

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NATHAN EARL JONES,

Defendant,

and

A-1 BAIL BOND SERVICE, LTD.,

Appellant.

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UNPUBLISHED

October 5, 2001

No. 225114

Muskegon Circuit Court

LC No. 98-038974-PZ

Before: Holbrook, Jr., P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Appellant appeals as of right from the judgment of the trial court. The judgment was for \$50,000, the amount of the bond posted by appellant on behalf of defendant, which was forfeited by defendant for failure to appear. We affirm.

Appellant argues that it should be relieved of liability on the bond because defendant's non-appearance was the fault of the Detroit Police Department. Appellant asserts that the Detroit Police failed to arrest defendant after appellant located him in a Detroit hospital and notified the Detroit Police Department that he was in that hospital. We review a trial court's decision regarding forfeiture of a bail bond for abuse of discretion. *People v Munley*, 175 Mich App 399, 403; 438 NW2d 292 (1989).

This case was presented for decision on stipulated facts. Assuming arguendo that the Detroit Police Department was at fault in defendant's non-appearance, that fact does not relieve appellant of its liability as a surety on the bond. A bond is a contract. *Mendelson v Realty Mortgage Corp*, 257 Mich 442, 445-446; 241 NW 154 (1932). Like other contracts, it is enforced according to the intent of the parties as expressed in the written instrument. *Michigan Trust Co v Grand Rapids Hotel Co*, 265 Mich 328, 337-338; 251 NW 414 (1933). Here, the contract said that in the event that defendant failed to appear, "the full amount of the bond [might] be forfeited and a judgment entered for the entire amount of the bond." It spoke neither

of excusing conditions, nor of appellant's best efforts to secure appearance being frustrated by the acts of third parties.

What appellant did was to post a bond on defendant's behalf, pursuant to a contractual agreement which provided for forfeiture of the bond in the event of defendant's non-appearance. We do not question appellant's good-faith or its efforts to secure defendant's appearance. However, appellant's good faith is not the issue before us. Defendant was under a contractual obligation to appear, and in the event he did not, the terms of the contract provided that the bond which appellant posted stood to be forfeited. We find no abuse of discretion in the trial court's enforcement of the contract according to its terms.<sup>1</sup>

It is true, as appellant argues, that a trial court has discretion under MCL 600.4835, to remit part of a forfeited bond. *Munley, supra* at 403. However, we find under the circumstances that the trial court did not abuse its discretion in failing to remit a part of the bond. We note, as did the court, that any breach of a statutory duty by the Detroit Police Department did not relieve appellant of its clearly stated contractual obligations. Further, the record shows that appellant also had the opportunity to apprehend defendant, but failed to do so.

We also conclude that MCL 765.15(1), cited by appellant, has no application to the facts of this case because the person who forfeited the bond had not been apprehended and because of its inapplicability to surety bonds. *People v Evans*, 434 Mich 314, 323-325; 454 NW2d 105 (1990).

Finally, we reject appellant's policy argument that because both the trial court and the City of Detroit are arms of plaintiff, the court should be estopped from enforcing a bond when the city has engaged in an alleged dereliction of duty with respect to the bond. The City of Detroit is a separate juridical entity, a body corporate, and as such is a separate entity from the state for liability purposes. MCL 117.1.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Mark J. Cavanagh

/s/ Patrick M. Meter

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<sup>1</sup> We also note that the bond was already forfeited due to defendant's non-appearance before the incident with the Detroit Police Department took place.