

CAUSE NO. 01-24-01008-CR

IN THE FIRST COURT OF APPEALS AT HOUSTON, TEXAS	FILED IN 1st COURT OF APPEALS HOUSTON, TEXAS 4/30/2025 9:59:43 AM DEBORAH M. YOUNG Clerk of The Court
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BANKERS INSURANCE COMPANY,	APPELLANT,
VS.	
THE STATE OF TEXAS,	APPELLEE.

**On appeal from the 184th Judicial District Court
of Harris County, Texas**

BRIEF OF APPELLANT

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ATTORNEY FOR
APPELLANT**

ORAL ARGUMENT REQUESTED

Identity of Parties and Counsel

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Bankers Insurance Company

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State of Texas

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Statement of the Case

Nature of the Case

This is an appeal of a motion to reform judgment.

The defendant-surety filed a request for a warrant pursuant to 17.19 of the Texas Code of Criminal Procedure (CR 12). The request was granted. *Id.* The defendant was in custody (CR 13). Once a defendant is in custody, the underlying bail bond is discharged. In the present case, the defendant was in custody at the time that the warrant was issued. Therefore, the bond was discharged.

Trial Court

Harris County 184th District Court. The Honorable Katherine Thomas

Disposition Below

The motion to reform judgment was denied by the trial court (CR 63).

Statement Regarding Oral Argument

Bankers Insurance Company respectfully requests oral argument and submits that argument will assist the Court in the disposition of the issues on this appeal. This appeal involves the construction of article 17.19 of the Texas Code of Criminal Procedure along with article 17.16 of the Texas Code of Criminal Procedure. Article 17.19 is a pre-forfeiture defense that allows the surety to seek a warrant for the arrest of the defendant before forfeiture to allow the surety to return the defendant to custody. This case is important because of its impact on defendants who are released and then turned over to ICE custody and the impact of that action on the underlying criminal case and a failure to appear.

Issues Presented

Whether the district court erred in denying the Defendant-Surety's Motion to Reform judgment?

- a. Whether the district court erred in failing to discharge the bond since a request for a warrant was granted pursuant to article 17.19 of the Texas Code of Criminal Procedure and the defendant was in custody?
- b. Whether the defendant-surety is precluded from filing a request for a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure if a defendant is in the custody of ICE?

- c. Whether the limitation to filing an affidavit pursuant to article 17.16 of the Texas Code of Criminal Procedure also limits the filing of an affidavit requesting a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure?

CAUSE NO. 01-24-01007-CR

**IN THE FIRST COURT OF APPEALS
AT HOUSTON, TEXAS**

**BANKERS INSURANCE COMPANY,
APPELLANT,
VS.
THE STATE OF TEXAS,
APPELLEE.**

**On appeal from the 184th Judicial District Court
of Harris County, Texas**

BRIEF OF APPELLANT

COMES NOW, BANKERS INSURANCE COMPANY,
Appellant/Defendant-Surety in the above-entitled and numbered cause and
files the following appeal of the denial of the appellant's motion to reform
judgment and in support thereof would respectfully show the court the

following:

STATEMENT OF FACTS

This is a bond forfeiture case. On August 15, 2021, the Defendant-Surety posted a bail bond in the amount of \$30,000.00 for defendant, Esteben Bonilla, who was detained in the Harris County Jail (CR 5). Subsequently, the defendant was transferred to a Federal Immigration holding facility in Conroe (Montgomery County) Texas (CR 38). On September 16, 2021, the defendant-surety filed an affidavit pursuant to article 17.19 of the Texas Code of Criminal Procedure with the trial court seeking a warrant for the arrest of the defendant (CR 38). The affidavit was presented to the trial court and the request for a warrant was granted and the Court directed the District Clerk to issue an alias capias for the arrest of the defendant (CR 38).

On September 16, 2021, the Harris County Sheriff's completed a verification confirming that Defendant, Esteban Bonilla, was in custody in Conroe, Texas (CR 40).

On September 19, 2024, a Final Judgment of Forfeiture was entered against Defendant-Surety for the Full Amount of the Bond - Thirty Thousand Dollars (\$30,000.00) and the costs of court for the failure to appear of Esteben Bonilla, Defendant-Principal, on December 16, 2021 (CR 7). On December 17, 2021, the Surety filed a motion to dismiss the forfeiture on the grounds that prior to forfeiture the surety filed an affidavit of surrender

which was granted and the defendant was in custody prior to forfeiture (CR 10).

