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Intermediate Court of Appeals
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NO. CAAP-23-0000505

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant,
v.

BRODIE AFO, Defendant-Appellee, and
SHAKA BEST DEAL BAIL BONDS, Real Party in Interest-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-21-0000245)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, Wadsworth and McCullen, JJ.)

Plaintiff-Appellant **State** of Hawaii appeals from the Circuit Court of the First Circuit's July 31, 2023 "Order Granting Shaka Best Deal Bail Bonds' Motion to Set Aside Judgment and Order of Bond Forfeiture and Discharge Bond[.]"¹ (Formatting altered.) On appeal, the State contends Real Party in Interest-Appellee **Shaka** Best Deal Bail Bonds did not have standing to move to set aside the bond forfeiture. We reverse.

¹ The Honorable Fa'auuga L. To'oto'o presided.

The State charged Defendant-Appellee Brodie S. **Afo** with Robbery in the First Degree. Bail was set at \$50,000.00.

The Bail Bond filed on May 5, 2021 contains the following information:

SCOTT'S BAIL BONDS, L.L.C. d.b.a,

| | |
|--------------------------------|-----------------------|
| ALOHA BAIL BONDS | Agency License 434903 |
| SCOTT M. NORTHUP, SURETY AGENT | Agent License 430766 |
| 725 KAPIOLANI BLVD #C117 | |
| HONOLULU, HI 96813 | |

(Some formatting altered.) "SCOTT M. NORTHUP SURETY AGENT" signed the Bail Bond.²

Afo failed to appear at court, and the circuit court entered a "Judgment and Order of Forfeiture of Bail Bond" (**Forfeiture Judgment**) on August 16, 2021. (Formatting altered.)

Twenty-one months later, on June 2, 2023, Shaka moved to set aside the Forfeiture Judgment. The motion was submitted by "Attorney for SHAKA BAIL BONDS[.]" The declaration of Shaka's attorney stated that Scott Northup was the owner of Shaka, and "Shaka is surety for [Afo] by virtue of a[] \$50,000

² "A bond is a contract between the surety and the government that, if the government releases the principal from custody, the surety will undertake that the principal will appear personally at any specified time and place." State v. Nelson, 139 Hawai'i 147, 161 n.7, 384 P.3d 923, 937 n.7 (App. 2016) (citation modified), aff'd, 140 Hawai'i 123, 398 P.3d 712 (2017).

A surety may be a person or entity. Id. at 160, 384 P.3d at 936.

bail bond filed with this Court on 5/5/21."³ (Formatting altered.)

During the evidentiary hearings, Shaka's attorney, Guy S. Matsunaga, stated his appearance as being "on behalf of the bail bonds who -- bail bonds company whose owner is present to my right, Your Honor. That's Scott Northrup [sic]" and "on behalf of Shaka Bail Bonds, whose representative Scott Northrup [sic], he is present."⁴ Shaka presented no evidence.

The circuit court granted Shaka's motion to set aside the Forfeiture Judgment. The State appealed.

Upon careful review of the record and the briefs submitted by the parties, and having given due consideration to the issues raised and the arguments advanced, we resolve this appeal as discussed below and reverse.

Again, the State contends the circuit court committed plain error in setting aside the Forfeiture Judgment because

³ However, the claim Shaka is the surety for Afo based on the May 5, 2021 Bail Bond is not supported by the record, as Shaka does not appear anywhere on the May 5, 2021 Bail Bond. See Hawai'i Rules of Professional Conduct (HRPC) Rule 3.3(a)(1) ("A lawyer shall not knowingly . . . make a false statement of material fact or law to a tribunal[.]" (formatting altered)).

⁴ Although Shaka's counsel proffered that Shaka was owned by Scott Northup and Scott Northup was present at the hearings, "[a] lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents." HRPC Rule 1.13(a) (emphasis added).

Shaka was not the principal or the surety on the bond. The State relies on Hawai'i Revised Statutes (**HRS**) § 804-51 (2014).

