

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE COUNTY OF LOS ANGELES,

Plaintiff and Respondent,

v.

FINANCIAL CASUALTY &  
SURETY, INC.,

Defendant and Appellant.

B278150

(Los Angeles County  
Super. Ct. Nos. OSJ1914,  
4BF04845)

APPEAL from a judgment of the Superior Court of Los Angeles County. Dorothy C. Kim, Judge. Affirmed.

Law Office of John Rorabaugh, John M. 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.

---

Financial Casualty and Surety, Inc. (Financial Casualty) appeals from an order denying its second motion to extend the 185-day appearance period for a bail bond. Financial Casualty contends the trial court erred in concluding that the maximum 180-day extension had already been granted. The County concedes the trial court's calculation was erroneous but argues that judgment should be affirmed because the surety did not show good cause for a further extension. We agree and affirm.

***FACTUAL AND PROCEDURAL BACKGROUND***

On July 9, 2015, Financial Casualty, through its agent Bail Hotline Bail Bonds, posted a bail bond for the release of defendant Jesse Watkins who was charged with violating probation. Watkins failed to appear at a probation violation hearing on August 3, 2015, resulting in the forfeiture of his bail. A notice of forfeiture was mailed to Financial Casualty and its bail agent on August 18, 2015. Under Penal Code section 1305, Financial Casualty had 185 days—until February 19, 2016—to surrender Watkins to custody or move to set aside the forfeiture.<sup>1</sup>

On February 19, 2016, Financial Casualty moved under section 1305.4 for an extension of 180 days. On March 18, 2016, the court heard the motion and granted an extension of “180 days until (and including) 08/17/16.” The court calculated the extension from the earlier expiration of the initial 185 days, not from the date of its order granting the motion. 180 days from the expiration of the 185-day appearance period was August 17, 2016; 180 days from the court's extension order was September 14, 2016.

---

<sup>1</sup> All further statutory references are to the Penal Code.

On August 16, 2016, one day before the extension was to expire, Financial Casualty moved for a second extension. The surety filed a declaration from its investigator detailing his efforts to track down Watkins. The surety argued the 180-day period had not yet expired because section 1305.4 authorizes an extension of up to 180 days *from the date of the court's order*, and, therefore, the court had authority to grant an additional 28-day extension. On September 9, 2016, the court denied the motion on the ground “the surety was already granted the full 180-day extension available.” Summary judgment on the forfeited bond was entered on September 15, 2016. Financial Casualty timely appealed.

### ***DISCUSSION***

“A bail bond ‘ “is a contract between the surety and the government whereby the surety acts as a guarantor of the defendant’s appearance in court under the risk of forfeiture of the bond.” ’ [Citation.] When the surety breaches the contract by failing to secure the defendant’s appearance, the bond generally must be enforced. [Citation.] The purpose of bail and of its forfeiture, however, is to ensure the accused’s attendance and obedience to the criminal court, not to raise revenue or to punish the surety. [Citation.]” (*People v. Financial Casualty & Surety, Inc.* (2016) 2 Cal.5th 35, 42.)

“[S]tatutes that govern forfeiture of bail bonds must be strictly construed in favor of the surety because of the traditional abhorrence of forfeitures. [Citations.]” (*County of Los Angeles v. Williamsburg National Insurance Co.* (2015) 235 Cal.App.4th 944, 954.) We review the trial court’s application of section 1305.4 to uncontested facts de novo. (*County of Los Angeles v. Allegheny Casualty Co.* (2017) 13 Cal.App.5th 580, 584.) A trial

court's determination as to whether a surety has shown good cause for an extension is reviewed for an abuse of discretion. (*People v. Financial Casualty & Surety, Inc.*, *supra*, 2 Cal.5th at p. 47.)

“When a person for whom a bail bond has been posted fails without sufficient excuse to appear as required, the trial court must declare a forfeiture of the bond. (§ 1305, subd. (a).)” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 2 Cal.5th at p. 42.) The “appearance period” is comprised of the 185 days after the date the clerk of the court mails a notice of forfeiture (180 days plus five days for mailing) to the appropriate parties.<sup>2</sup> (§ 1305, subd. (b).) “During this time, the surety on the bond is entitled to move to have the forfeiture vacated and the bond exonerated on certain grounds, such as an appearance in court by the accused. (§ 1305, subd. (c)(1).) [Citation.]” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 2 Cal.5th at p. 42.)