The defendant failed to appear for court on December 16, 2021 (CR 7). The Surety filed an answer on December 17, 2021 (CR 8). A motion to dismiss was filed the same day (CR 10). A full judgment was entered by the trial court on September 19, 2024 (CR 25). The surety filed a motion to reform the judgment on September 27, 2024 (CR 29). The trial court denied the motion December 20, 2024 (CR 63).

The Notice of Appeal was filed on December 18, 2024 (CR 50). The Surety filed a Notice of Items to be Included in the Clerk's Record on December 23, 2024 (CR 68). A Supersedeas Bond was filed on September 30, 2024 (CR 43).

SUMMARY OF ARGUMENT

This is a bond forfeiture case. A bond was posted for the release of the defendant. By the time the defendant was released from the Harris County Jail there was an ICE detainer on file. Therefore, the defendant was released to ICE. The Surety filed a request for warrant asking the trial court to issue a warrant for the defendant's return. The trial court granted the motion and a warrant was issued. The sheriff's office verified that the defendant was in custody and placed a hold on the defendant for his return to the Harris

County jail. The defendant did not appear at his next hearing and a judgment nisi was issued. The surety filed a motion for remittitur requesting that the district attorney's office agree to dismiss the case. The trial court entered a full judgment for the forfeiture. The surety filed a motion to reform the judgment because the facts demonstrated that the bond was discharged when the trial court issued a warrant and the sheriff's office verified that the defendant was in custody. Because the trial court denied the motion, this appeal has been filed.

ISSUES (RESTATED)

Whether the district court erred in denying the Defendant-Surety's Motion to Reform judgment?

- a. Whether the district court erred in failing to discharge the bond since a request for a warrant was granted pursuant to article 17.19 of the Texas Code of Criminal Procedure and the defendant was in custody?
- b. Whether the defendant-surety is precluded from filing a request for a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure if a defendant is in the custody of INS?
- c. Whether the limitation to filing an affidavit pursuant to article 17.16 of the Texas Code of Criminal Procedure also limits the filing of an affidavit requesting a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure?

ARGUMENT

I. Standard of Review

The standard of review is abuse of discretion. *Hodges v. Rajpal*, 459 S.W.3d 237, 250 (Tex. App.— Dallas 2015, no pet.). One appellate court described four ways in which a trial court commits an abuse of discretion: (1) a court abuses its discretion if it attempts to exercise a power of discretion that it does not legally possess; (2) a court abuses its discretion if it declines to exercise a power of discretion vested to it by law when the circumstances require that the power be exercised; (3) a court abuses its discretion if it purports to exercise its discretion without sufficient information upon which a rational decision may be made, as reflected in the appellate record; and (4) a court abuses its discretion if it exercises its power of discretion by making an erroneous choice as a matter of law, in one of the following ways: (i) by making a choice that is “not within the range of choices permitted by law”; (ii) by arriving at its choice in violation of an “applicable legal rule, principle, or criterion”; or (iii) by making a choice that is “legally unreasonable in the factual-legal context in which it [is] made.” *Bruce Terminix Co. v. Carroll*, 953 S.W.2d 537, 540 (Tex. App.—Waco 1997, orig. proceeding) (quoting *Luxenberg v. Marshall*, 835 S.W.2d 136, 142 (Tex. App.—Dallas 1992, orig.proceeding), *mandamus granted*; *In re Bruce Terminix Co.*, 988 S.W.2d 702 (Tex. 1998) (per curiam); *Hawthorne v. Guenther*, 917 S.W.2d 924, 931 (Tex.

App.— Beaumont 1996, writ denied); *Luxenberg*, 835 S.W.2d at 142.

In the present case, the trial court misapplied “guiding rules and principles” and consequently abused its discretion.

II. Introduction

The Defendant-Surety filed a motion to reform the judgment because the trial court entered the wrong judgment in this case. The motion was filed to allow the trial court to amend the judgment to one of dismissal accurately reflecting, both the law and facts concerning this case.

III. The District Court erred in denying the motion to reform judgment because before forfeiture the surety filed a request for a warrant that was granted and the defendant was in custody.

When a Surety posts a bond, the Surety is ensuring that the defendant will appear for court as required. However, the law also recognizes situations where the Surety is no longer able to perform its promise and may be relieved of its obligations prior to forfeiture by following one of three methods authorized by law. First, the Surety may file an affidavit with the sheriff pursuant to article 17.16 of the Texas Code of Criminal Procedure giving the sheriff notice that the defendant is in custody. Tex. Code Crim. Pro. art. 17.16. Once the sheriff verifies the allegations in the affidavit, the surety’s bond is discharged. *Id.* Additionally, the Surety remains liable for any costs to return the defendant to the county. *Id.* Article 17.16 dates back to 1965, but prior versions of the statute goes back much further.

