

NO. 30461

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JUSTINNA MATTOS, Defendant-Appellee v.
EXODUS BAIL BONDS, Real-Party-In-Interest-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 09-1-0662)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, Foley and Leonard, JJ.)

Real-Party-In-Interest-Appellant Exodus Bail Bonds (**Exodus**) appeals from the Order Denying Motion to Set Aside Bail Forfeiture, filed on May 11, 2010 in the Circuit Court of the First Circuit (**Circuit Court**).¹

Exodus contends that the Circuit Court erred by denying its Motion to Set Aside Bail Forfeiture. Exodus argues that it showed good cause, pursuant to Hawaii Revised Statutes (**HRS**) § 804-51 (Supp. 2010), thereby entitling it to the return of the bail that was forfeited due to the bailee's failure to appear in court.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Exodus's points of error as follows:

¹ The Honorable Richard W. Pollack presided.

In short, Exodus had until February 19, 2010 to file a motion or application showing that the bailee surrendered or was surrendered, *i.e.*, within 30 days of Exodus's January 20, 2010 receipt of notice of the January 12, 2010 Judgment and Order of Forfeiture of Bail Bond. State v. Ranger Ins. Co., 83 Hawai'i 118, 123, 925 P.2d 288, 293 (1996). Exodus admitted that the bailee was not surrendered until June 21, 2010. Hence, Exodus failed to show good cause to vacate the Judgment and Order of Forfeiture of Bail Bond. Therefore, the Circuit Court did not abuse its discretion by denying the Motion to Set Aside Bail Forfeiture.

HRS § 804-51 does not permit the filing of a second motion, however nominated, after the closing of the thirty-day window. Ranger, 83 Hawai'i at 124 n.5, 925 P.2d at 294 n.5. Therefore, the Circuit Court did not abuse its discretion by denying Exodus's Motion to Reconsider Denial of Motion to Set-Aside Bail Forfeiture, filed on September 13, 2010.

For these reasons, the Circuit Court's May 11, 2010 Order Denying Motion to Set Aside Bail Forfeiture is affirmed.

DATED: Honolulu, Hawai'i, January 19, 2012.

On the briefs:

Frank M. Fernandez
for Real-Party-In-Interest-
Appellant

Chief Judge

Loren J. Thomas
Deputy Prosecuting Attorney
for Plaintiff-Appellee

Associate Judge

Associate Judge