

NO. CAAP-11-0000092

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
SHOREEN DOMINGO, Defendant.

—————
HORNER BAIL BONDS dba ALL OAHU BAIL BONDS,
Party In Interest-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 10-1-0598)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding J., Reifurth and Ginoza, JJ.)

Party in Interest-Appellant Horner Bail Bonds dba All Oahu Bail Bonds (AOBB) appeals from the "Order Denying Motion to Vacate Judgment and Order of Forfeiture of Bail Bond Issued by Honorable Dexter Dean Del Rosario September 8, 2010" filed November 23, 2010 and the "Order Denying Motion to Reconsider Order Denying Motion to Vacate Judgment and Order of Forfeiture of Bail Bond Issued by Honorable Dexter Dean Del Rosario on September 8, 2010" filed February 2, 2011 both entered in the Circuit Court of the First Circuit.¹

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The Honorable Dexter D. Del Rosario presided.

On April 15, 2010, Plaintiff-Appellee State of Hawai'i charged Shoreen Domingo (Domingo) with attempted theft in the second degree in violation of Hawaii Revised Statutes (HRS) §§ 708-831 (Supp. 2010) and 705-500 (1993). The circuit court set bail in the amount of \$11,000. AOBB posted a bail bond for Domingo in the amount of \$11,000. Domingo pled guilty. Domingo failed to appear in court for sentencing and the circuit court issued a bench warrant for the arrest of Domingo. On September 13, 2010, the circuit court entered a bail forfeiture judgment against AOBB in the amount of \$11,000.

On October 19, 2010, AOBB filed a motion to set aside the September 13, 2010 bail forfeiture judgment which the circuit court denied orally on November 10, 2010 and by filed order on November 23, 2010. On November 16, 2010 AOBB filed a Hawai'i Rules of Civil Procedure (HRCP) Rule 59 motion to reconsider the November 23, 2010 order denying AOBB's October 19, 2010 motion to set aside the September 13, 2010 bail forfeiture judgment. On February 2, 2010, the circuit court filed an order denying AOBB's November 16, 2010 HRCP Rule 59 motion to reconsider the November 23, 2010 order denying AOBB's October 19, 2010 motion to set aside the September 13, 2010 bail forfeiture judgment.

On appeal, AOBB contends the circuit court abused its discretion in denying AOBB's November 10, 2010 oral motion to continue the hearing on the motion to vacate the judgment and order of forfeiture and in denying AOBB's motion to reconsider the order denying AOBB's motion to vacate the judgment and order.

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, as well as the relevant statutory and case law, we conclude AOBB's appeal is without merit.

The circuit court did not abuse its discretion in not continuing the hearing on AOBB's motion to vacate the judgment and order of forfeiture where AOBB's counsel represented Domingo

would be at the hearing, Domingo did not appear and AOBB's counsel informed the circuit court he was unable to locate Domingo. Furthermore, the circuit court did not abuse its discretion in not vacating the judgment and order, or in denying AOBB's motion for reconsideration, in that prior to the expiration of the thirty-day search period: AOBB failed to provide a satisfactory reason for Domingo's failure to appear when required at the September 8, 2010 sentencing hearing; and Domingo did not surrender nor was surrendered. State v. Ranger Ins. Co. By and Through James Lindblad, Inc. (A-1 Bail Bonds) 83 Hawai'i 118, 123, 925 P.2d 288, 293 (1996).

Therefore,

IT IS HEREBY ORDERED that the "Order Denying Motion to Vacate Judgment and Order of Forfeiture of Bail Bond Issued by Honorable Dexter Dean Del Rosario September 8, 2010" filed November 23, 2010 and the "Order Denying Motion to Reconsider Order Denying Motion to Vacate Judgment and Order of Forfeiture of Bail Bond Issued by Honorable Dexter Dean Del Rosario on September 8, 2010" filed February 2, 2011, both entered in the Circuit Court of the First Circuit are affirmed.

DATED: Honolulu, Hawai'i, March 7, 2012.

On the briefs:
Thomas Waters
(Hawk Sing Ignacio & Waters)
for Party In Interest-Appellant.

Donn Fudo
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Presiding Judge

Associate Judge

Associate Judge