Second, the Defendant-Surety may file an affidavit with the court asking the trial court issue a warrant. Tex. Code Crim. Pro. art. 17.19. The filing of the affidavit does not relieve the Surety of liability. The Surety remains liable on the bond until the defendant is returned to custody. *See Apodaca v. State*, 493 S.W.2d 859 (Tex. Crim. App. 1973) (the warrant did not discharge the surety until the principal was in custody). Further, if the trial court denies the request for a warrant the Surety will have an affirmative defense to any subsequent bond forfeiture in the case. *Id.* at 17.19 (b).

Third, the Defendant-Surety may file a motion to discharge bond which is generally filed when a bond is posted before charges are filed and subsequently no charges are filed and the statute of limitations has expired. *See* Tex. Code Crim. Pro. art. 32.01.

This case involves the filing of a request for a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure. This procedure dates back to the turn of the 19th Century. One of the first cases interpreting a prior version of the statute was handed down by the Texas Court of Criminal Appeals in 1925. *Wells v. State*, 100 Tex. Cr. R. 73, 271 S.W. 918 (1925). When a Surety requests a warrant, the surety must present an affidavit to the trial court that meets the statutory requirement of article 17.19 of the Texas Code of Criminal Procedure. *Spears v. State*, No. 10-08-00396-CR, 2009 WL 5155573, at *2 (Tex. App.—Waco, Dec. 30, 2009, no pet.)

(not designated for publication).

The affidavit must set out the “cause for the surrender” -or stated another way—set out the reason that a warrant is needed. *Id.* The filing of the affidavit and the issuance of the warrant do not discharge the surety until the principal is in custody. *Thompson v. State*, 335 S.W.2d 226 (Tex. Crim. App.- 1960), *Wells v. State*, 100 Tex. Cr. R. 73, 271 S.W. 918 (1925).

Once the warrant is issued and the defendant is documented in custody, the bond is discharged. *See Apodaca v. State*, 493 S.W.2d 859 (Tex. Crim. App. 1973) (the warrant did not discharge the surety until the principal was in custody); *Allegheny Cas. Co. v. State*, 163 S.W.3d 220 (Tex. App.-- El Paso 2005, no pet.); *Benson v. State of Texas*, 476 S.W.3d 136 (Tex. App.-- Austin 2015, no pet.).

In *McConathy v. State*, 545 S.W.2d 166 (Tex. Crim. App. 1977), the Court of Criminal Appeals concluded that no authority existed “for the trial judge to refuse the issuance of the arrest warrant after the requisite affidavit” to surrender the principal was filed pursuant to article 17.19. *McConathy*, 545 S.W.2d at 168.

Shortly after *McConathy*, the Eastland Court of Appeals recognized that both articles 17.16 and 17.19 permitted a “surety to relieve himself of his obligation under the bond at any time, *ex parte*, without any form of hearing.” *Dunn v. Brown*, 584 S.W.2d 535, 537 (Tex. App.—Eastland 1979, no writ). The Texarkana Court of

Appeals concluded that the mere filing of an affidavit to go off bond, without any requirement that the affidavit be affirmatively presented for signature or refusal, was insufficient to satisfy the elements of the affirmative defense in article 17.19(b). *See Maya v. State*, 126 S.W.3d 581, 584 (Tex. App.—Texarkana 2004, no pet.); *see also* Tex. Code Crim. Proc. art. 17.19(b) (creating an affirmative defense to liability on a bond that the court or magistrate refused to issue a capias or warrant for the arrest of the principal, and after such refusal the principal failed to appear). The Waco Court of Appeals concluded that article 17.19 contained no requirement that the reason set out in the affidavit for the need of a warrant did not have to “rise to the level of probable cause.” *Spears v. State*, No. 10-08-00396-CR, 2009 WL 5155573, at *2 (Tex. App.—Waco, Dec. 30, 2009, no pet.) (not designated for publication).

Pursuant to these authorities, a court in receipt of a properly filed affidavit seeking a warrant has no discretion to deny the request. *See Seneca*, 507 S.W.3d at 802 (stating that “a surety can accomplish a surrender by filing an affidavit in the proper court”). The courts have made it clear that the remedy available if a defendant disputes that a request for a warrant was proper is a hearing to contest the reason set out in the affidavit for the warrant pursuant to section 1704.207 of the Texas Occupations Code. *Robbins v. Roberts*, 833 S.W.2d 619, 621, 623–24 (Tex. App.—Amarillo 1992, no pet.) (allowing an affidavit that contained a

factual error to support the surrender, but requiring a refund of the bond premium and noting that the language of section 1704.207's predecessor provides for a "determination of reasonable cause after the surrender [and that] the trial judge has no authority to refuse the surrender when the surety has submitted the requisite affidavit"). In a bail bond board county such as Harris County, the remedy for contesting a warrant issued pursuant to article 17.19 of the Texas Code of Criminal Procedure is to request a hearing pursuant to section 1704.207. *Robbins*, 833 S.W.2d at 622; Tex. Atty Gen. Op. KP-0392, p. 3 n. 5 (2021). The hearing may be requested by the defendant or the prosecuting attorney. Tex. Occ. Code Ann. §1704.207 (b).