The version of HRS § 804-51 in effect at the time allowed the principal or surety to move to set aside (or not execute) a forfeiture judgment within thirty days of the notice of the forfeiture:⁵

Procedure. Whenever the court, in any criminal cause, forfeits any bond or recognizance given in a criminal cause, the court shall immediately enter up judgment in favor of the State and against the principal or principals and surety or sureties on the bond, jointly and severally, for the full amount of the penalty thereof, and shall cause execution to issue thereon immediately after the expiration of thirty days from the date that notice is given via personal service or certified mail, return receipt requested, to the surety or sureties on the bond, of the entry of the judgment in favor of the State, unless before the expiration of thirty days from the date that notice is given to the surety or sureties on the bond of the entry of the judgment in favor of the State, a motion or application of the principal or principals, surety or sureties, or any of them, showing good cause why execution should not issue upon the judgment, is filed with the court. If the motion or application, after a hearing held thereon, is sustained, the court shall vacate the judgment of forfeiture and, if the principal surrenders or is surrendered pursuant to section 804-14 or section 804-41, return the bond or recognizance to the principal or surety, whoever shall have given it, less the amount of any cost, as established at the hearing, incurred by the State as a result of the nonappearance of the principal or other event on the basis of which the court forfeited the bond or recognizance. If the motion or application, after a hearing held thereon, is overruled, execution shall forthwith issue and shall not be stayed unless the order overruling the motion or application is appealed from as in the case of a final judgment.

This section shall be considered to be set forth in full in words and figures in, and to form a part of, and to be included in, each and every bond or recognizance given in a criminal cause, whether actually set forth in the bond or recognizance, or not.

⁵ The legislature amended HRS § 804-51 in 2023 to also allow surety insurers to receive the thirty-day notice and to file motions "showing good cause why execution should not issue upon the judgment[.]" HRS § 804-51 (Supp. 2023).

HRS § 804-51 (emphases added).

"In Hawai'i, standing typically focuses on the party seeking relief, not on the issues the party wants adjudicated." Alpha, Inc. v. Bd. of Water Supply, 154 Hawai'i 486, 492, 555 P.3d 173, 179 (2024). "[S]tanding is a prudential consideration regarding the 'proper - and properly limited - role of courts in a democratic society' and is not an issue of subject matter jurisdiction[.]" Tax Found. of Hawai'i v. State, 144 Hawai'i 175, 188, 439 P.3d 127, 140 (2019).

Here, the principal was Afo. The circuit court made no finding as to who or what was the surety. See State v. Nelson, 140 Hawai'i 123, 136, 398 P.3d 712, 725 (2017) ("The surety named on the bond is critical to applying HRS § 804-51, as the statute requires that when a bond is forfeited, 'the court shall immediately enter up judgment in favor of the State and against the . . . surety or sureties on the bond[.]'") We note the Bail Bond did not substantially comply with Hawai'i Rules of Penal Procedure (**HRPP**) Form J requiring, among other things, the identification of the "Third-Party Surety or Agent." See HRPP Rule 46(b) (requiring the bond to be "in a form that substantially complies with Form J"). But it is clear that Shaka was not the surety as Shaka's name appeared nowhere on the Bail Bond.

Because Shaka presented no evidence to establish it had standing to challenge the Forfeiture Judgment under HRS § 804-51, the circuit court erred in granting Shaka's motion to set aside the Forfeiture Judgment.

Based on the foregoing, we reverse the circuit court's July 31, 2023 "Order Granting Shaka Best Deal Bail Bonds' Motion to Set Aside Judgment and Order of Bond Forfeiture and Discharge Bond[.]" (Formatting altered.)

DATED: Honolulu, Hawai'i, September 30, 2025.

On the briefs:

/s/ Keith K. Hiraoka
Presiding Judge

Dean A. Soma,
Steve A. Bumanglag,
Deputy Attorneys General,
for Plaintiff-Appellant.

/s/ Clyde J. Wadsworth
Associate Judge

Robert J. Christensen,
for Real Party in Interest-
Appellee.

/s/ Sonja M.P. McCullen
Associate Judge