

SUPREME COURT OF OKLAHOMA

State v. Tate, 2012 OK 31

276 P.3d 1017 (2012) · No. No. 108,513 · Decided April 10, 2012

SUMMARY

The Supreme Court of Oklahoma held that a bail bondsman must deposit the face amount of a forfeited bond with the court clerk by the ninety-first day after receiving notice of forfeiture as a condition precedent to seeking remitter under 59 O.S. § 1332(D)(2). Because the bondsman paid on the ninety-second day, the court reversed the trial court's remitter order and remanded the matter.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, J.; All justices concurred
JURISDICTION	Oklahoma
DECIDED	April 10, 2012
DOCKET	No. 108,513
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought certiorari review of the Court of Civil Appeals' affirmance of a trial court order granting a bondsman's motion for remitter of a forfeited bail bond. The Supreme Court granted certiorari to determine whether timely payment of the forfeiture judgment was a condition precedent to seeking remitter.
STANDARD OF REVIEW	Questions of statutory construction are questions of law reviewed de novo.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential.
PARTIES	State of Oklahoma v. Adrion Bradford, Jr., bondsman, real party in interest/appellee

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QUESTIONS PRESENTED

1. Whether a bondsman's failure to deposit the face amount of a forfeited bond by the ninety-first day after receipt of notice prevents the bondsman from seeking remitter under 59 O.S. Supp. 2008 § 1332(D)(2).
2. Whether the trial court properly granted remitter when the statutory ninety-first-day payment requirement was not satisfied.

HOLDINGS

1. Deposit of the face amount of the forfeited bond with the court clerk by the ninety-first day after receipt of the order and judgment of forfeiture is a condition precedent to seeking remitter under § 1332(D)(2). A bondsman who does not comply with § 1332(D)(1) may not obtain the statutory remitter remedy.
2. The trial court erred by granting remitter because the bondsman failed to deposit the bond amount by the ninety-first day as required by § 1332(D)(1).

KEY QUOTATIONS

“Under the current forfeiture statute, unless the bondsman complies with (D)(1), he may not may seek the remitter provided in (D)(2). Integral to the statutory procedure applicable to this case is deposit of the face amount of the bond with the court clerk by the ninety-first day.” (276 P.3d at 1022)

FACTUAL BACKGROUND

The defendant failed to appear at a preliminary hearing, and the trial court ordered forfeiture of a \$6,500 surety bond. The bondsman received notice of the forfeiture and did not deposit the face amount of the bond by the ninety-first day; instead, payment was made on the ninety-second day. The defendant was later returned to custody, and the bondsman sought remitter of the deposited amount under the Oklahoma bail-forfeiture statute.

PROCEDURAL HISTORY

After the defendant failed to appear, the trial court ordered forfeiture of the surety bond. The bondsman paid the face amount on the ninety-second day after receiving notice, returned the defendant to custody, and moved for remitter. The trial court granted the motion, and the Court of Civil Appeals affirmed. The Supreme Court granted certiorari, vacated the Court of Civil Appeals' opinion, reversed the trial court's judgment, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court vacated the Court of Civil Appeals' opinion, reversed the trial court's judgment granting remitter, and remanded for further proceedings consistent with the opinion.

CASES CITED

- State ex rel. Okla. State Dept. of Health v. Robertson, 2006 OK 99, 152 P.3d 875

- Jackson v. Independent School Dist. No. 16, 1982 OK 74, 648 P.2d 26
- State v. Van Lear, 1991 OK CIV APP 70, 813 P.2d 555
- State v. Brown, 1993 OK CIV APP 82, 853 P.2d 793
- State v. Wallace, 1997 OK CIV APP 28, 940 P.2d 1212
- State v. Eubanks, 2006 OK CIV APP 29, 132 P.3d 641
- State v. Anderson, 2011 OK CIV APP 13, 247 P.3d 294
- Russell v. State, 1971 OK 117, 488 P.2d 1264

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