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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

FINANCIAL CASUALTY & SURETY,
INC.,

Defendant and Appellant.

D067973, D067982

(Super. Ct. Nos. SCD253286,
SCD234019)

CONSOLIDATED APPEALS from orders of the Superior Court of San Diego
County, Jay M. Bloom, Judge. Affirmed.

John M. Rorabaugh for Defendant and Appellant.

Thomas E. Montgomery, County Counsel and Thomas Deak, Senior Deputy
County Counsel, for Plaintiff and Respondent.

I

INTRODUCTION

Financial Casualty & Surety, Inc. (Surety) appeals from orders denying its motions to vacate forfeiture orders and exonerate bail in two cases. Surety contends the court erred in denying the motions because the defendant, Arshia Mehin, was not lawfully required to appear for the hearings at which the court ordered his bail forfeited. We are unpersuaded by this contention and affirm the orders.

II

BACKGROUND

On February 6, 2014, Mehin was present in court for a readiness hearing in case No. SCD253286 and a probation revocation hearing in case No. SCD234019. The court continued the hearings on both cases to February 26, 2014. The court remanded Mehin into custody and set bail at \$25,000. The court distributed copies of the minute orders to Mehin and to the jail.

Four days later, Surety's agent issued a \$25,000 bail bond in each case to secure Mehin's release from custody. The bonds ordered Mehin to appear at the hearings, stating: "Defendant [Mehin] ... [is] admitted to bail in the sum of ... \$25,000.00 ... and ordered to appear in the above entitled court, on 2-26-14 @ 8:15AM." (Some capitalization omitted.) The bonds further stated Surety "hereby undertakes that the above-named defendant will appear in the above-named court on the date above."

Mehin failed to appear at the hearings on February 26, 2014, and the court ordered the bail bonds forfeited. The court notified Surety of the forfeiture on March 10, 2014.

Surety had 180 days (plus 5 days for mailing) from that date to return Mehin to custody or bring a motion to vacate the forfeiture. (Pen. Code, § 1305, subd.(b)).¹ The court extended this period to March 10, 2015. Surety did not return Mehin to custody within the extended period. The court denied Surety's motions to vacate the forfeiture and exonerate the bail bond.

III

DISCUSSION

"When a defendant facing criminal charges is released on bail and fails to appear as ordered or as otherwise required and does not have a sufficient excuse, a trial court must declare the bail bond forfeited. (See [§] 1305, subd. (a) (section 1305(a)).) A defendant's required appearances include arraignment, trial, judgment, and, as relevant here, '[a]ny other occasion' where the 'defendant's presence in court is lawfully required.' (*Ibid.*) Though not expressly governing bail forfeitures, section 977, subdivision (b)(1) (section 977(b)(1)) provides that a felony defendant must be present at five specified proceedings and at 'all other proceedings' unless he or she has properly executed a written waiver." (*People v. Safety National Casualty Corp.* (2016) 62 Cal.4th 703, 707, fn. omitted.) "[S]ection 977(b)(1)'s requirement of personal presence at 'all other proceedings' gives rise to a 'lawfully required' appearance under section 1305(a). Therefore, unless a defendant has properly executed a written waiver of personal presence (§ 977, subd. (b)), or has a 'sufficient excuse' for his or her absence at a

¹ Further statutory references are to the Penal Code unless otherwise stated.

scheduled proceeding (§ 1305), the trial court must declare any bail forfeited." (*People v. Safety National Casualty Corp., supra*, at p. 708.)

In this case, Mehin failed to appear for a readiness hearing in case No. SCD253286 and a probation revocation evidentiary hearing in case No. SCD234019. The record shows he had actual notice of both hearings. There is no evidence he executed a written waiver of his right to be present at these hearings. There is also no evidence he had a sufficient excuse to be absent from the hearings. Accordingly, we conclude Mehin's absence from the hearings provided a proper basis for the court to declare his bail forfeited under section 1305. (*People v. Safety National Casualty Corp., supra*, 62 Cal.4th at p. 717.)

IV

DISPOSITION

The orders are affirmed. Respondent is awarded its costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1) & (2).)

McCONNELL, P. J.

WE CONCUR:

HUFFMAN, J.

IRION, J.