In the present case, the Surety presented an affidavit pursuant to article 17.19 of the Texas Code of Criminal Procedure requesting that the trial court issue a warrant for the arrest of the defendant (CR 12). After reviewing the affidavit, the trial court granted the request and ordered that a warrant be issued (CR 12). Thereafter, the sheriff's office issued a verification documenting that the defendant was in custody and that a hold had been placed on the defendant pursuant to the warrant (CR 13). Consequently, the bond was discharged and the trial court erred in failing to grant the motion to reform the judgment.

PRAYER

For the foregoing reasons, Bankers Insurance Company respectfully requests the

Court reverse the district court's order denying its motion to reform judgment and render judgment that the State take nothing. Alternatively, appellant seeks remand for further proceedings consistent with this Court's judgment, and grant Bankers all other relief to which it is entitled.

Respectfully submitted,

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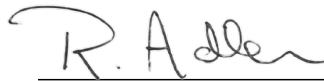
A handwritten signature in cursive script, appearing to read "R. Adler", written in dark ink.

Randy Adler
State Bar No. 00927500

ATTORNEY FOR APPELLANT

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitation of Texas Rule of Appellate Procedure 9.4(i)(2) because it contains 3232 words, excluding the parts of the briefs exempted by Texas Rule of Appellate Procedure 9.4(i)(1) as calculated by the word software program.

A handwritten signature in cursive script, appearing to read "R. Adler", is written above a horizontal line.

Randy Adler

CERTIFICATE OF SERVICE

I certify that on April 30, 2025, I used the Court's electronic case filing system to file this Brief for Appellants and to serve this document on the following counsel for each party:

Jessica A. Caird
Assistant District Attorney
Harris County District Attorney's Office
Chief Assistant District Attorney
1201 Franklin Street, 6th Floor
Houston, Texas 77002
(713) 274-0260
Caird_Jessica@dao.hctx.net

A handwritten signature in cursive script, appearing to read "R. Adler", is positioned above a horizontal line.

Randy Adler

APPENDIX A

CAUSE NO: 1677298-A

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

vs.

§

OF HARRIS COUNTY

ESTEBEN BONILLA, ET AL

§

184TH JUDICIAL DISTRICT

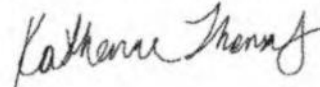
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BFJFOR
(1)**FINAL JUDGMENT OF FORFEITURE**

On this day, came to be heard the above-captioned cause wherein the State of Texas is Plaintiff and **ESTEBEN BONILLA** is Defendant-Principal, and **BANKERS INSURANCE COMPANY (AGENT: EDITH GUERRERO)** is Defendant-Surety; Defendant-Principal was duly notified of the forfeiture, but failed to answer, and has wholly defaulted; Defendant-Surety answered; and the Court, after considering the pleading and evidence herein, including the bail bond and the Judgment of Forfeiture on file in this cause, finds: that no sufficient cause was shown for the Defendant-Principal's failure to appear on **DECEMBER 16, 2021**, and the Judgment of Forfeiture heretofore rendered against the Defendants should be made final.

It is, therefore, ORDERED, ADJUDGED, and DECREED that the Judgment of Forfeiture is hereby made final and the State of Texas shall have and recover from **ESTEBEN BONILLA**, Defendant-Principal, and **BANKERS INSURANCE COMPANY (AGENT: EDITH GUERRERO)**, Defendant-Surety, jointly and severally, the sum of **\$30,000.00 (DOLLARS)**, and costs of court, for all of which let execution issue. The Court hereby takes judicial notice of the Judgment of Forfeiture and Bond in the Clerk's record for the above captioned cause. All relief not expressly granted herein is denied.

Signed:
9/19/2024



Signed this _____ day of _____, 20____.

JUDGE PRESIDING

Approved as to form:



ATTORNEY/DEFENDANT-SURETY

In accordance with Rule 239A of the Texas Rules of Civil Procedure, I hereby certify to the District Clerk of Harris County, Texas, that the last known mailing address of the party against whom the Default Final Judgment is taken in Scire Facias No. **1677298-A** in the **184TH** District Court of Harris County, Texas, is as follows:

DEFENDANT- **ESTEBEN BONILLA**
PRINCIPAL: **7901 LEONORA 12**
HOUSTON, TX 77061

Signed this 3rd day of September, 2024.


ASSISTANT DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

cw

APPENDIX **B**

CAUSE NO. 1677298-A

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
VS.	§	
	§	
ESTEBEN BONILLA,	§	184TH JUDICIAL DISTRICT
Defendant-Principal,	§	
BANKERS INSURANCE	§	
COMPANY(AGENT: EDITH	§	
GUERRERO),	§	
Defendant-Surety		HARRIS COUNTY, TEXAS

DEFENDANT-SURETY'S MOTION TO REFORM FINAL JUDGMENT ON
BOND FORFEITURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DEFENDANT-SURETY, in the above styled and numbered cause, and through their Attorney of Record, Randy Adler, files the following motion to reform the trial court's judgment and in support thereof would respectfully show the court the following:

I.
BACKGROUND

This is a bond forfeiture case. On August 15, 2021, the Defendant-Surety posted a bail bond in the amount of \$30,000.00 for defendant, Esteben Bonilla, who was detained in the Harris County Jail. Subsequently, the defendant was transferred to a Federal Immigration holding facility in Conroe (Montgomery

County) Texas. On September 16, 2021, the defendant-surety filed an affidavit with the trial court seeking a warrant for the arrest of the defendant. A true and correct copy of the affidavit filed pursuant to article 17.19 of the Texas Code of Criminal Procedure is attached as **Exhibit A**. The Affidavit was presented to the trial court and the request for a warrant was granted and the Court directed the District Clerk to issue an alias capias for the arrest of the defendant.

On September 16, 2021, the Harris County Sheriff's completed a verification confirming that Defendant, Esteban Bonilla, was in custody in Conroe, Texas. A true and correct copy of the Verification of Incarceration is attached as **Exhibit B**.

On September 19, 2024, a Final Judgment of Forfeiture was entered against Defendant-Surety for the Full Amount of the Bond – Thirty Thousand Dollars (\$30,000.00) and the costs of court for the failure to appear of Esteban Bonilla, Defendant-Principal, on December 16, 2021. A true and correct copy of the trial court's final judgment is attached as **Exhibit C**.

II.

ARGUMENTS AND AUTHORITIES

The Defendant-Surety has filed this motion to reform the judgment because the trial court entered the wrong judgment in this case. The trial court's judgment should be changed to a judgment of dismissal accurately reflecting, both the law and facts, concerning this case.

A surety may end its liability before forfeiture in one of three ways. First, the Defendant-Surety may file an affidavit with the sheriff pursuant to article 17.16 of the Texas Code of Criminal Procedure giving the sheriff notice that the defendant is in custody. Second, the Defendant-Surety may file an affidavit with the trial court requesting a warrant pursuant to article 17.19 of the Texas Code of Criminal Procedure. Third, the Defendant-Surety may file a motion to discharge bond pursuant to article 32.01 of the Texas Code of Criminal Procedure.

When a Defendant-Surety follows the second approach, the surety must present an affidavit to the trial court that meets the statutory requirement of article 17.19 of the Texas Code of Criminal Procedure. The affidavit must set out the "cause for the surrender" --or stated another way -- set out the reason that a warrant is needed. *Id.* The filing of the affidavit and the issuance of the warrant do not discharge the surety until the principal is in custody. *Thompson v. State*, 335 S.W.2d 226 (Tex. Crim. App.- 1960), *Wells v. State*, 271 S.W. 918 (Tx. Crim. App. --1925)

Once the warrant is issued and the defendant is documented in custody, the bond is discharged. The fact that the county elected not to have the defendant returned to Harris County does not change the result in this matter. The fact that a surety remains liability for return of prisoner costs pursuant to article 17.19, does not condition or preclude the relief afforded those sections *only if* the State elects to

have the defendant returned. *See: Allegheny Cas. Co. v. State*, 163 S.W.3d 220 (Tex. App. —El Paso 2005, no pet.); *Tom Benson v. State of Texas*, 476 S.W.3d 136 (Tx.App.—Austin 2015, no pet.)

