other cosigner, Antoine Hanley (Hanley). Schutz never successfully reached them. At most, Schutz learned that Delrosario may have been living in Chicago, Illinois. Surveillance was conducted at various address in the Chicago area, but Delrosario was never seen.

On July 8, 2016, the trial court continued the hearing on Financial Casualty's motion to July 29, 2016. At the continued hearing date, the trial court denied Financial Casualty's motion.¹

On August 5, 2016, the trial court entered summary judgment against Financial Casualty. This timely appeal ensued.

DISCUSSION

Financial Casualty argues that the trial court erred in denying its motion to further extend time because it initially ordered a 180-day extension but only actually gave 139 days from the date of the original order. Thus, Financial Casualty asserts that the trial court should have granted it the additional 41 days it requested in its motion.

"The trial court's ruling on a motion for extension of time under [Penal Code] section 1305.4 is generally reviewed for abuse of discretion. [Citation.] 'However, where . . . we review the trial court's interpretation of a statute on uncontested facts, the issue

¹ The appellate record does not reveal why the trial court denied Financial Casualty's motion. The clerk's transcript is silent, and Financial Casualty did not provide us with a copy of the reporter's transcript from the date of the hearing.

concerns a pure question of law and is subject to de novo review. [Citations.]’ [Citation.]” (*County of Los Angeles v. Williamsburg National Ins. Co.* (2015) 235 Cal.App.4th 944, 949.)

When a bailed defendant fails to appear for a scheduled hearing without a valid excuse, the trial court is required to forfeit the bond in open court. (Pen. Code, § 1305, subd. (a).) The clerk of the trial court must then notify the bail surety and bondsman within 30 days of the forfeiture of the bond. (Pen. Code, § 1305, subd. (b).) The mailing of a notice of forfeiture commences the 185-day appearance period deadline (180 days plus 5 for mailing) for the surety to return the fugitive to court or seek other relief from forfeiture. Pursuant to Penal Code section 1305.4, upon a timely filed and noticed motion, a surety and/or bondsman can seek an extension of the appearance period for “180 days from its order” upon a showing that its investigation into the whereabouts of a bail fugitive demonstrates “good cause.”

Here, as the People agree, the trial court erred in its calculation of the 180-day extension period. (See *People v. Financial Casualty & Surety, Inc.* (2017) 10 Cal.App.5th 369, 386.) Under the proper rule, there were still 41 days left on the clock when Financial Casualty filed its motion to further extend time.

But that error does not compel reversal. It is well-established that “[w]e may . . . affirm on any ground in the record because our job is to review the trial court’s ruling, not its reasoning.” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 10 Cal.App.5th at p. 386.) And while we do not know why the trial court denied Financial Casualty’s motion, it is also well-settled that “[a] judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to

support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

Applying these legal principles, there are at least two reasons why summary judgment was properly entered. First, “[i]f the appearance period elapses without the forfeiture having been set aside, the trial court must enter summary judgment against the surety.” (*People v. Aegis Security Ins. Co.* (2005) 130 Cal.App.4th 1071, 1074.) Here, as the parties agree, the latest date on which the trial court had the authority to further extend the appearance period was July 29, 2016 (180 days from the date of the January 29, 2016, order). (See *People v. Financial Casualty & Surety, Inc.* (2016) 2 Cal.5th 35, 46, fn. 2.) Because the trial court entered summary judgment on August 5, 2016, after the maximum allowable extension period had elapsed, the trial court’s judgment was proper.

Second, Financial Casualty has not shown that it established good cause.² “A showing of ‘good cause,’ . . . rests upon a showing of (1) the surety’s ‘past diligence’ in tracking down the absconding defendant, and (2) a ‘reasonable likelihood the extension will result in the defendant’s apprehension.’ [Citation.]” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 10 Cal.App.5th at p. 386.) Here, Schutz’s declaration does not demonstrate a reasonable likelihood that a further extension of the appearance period would have resulted in Delrosario’s

² Notably, Financial Casualty’s opening brief is silent on this issue, and it elected not to file a reply brief.

apprehension. There was no evidence establishing any current connection between Delrosario and Padilla and/or Hanley. And there was no evidence that Delrosario was associated with any of the addresses at which surveillance was conducted.

DISPOSITION

The judgment is affirmed.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT