

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

FINANCIAL CASUALTY &
SURETY, INC.,

Defendant and Appellant.

B275679

(Los Angeles County
Super. Ct. No. SJ1840)

APPEAL from a judgment of the Superior Court of
Los Angeles County. Kerry R. Bensinger, Judge. Reversed and
remanded with directions.

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

Mary C. Wickham, County Counsel and Lindsay
Yoshiyama, Deputy 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 following the forfeiture of a bail bond. Financial Casualty argues that the trial court erred in entering judgment because the misdemeanor defendant had not been ordered to appear at the pretrial hearing. We agree and therefore reverse the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On July 27, 2015, Bail Hotline Bail Bonds, as an agent for Financial Casualty, posted bond number FCS50-1511618 for the release of Martin Angel Ramos (Ramos) from custody on case number 5LT0668701. Ramos had been charged with one count of a misdemeanor violation of Vehicle Code section 14601.1, subdivision (a), and an infraction violation of Vehicle Code section 24400, subdivision (a).

On August 19, 2015, Ramos was present in court and counsel was appointed to represent him. His pretrial hearing date was set for October 2, 2015, with the trial court stating to Ramos: “All right, sir, your not guilty plea has been accepted. Your pretrial date, as requested,” is October 2, 2015.

On October 2, 2015, when defendant’s pretrial hearing was called, defendant was not present. His bail was ordered forfeited.

Notice of forfeiture was mailed on October 7, 2015.

On May 5, 2016, the trial court entered summary judgment against Financial Casualty. Financial Casualty’s timely appeal ensued.

DISCUSSION

Financial Casualty argues that the trial court lacked jurisdiction to declare a forfeiture of the bail bond when Ramos failed to appear at the pretrial hearing because he had not been ordered to be present.

“Although we normally review an order denying a motion to vacate the forfeiture of a bail bond for abuse of discretion (*People v. Bankers Ins. Co.* (2010) 181 Cal.App.4th 1, 5), where the issue is one of statutory construction or contract interpretation, and the evidence is not in dispute, the de novo standard of review applies (*People v. American Bankers Ins. Co.* (1992) 4 Cal.App.4th 348, 350).” (*People v. International Fidelity Ins. Co.* (2010) 185 Cal.App.4th 1391, 1395.) We review the trial court’s judgment in this case de novo because we are considering an issue of statutory interpretation.

Penal Code section 1305, subdivision (a)(1), provides: “A court shall in open court declare forfeited the undertaking of bail or the money or property deposited as bail if, without sufficient excuse, a defendant fails to appear for any of the following: [¶] (A) Arraignment. [¶] (B) Trial. [¶] (C) Judgment. [¶] (D) Any other occasion prior to the pronouncement of judgment if the defendant’s presence in court is lawfully required. [¶] (E) To surrender himself or herself in execution of the judgment after appeal.”

“[B]ecause the law disfavors forfeitures, these provisions regarding forfeiture of bail establish jurisdictional requirements that must be strictly construed in favor of the surety and the individual citizens who pledge their property to the surety on behalf of persons seeking release from custody.” (*People v.*

National Automobile & Casualty Ins. Co. (2004) 121 Cal.App.4th 1441, 1448.)

Strictly construing the requirements of Penal Code section 1305, we conclude that the trial court erred in forfeiting the bond and entering judgment against Financial Casualty. Ramos did not fail to appear for arraignment, trial, or judgment. (Pen. Code, § 1305, subd. (a)(1)(A), (B), & (C).) He also did not fail to surrender in execution of judgment after appeal. (Pen. Code, § 1305, subd. (a)(1)(E).) And, his appearance was not “lawfully required” in court on October 2, 2015. No statute requires a misdemeanor defendant appear for a pretrial hearing. And the trial court did not order Ramos to appear on that date. (See, e.g., *People v. National Automobile & Casualty Ins. Co.*, *supra*, 121 Cal.App.4th at p. 1449; contra, *People v. Lexington National Ins. Corp.* (2016) 1 Cal.App.5th 1144, 1148–1149 [bond was properly forfeited where misdemeanor defendant failed to appear after being specifically ordered to do so].) Thus, the trial court was without jurisdiction to order bail forfeited on October 2, 2015. The judgment must be set aside, the forfeiture vacated, and the bond exonerated.

DISPOSITION

The judgment is reversed and remanded. On remand, the trial court shall vacate summary judgment, vacate the forfeiture, and exonerate the bond. Financial Casualty is entitled to costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
LUI

_____, J.
CHAVEZ