

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2015CP0202739

South Carolina State Of

RECEIVED

JUN 09 2016

SC Court of Appeals

Grio Tanaka Sapp
 A-1 Bonding &
 Enterprises Inc

Megan Doolittle
 American Surety
 Company

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ Judge Code _____ Date 5/3/2016

For Clerk of Court Office Use Only

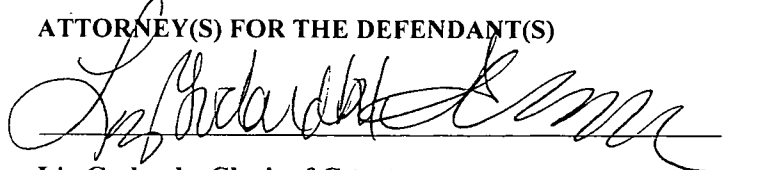
This judgment was entered on 5-3-16, and a copy mailed first class or placed in the appropriate attorney's box on 5-3-16, to attorneys of record or to parties (when appearing pro se) as follows:

Sol – 4 copies
Liz, GS, Accounting – 1 copy

Paul Andrew Anderson 211 York St., NE Suite 2 Aiken, SC
29801
Kristina Michelle Anderson 211 York St., NE Suite 2 Aiken,
SC 29801

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Liz Godard - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

RECEIVED

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF AIKEN)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
)
VS)
)
Grio Tanaka Sapp,)
Defendant,)

ORDER DENYING SURETY'S MOTION
FOR RECONSIDERATION

Indictment Number: 2015GS0200433

2014A0210200324

Megan Doolittle, representing)
A-1 Bonding & Enterprises, Inc.,)
Surety,)
American Surety Company,)
Insurance Company.)

CP Case Number: 2015CP0202739

FILED 5.3.16
Liz Godard
C.C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

This matter comes before the Court upon Surety A-1 Bonding & Enterprises, Inc.'s (hereinafter referenced as "Surety") Motion for Reconsideration of this Court's Final Order for Estreatment of Bond, dated February 18, 2016. This motion was made pursuant to Rule 59(e), SCRPC.

Notice of Forfeited Recognizance was filed by the State on June 8, 2015, following the Defendant's failure to appear at the June 8, 2015, term of General Sessions Court. In accordance with S.C. Code Ann. § 17-15-150, this Court issued a Conditional Order to Estreat Bond on November 17, 2015. On February 2, 2016, a hearing was convened before this Court for consideration of the Conditional Order to Estreat Bond and Notice of Forfeited Recognizance. At that time, this Court ordered payment of eighty percent (80%) of the bond amount.

In its Motion for Reconsideration, Surety now asserts (1) that Surety should have been released from further liability once Defendant was surrendered, and (2) that judgment should have been remitted in whole or in part because of the prejudice, inconvenience, or expense to the State was shown. In making

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions, do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

MAY 03 2016

Liz Godard
C.C.C.P. & G. A., Aiken County, S.C.
Anita Knoepfle
Deputy Clerk

4 Cert. Sci. 5.3.16
1 Cert. G.S. 5.3.16 ASK
1 1 Clerk of Court 5.3.16
1 Accounting 5.3.16

ME#1

these assertions, Surety relies upon S.C. Code Ann. § 38-53-70, and *Ex Parte Polk*, 354 S.C. 8, 579 S.E.2d 329 (2003).

S.C. Code Ann. § 38-53-70 directs that bond be forfeited whenever a surety fails to surrender a defendant or place a hold on the defendant's release from incarceration within ninety (90) days of the issuance of a bench warrant for that defendant. The statute also sets forth factors for the Court to consider in determining whether to remit any part of the judgment. Lastly, the statute allows the Court to permit the surety to pay an ordered estreatment in installments. Surety refers to S.C. Code Ann. § 38-53-70, which states in part that "if at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety complies with the recommitment procedures, the surety is relieved of further liability," in arguing that the Defendant's bond should not have been estreated after Surety surrendered him to incarceration on November 12, 2015.

In this case, a bench warrant was issued for Defendant on June 8, 2015. Ninety (90) days passed from that date. Surety failed to surrender Defendant or place a hold on Defendant's release from incarceration within that ninety (90) days. Surety surrendered Defendant to incarceration on November 12, 2015. This Court issued a Conditional Order to Estreat Bond on November 17, 2015. A hearing was convened on February 2, 2016, for the Final Order of Estreatment of Bond, and this Court ordered payment of eighty percent (80%) of the bond amount. This Court did not permit Surety to pay the estreatment in installments. Therefore, the statutory language upon which Surety relies – "if at any time during the period in which installments are to be paid" – is inapplicable. S.C. Code Ann. § 38-53-70. Because this Court did not permit Surety to pay the estreatment in installments, this language is not applicable to this case and does not relieve Surety from the judgment.


Surety next asserts, relying on *State v. Polk*, that judgment should have been remitted in whole or in part based on a lack of expense or inconvenience to the State. 354 S.C. 8, 579 S.E.2d 329 (2003). In

Polk, the Court held that the trial court had erred in failing to consider the cost to the State of Defendant Henry Bartinicki, failing to appear in court in ordering the estreatment of his bond. *Id.* at 10, 579 S.E.2d at 329. Relying on S.C. Code Ann. § 38-53-70, the Court held that the Defendant's bond had been forfeited and judgment on the bond entered properly. *Id.* at 12, 570 S.E.2d at 331. However, the Court continued that it was error for the trial court not to consider the costs to the State in determining remission of the judgment on a forfeited bond. In determining whether and to what extent bond should be remitted, at a minimum, the trial court should consider (1) the purpose of the bond; (2) the nature and willfulness of the default; and (3) any prejudice or additional expense resulting to the State. *Id.*

In this case, the Court considered all three of the above listed factors at both the hearing for the Final Order of Estreatment of Bond and at the hearing of Surety's Motion for Reconsideration. The Court found that the purpose of bond was to assure the Defendant's appearance in court and that Defendant failed to appear at the June 8, 2015, term of General Sessions Court. The Court determined that the Defendant's failure to appear in court was willful. The Court further found that Surety presented no mitigation or explanation justifying the Defendant's failure to appear in court. Finally, the Court determined that the State did incur expense, as the Defendant was scheduled for trial when he failed to appear in court, and a jury venire was summoned in anticipation of his trial. In considering those factors, the Court determined it proper to remit twenty percent (20%) of the total judgment on the forfeited bond.

It is therefore ordered that Surety's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.


DOYET A EARLY III
Chief Administrative Judge
Second Judicial Circuit

April 29, 2016
Date

Bamberg, South Carolina