

# SUPREME COURT OF OKLAHOMA

## State v. Durfey

2018 OK 58 (Okla. 2018) · No. 114809 · Decided June 26, 2018

### SUMMARY

The Oklahoma Supreme Court held that a bondsman was entitled to remittance of a forfeited bail bond under 59 O.S. Supp. 2014 § 1332. The court determined that the bond was exonerated by operation of law because the sheriff did not honor the bondsman's written request to enter the defendant into the NCIC database without geographic restrictions. The court also found good cause for the defendant's failure to appear, vacated the Court of Civil Appeals opinion, reversed the trial court, and remanded.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                        |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Oklahoma                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Kauger, J.; Gurich, V.C.J.; Edmondson, J.; Colbert, J.; Reif, J.; Wyrick, J.; Darby, J.; Combs, C.J.; Winchester, J.                                                                                                                                                                                                   |
| JURISDICTION          | Oklahoma                                                                                                                                                                                                                                                                                                               |
| DECIDED               | June 26, 2018                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 114809                                                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | A bondsman sought remittance or exoneration of a forfeited appearance bond under 59 O.S. Supp. 2014 § 1332. The trial court denied relief, and the Court of Civil Appeals affirmed. The Oklahoma Supreme Court granted certiorari, vacated the Court of Civil Appeals opinion, reversed the trial court, and remanded. |
| STANDARD OF REVIEW    | The court reviewed the application of 59 O.S. Supp. 2014 § 1332 and the lower courts' exercise of discretion under the statute. Under <i>State v. Vaughn</i> , the trial court may not exercise its statutory discretion arbitrarily or unreasonably and must consider all pertinent factors.                          |
| PRECEDENTIAL VALUE    | Published Oklahoma Supreme Court opinion; precedential                                                                                                                                                                                                                                                                 |
| PARTIES               | John Burks, Bondsman v. State of Oklahoma                                                                                                                                                                                                                                                                              |

### TOPICS

forfeiture

bail

appellate procedure

statutory interpretation

remedies

## PRACTICE AREAS

Bail and bond forfeiture

Criminal procedure

Appellate procedure

Statutory interpretation

Remedies

## QUESTIONS PRESENTED

1. Whether, under the facts of the case, the bondsman was entitled to remittance or exoneration of the posted bond under 59 O.S. Supp. 2014 § 1332 after the sheriff failed to honor the bondsman's written request for an unrestricted NCIC entry within fourteen business days.
2. Whether the statutory ninety-day period and payment of the forfeiture precluded relief under § 1332(C).
3. Whether the evidence established good cause supporting discretionary vacation of the forfeiture under § 1332(C)(6)(a).

## HOLDINGS

1. A bond is exonerated by operation of law when the bondsman requests in writing that the defendant be entered into the NCIC database, without the territorial restriction at issue, and the sheriff fails to honor that request within fourteen business days.
2. The ninety-day grace period and payment of the bond forfeiture do not render § 1332(C) inoperative; the statutory provisions remain available after the ninety-day period has expired and the forfeiture has been paid.
3. The bondsman demonstrated good cause for Durfey's failure to appear and for the inability to return him to custody within the statutory period because the sheriff's geographic NCIC restriction impeded apprehension.

## KEY QUOTATIONS

*“Consequently, the bond was exonerated by operation of law.”* (§7)

*“The bondsman is entitled to remittance of the posted bond pursuant to 59 O.S. Supp. 2014 §1332.”* (§12)

*“CERTIORARI PREVIOUSLY GRANTED; COURT OF CIVIL APPEALS OPINION VACATED; TRIAL COURT REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.”* (Disposition)

## FACTUAL BACKGROUND

John Burks posted a \$100,000 bail bond for Billy Durfey, who failed to appear in Garvin County District Court. On the date of the nonappearance, Burks requested in writing that Durfey be entered into the NCIC database without territorial restrictions and agreed to pay extradition expenses. The sheriff entered Durfey into NCIC but limited the extradition directive to Oklahoma and surrounding states, preventing Montana authorities from assisting Burks after he located Durfey there. The sheriff later removed the geographic restriction only after intervention by an Oklahoma Highway Patrol trooper, but Burks ultimately paid the forfeiture.

## PROCEDURAL HISTORY

John Burks posted a \$100,000 appearance bond for Billy Durfey. After Durfey failed to appear, the bond was forfeited. Burks moved for remittitur, asserting that the sheriff failed to honor his written request for an

unrestricted NCIC entry. The trial court denied exoneration, and the Court of Civil Appeals affirmed based on expiration of the statutory ninety-day period. The Supreme Court granted certiorari and reversed.

#### **DISPOSITION**

reversed\_and\_remanded

#### **REMAND INSTRUCTIONS**

The trial court was reversed and the matter remanded for further proceedings consistent with the determination that the bondsman was entitled to remittance of the posted bond.

#### **CASES CITED**

- State v. Torres, 2004 OK 12, ¶ 20, 87 P.3d 572
- State v. Vaughn, 2000 OK 63, ¶ 22, 11 P.3d 211
- Patel