As our Supreme Court has recently observed, “In 1996, the Legislature added section 1305.4, allowing for an extension of the appearance period. [Citation.] Under section 1305.4 as it currently reads, the surety may move for an order extending the initial appearance period as follows: ‘The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The court, upon a hearing and a showing of good cause, may order the period extended to a time

---

<sup>2</sup> In general, a surety will not be present when a court declares the forfeiture of bail in open court because a defendant fails to appear in court as ordered. Accordingly, the 180-day appearance period is “extended for a period of five days to allow for the mailing” of the forfeiture notice to a surety. (§ 1305, subd. (b)(1).) No five day extension is needed in the extension order because the order is on the surety's motion.

not exceeding 180 days from its order.’ . . . This language plainly measures the allowable period of extension from the date of the trial court’s extension order, not from the end date of the initial appearance period.” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 2 Cal.5th at pp. 42–43.)

The “ ‘order’ referred to in section 1305.4’s limit of extensions to 180 days ‘from its order’ is the *first* order extending the period, rather than any subsequent order, and . . . the total allowable extension is thus limited to 180 days from the date of the first extension order, regardless of how many individual extensions the court orders.” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 2 Cal.5th at p. 46, fn. 2 (italics added).) “When a trial court initially grants an extension for less than 180 days, it may grant a second extension as long as that extension does not go beyond 180 days from the date of its first extension order. [Citation.]” (*People v. Financial Casualty & Surety, Inc.* (2017) 10 Cal.App.5th 369, 385–386.)

“If the forfeiture is not vacated, the trial court must then enter summary judgment against the surety for ‘the amount of the bond plus costs.’ [Citations.] In this respect, ‘bail bond proceedings’—despite growing out of criminal prosecutions—‘are independent from and collateral to the prosecutions and are civil in nature.’ [Citation.]” (*People v. Financial Casualty & Surety, Inc.*, *supra*, 10 Cal.App.5th at p. 378.)

Here, the trial court initially ordered the appearance period extended to August 17, 2016 which was 152 days from the date of its extension order. As we have observed, the trial court may grant multiple extensions pursuant to section 1305.4, as long as the total extension does not go beyond 180 days from the date of its initial extension order. Accordingly, when Financial Casualty

filed its motion for a second extension on August 16, 2016 the court, in fact, had the authority to order a further extension of up to 28 days through September 14, 2016 (180 days from its initial order). However, the court did not hear the surety's second motion to extend until September 9, 2016, which was five days before the expiration of the 180-day period. At that time, the court had authority to grant an extension only of five days. The court abused its discretion when it denied the extension request on the ground that the 180-day period under section 1305.4 had already expired.

However, we may affirm the trial court's ruling if it is correct on any ground. (*People v. Chism* (2014) 58 Cal.4th 1266, 1295, fn. 12.) Respondent argues that we should affirm despite the trial court's error because the surety failed to establish good cause for a further extension. As stated above, a motion to extend the initial appearance period must be supported by a declaration establishing good cause. 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, as a matter of law, the supporting declaration by the surety's investigator did not establish good cause. First, the surety did not show diligence in tracking down Watkins: it did not take any action to locate Watkins in the first two months after it was granted an extension, and waited until the middle of the third month to assign an investigator to the case. The surety also did not establish a reasonable likelihood of apprehending Watkins within the remaining five days. Although the

investigator's search through databases revealed an address for Watkins, surveillance of the property did not result in any sighting of Watkins; and despite attempts to establish contact with Watkins's girlfriend and relatives, the investigator had still not succeeded in speaking with them. The surety's failure to obtain concrete evidence of Watkins' whereabouts or establish contact with anyone close to Watkins indicated there was no reasonable likelihood a five-day extension (or a 28-day extension) would result in his apprehension. To put it differently, it would have been an abuse of discretion if the trial court had found Financial Casualty had established good cause.

***DISPOSITION***

The judgment is affirmed. The County of Los Angeles is awarded costs on appeal.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.