It is anticipated that the State may argue that the surety did not file an affidavit pursuant to article 17.19, but instead filed an affidavit pursuant to article 17.16 of the Texas Code of Criminal Procedure. The State may claim to this Court that the document should be considered as an Art. 17.16 and that an affidavit filed pursuant to article 17.16 cannot be filed when a defendant is in federal ICE custody. However, this argument ignores the law and the plain wording of the statute. An affidavit filed pursuant to article 17.16 of the Texas Code of Criminal Procedure is addressed to the Sheriff's office. The statute states that it cannot be filed when the defendant is ICE custody to determine his immigration status. However, an affidavit seeking a warrant must be presented to the trial court. An affidavit filed pursuant to 17.19 of the Texas Code of Criminal Procedure does not contain any limitation that would restrict its ability to be filed when a Defendant is in ICE custody. In fact, a request for a warrant is the remedy that must be used when a defendant is in ICE Custody and not an affidavit to the Sheriff filed pursuant to article 17.16 of the Texas Code of Criminal Procedure.

If the State's argument were to be successful, (to which surety asserts is also without any merit and contrary to the law) then the State is essentially arguing that

when a Defendant-Surety is tricked into filing a bond the surety is without remedy to bring the defendant back to custody to answer the criminal charges. This argument should be rejected. Additionally, the document speaks for itself in what it contains, and what it does not contain. A close examination of the document, **Exhibit 'A'**, which is a form provided by the Harris County District Attorney's Office for use by sureties in Harris County, as custom and practice, contains all the requisites of Article 17.19 (as well as one not statutorily required). What it does not contain is a request to discharge liability upon verification, as an Art. 17.16 sets forth, and which does not contain a provisions to notify/deliver same to the prosecuting attorney/defense attorney. Also, the affidavit was presented to the trial court and not the sheriff. An affidavit filed pursuant to article 17.16 according to the statute is presented to the sheriff and not the trial court.

In this case, the Order signed by the Judge granted the issue of a warrant which is consistent with the requirements of article Art. 17.19. The order does not state that the surety is discharged from the bond which would be language consistent with an affidavit presented to the Sheriff's office pursuant to Art. 17.16.

Additionally, the State does not get to recast the document filed by the Defendant-Surety as something that it is not. The State does not get to 'elect' what this document should be considered as either an affidavit filed pursuant to Art. 17.16 or Art. 17.19, after the failure to appear and contingent upon whether the

defendant is returned to the county of prosecution, for which the surety has no control or inpute, other than to pay for those cost, if incurred.

In this case, the Defendant-Surety filed and presented an Affidavit of Surety to Surrender the Principal in conformity of the requirement of Article 17.19 of the Texas Code of Criminal Procedure. After reviewing the affidavit, the trial court found it legally sufficient and granted the Defendant-Surety's request for a warrant and an alias capias was issued. Additionally, when the warrant was issued, the Sheriff's office confirmed that the Defendant was in custody. Therefore, once the Harris County Sheriff's office completed the verification stating that the Defendant was in custody, the Defendant-Surety was discharged on its bond.

III. **PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Defendant-Surety herein prays that this Court grant this Motion to Reform Final Judgment on Bond Forfeiture, for the reasons set forth herein, and in the *interest of justice*, and reform the Final Judgment of Forfeiture, that was entered on September 19, 2024, to reflect that the State of Texas take nothing by their cause of action, that judgment nisi should not be made final against the surety, pursuant to Art. 17.19 of the Texas Code of Criminal Procedure and the other authorities cited above, and all other relief, both in law and in equity, to which they may be justly entitled.

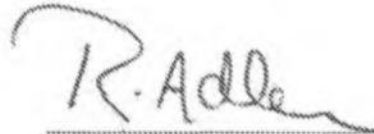
Respectfully submitted,

A handwritten signature in dark ink, appearing to read "R. Adler", with a stylized flourish at the end.

RANDY ADLER
P. O. Box 794347
Dallas, Texas 75379-4347
(214)742.4351
(972) 332-8387 fax
SB# 00927500
radleratty@yahoo.com
ATTORNEY FOR SURETY

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was transmitted, via *E-Filing*, to Assistant District Attorney, Civil Division - Bond Forfeiture Dept., Kaveri Dixit (dixit_kaveri@dao.hctx.net) Harris County Dist. Atty's Office, Houston, Tx.



Randy Adler

EXHIBIT 'A'

Cause No. 1677298

9/16/2021 10:31 AM
 Marilyn Burgess, District Clerk Harris County
 Envelope No. 57305881
 By: A Oliver
 Filed: 9/16/2021 10:31 AM
 Pgs-4

The State of Texas vs
BONILLA, ESTEBEN
 In the 184th District Court or County Criminal Court at Law No. _____
 HARRIS COUNTY, TEXAS

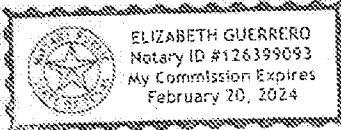
ADDO
 BASUR
 994

AFFIDAVIT OF SURETY TO SURRENDER PRINCIPAL

Bankers Insurance Company (Agent, Edith Guerrero), surety on the defendant's appearance bond swears the following information is true and correct:

- 1) The defendant /principal's (defendant's) name: BONILLA, ESTEBEN
- 2) Offense defendant is charged with: AGG ASSAULT W/DEADLY WEAPON
- 3) The bond was executed on (date): AUGUST 13, 2021
- 4) The defendant paid the surety the following fee: \$1,000.00
- 5) The defendant's attorney of record is: LAGRAPPE, JOHN CHARLES
- 6) The surety notified defendant's attorney of record of the bond in a manner as required by rule 21a of the Texas Rules of Civil Procedure.
- 7) The surety asks to surrender the defendant into the custody of the Sheriff of Harris County because of the following reason: WE JAMES BOND RAIL BONDZ WISH TO BE OFF LIABILITY DUE TO DEFENDANT CURRENTLY BEING IN CUSTODY IN AN IMMIGRATION FACILITY IN CALL FIELD OFFICE, CONROE TX. WE CAN'T PROMISE HIS APPEARANCE AT COURT. THEREFORE, WE WISH TO SURRENDER.

Accordingly, the surety asks the Court to issue a warrant for the arrest of the defendant and to direct the Sheriff of Harris County to place the defendant in the Harris County Jail.



Surety Edith Guerrero 2714 N. Freeway Houston, TX 77009 713.227.0077

Sworn to and subscribed before me on this 16 day of SEPTEMBER, 21

Notary Signature [Signature]

COURT'S FINDINGS AND ORDER

? The Court GRANTS the surety's request. The Court finds legally sufficient cause for the surety to surrender the principal, and for the Court to issue a warrant for the defendant's arrest under Article 17.19(d) of the Texas Code of Criminal Procedure. A signed warrant for defendant's arrest is attached to this document.

? AA The Court GRANTS the surety's request. The Court finds legally sufficient cause for the surety to surrender the defendant. The Court has directed the District Clerk to issue an alias capias for the arrest of the defendant.

? The Court DENIES the surety's request. The Court finds legally insufficient cause to surrender the defendant.

ORDERED in Harris County, Texas on this date, _____

Signed: A Anastasio
 9/16/2021
 Presiding Judge

EXHIBIT 'B'



SHERIFF'S OFFICE BAIL BOND VERIFICATION
ED GONZÁLEZ SHERIFF
1200 Baker Street
Houston, Texas 77002-1206

DATE 09/16/2021

Defendant name: Bonilla, Esteban AKA _____

SPN No: 02825064 ICE A # _____

Case No: 1677298 Court No: 184 Surety / License No: 74558

Case No: 1677299 Court No: 184 Surety / License No: 74558

Case No: _____ Court No: _____ Surety / License No: _____

Case No: _____ Court No: _____ Surety / License No: _____

Location of Defendant: California Office, Houston TX 77001 Phone: (937) 520-5000

Date of Arrest: 04/10/2021 Date Released: _____

New Bond Made: _____ By: _____

Date Warrant Issued: _____ Case No: _____

Date Warrant Issued: _____ Case No: _____

Date Detainer Placed: _____ Date Returned to HCSO Jail: _____

Comments: Detained in custody
No active case against. Held arrest bond. Be done.

Authorized Signature: [Signature] Printed: D. Kean

Office & Position Held: Detainer Phone: 6-1251

Date Verification Completed: 9/16/21 Other: _____

Original - District Attorney

Canary - Surety
B-13

Pink - Sheriff

EXHIBIT 'C'

CAUSE NO: 1677298-A

Pgs-1

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

vs.

§

OF HARRIS COUNTY

BFJFOR

ESTEBEN BONILLA, ET AL

§

184TH JUDICIAL DISTRICT

(1)

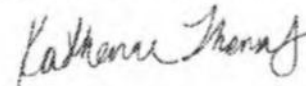
FINAL JUDGMENT OF FORFEITURE

On this day, came to be heard the above-captioned cause wherein the State of Texas is Plaintiff and **ESTEBEN BONILLA** is Defendant-Principal, and **BANKERS INSURANCE COMPANY (AGENT: EDITH GUERRERO)** is Defendant-Surety. Defendant-Principal was duly notified of the forfeiture, but failed to answer, and has wholly defaulted; Defendant-Surety answered; and the Court, after considering the pleading and evidence herein, including the bail bond and the Judgment of Forfeiture on file in this cause, finds that no sufficient cause was shown for the Defendant-Principal's failure to appear on **DECEMBER 16, 2021**, and the Judgment of Forfeiture heretofore rendered against the Defendants should be made final.

It is, therefore, **ORDERED, ADJUDGED, and DECREED** that the Judgment of Forfeiture is hereby made final and the State of Texas shall have and recover from **ESTEBEN BONILLA**, Defendant-Principal, and **BANKERS INSURANCE COMPANY (AGENT: EDITH GUERRERO)**, Defendant-Surety, jointly and severally, the sum of **\$30,000.00 (DOLLARS)**, and costs of court, for all of which let execution issue. The Court hereby takes judicial notice of the Judgment of Forfeiture and Bond in the Clerk's record for the above captioned cause. All relief not expressly granted herein is denied.

Signed:

9/19/2024



Signed this _____ day of _____, 20____

JUDGE PRESIDING

Approved as to form:



ASSISTANT DISTRICT ATTORNEY

ATTORNEY/DEFENDANT-SURETY

In accordance with Rule 239A of the Texas Rules of Civil Procedure, I hereby certify to the District Clerk of Harris County, Texas, that the last known mailing address of the party against whom the Default Final Judgment is taken in Scire Facias No. 1677298-A in the 184TH District Court of Harris County, Texas, is as follows:

DEFENDANT- **ESTEBEN BONILLA**
PRINCIPAL: **7901 LEONORA 12**
HOUSTON, TX 77061

Signed this 3rd day of September, 2024

ASSISTANT DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

APPENDIX C



Cause No. 1677298

9/16/2021 10:31 AM
Marilyn Burgess, District Clerk Harris County
Envelope No. 57305881
By: A Oliver
Filed: 9/16/2021 10:31 AM
Pgs-4

The State of Texas vs
BONILLA, ESTEBEN
In the 184th District Court or County Criminal Court at Law No. _____
HARRIS COUNTY, TEXAS

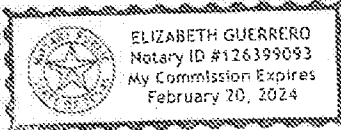
ADDO
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994

AFFIDAVIT OF SURETY TO SURRENDER PRINCIPAL

Bankers Insurance Company (Agent, Edith Guerrero), surety on the defendant's appearance bond swears the following information is true and correct:

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Surety Edith Guerrero 2714 N. Freeway Houston, TX 77009 713.227.0077

Sworn to and subscribed before me on this 16 day of SEPTEMBER, 21

Notary Signature [Signature]

COURT'S FINDINGS AND ORDER

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? The Court DENIES the surety's request. The Court finds legally insufficient cause to surrender the defendant.

ORDERED in Harris County, Texas on this date, _____

Signed: A Anastasio
9/16/2021

Presiding Judge

APPENDIX D



SHERIFF'S OFFICE BAIL BOND VERIFICATION
ED GONZÁLEZ SHERIFF
1200 Baker Street
Houston, Texas 77002-1206

DATE 09/16/2021

Defendant name: Bonilla, Esteban AKA _____

SPN No: 02825064 ICE A # _____

Case No: 1677298 Court No: 184 Surety / License No: 74558

Case No: 1677299 Court No: 184 Surety / License No: 74558

Case No: _____ Court No: _____ Surety / License No: _____

Case No: _____ Court No: _____ Surety / License No: _____

Location of Defendant: CITIZENSHIP, HOUSTON, TX 77001 Phone: (937) 520-5000

Date of Arrest: 04/10/2021 Date Released: _____

New Bond Made: _____ By: _____

Date Warrant Issued: _____ Case No: _____

Date Warrant Issued: _____ Case No: _____

Date Detainer Placed: _____ Date Returned to HCSO Jail: _____

Comments: Detainer in custody
to allow him to work until detainer is clear

Authorized Signature: [Signature] Printed: D. Klein

Office & Position Held: Deputy Phone: 61251

Date Verification Completed: 9/16/21 Other: _____

Original - District Attorney

Canary - Surety
D-2

Pink - Sheriff

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Randy Adler on behalf of Randy Adler

Bar No. 00927500

radleratty@yahoo.com

Envelope ID: 100256078

Filing Code Description: Brief Requesting Oral Argument

Filing Description: Brief for Appellant

Status as of 4/30/2025 11:18 AM CST

Associated Case Party: Bankers Insurance Company

Name	BarNumber	Email	TimestampSubmitted	Status
Randy Adler		radleratty@yahoo.com	4/30/2025 9:59:43 AM	SENT

Associated Case Party: The State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Jessica Caird		Caird_Jessica@dao.hctx.net	4/30/2025 9:59:43 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Butera		butera_michael@dao.hctx.net	4/30/2025 9:59:43 AM	SENT