

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2013 CA 1935

STATE OF LOUISIANA

VERSUS

RAYMOND CORMIER

Judgment Rendered: MAY 02 2014

Appealed from the
17TH Judicial District Court
In and for the Parish of Lafourche, Louisiana
Trial Court Numbers 505,116 & 505,117

Honorable John E. LeBlanc, Judge

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Defendant – International Fidelity
Insurance Company

BEFORE: WHIPPLE, C.J., WELCH, AND CRAIN, JJ.

WELCH, J.

International Fidelity Insurance Company (Fidelity) appeals a judgment dismissing its motion to release it of all obligations under a bond. We affirm.

The facts forming the basis of this appeal are undisputed. On October 25, 2011, Raymond Cormier was arrested on a drug possession charge. Cormier's bond was fixed at \$5,300.00. An appearance bond was posted by Fidelity on April 24, 2012. On June 4, 2012, defendant was present in court when the trial court ordered that a scheduled pre-trial conference be continued to June 14, 2012. On June 14, 2012, the defendant failed to appear as ordered. The state moved for a bench warrant and a judgment of bond forfeiture. The trial court accepted the State's offer of evidence including the bond, the notice to the accused for his appearance, the appearance bond, and the power of attorney used to execute the bond. The court issued a bench warrant for Cormier's arrest and a judgment of bond forfeiture against Fidelity. The trial court signed a judgment of bond forfeiture on June 22, 2012.

On December 20, 2012, Fidelity filed a motion in the trial court under La. C.Cr.P. art. 345, seeking to be released from all obligations under the bond. In the motion, Fidelity argued that it should be relieved of the bond obligations "based on the reason a person gets entered into NCI is based on whether the District Attorney's Office will extradite or not extradite." According to Fidelity's brief, the arrest warrant issued after the defendant's failure to appear was not entered by local law enforcement into the NCIC database, a computerized index of criminal justice information. Fidelity asserted that as a result, its right to surrender the defendant upon his incarceration at another jail facility was *severely limited*.

A hearing on Fidelity's motion was held and the matter was submitted by Fidelity and the State without argument. Thereafter, the trial court denied the motion, observing that as the court appreciated the motion, "the defendant failed to

appear in court on June 22, 2012[,] [t]he surety company has not surrendered him[,] [a]nd [the defendant's] not detained in any jail facilities.” Thus the court found that Fidelity had not met the requirements of La. C.Cr.P. art. 345, which contains various provisions regarding the surrender of a criminal defendant.

Fidelity appealed the denial of its motion. It asks this court to annul the judgment of bond forfeiture because it was not afforded the use of the NCIC database to assist in surrendering Mr. Cormier. Fidelity acknowledges that the trial court correctly pointed out that the law as written does not address the instant scenario, but submits that as a matter of equity, it should not be held to the stringent requirements of La. C.Cr.P. art. 345 if law enforcement elected not to use the NCIC database.

After reviewing the record and the briefs, we find no error in the trial court's denial of Fidelity's motion to be released of all obligations under the bond. We issue this memorandum opinion in compliance with Uniform Rules-Courts of Appeal Rule 2-16.1.B. All costs of this appeal are assessed to appellant, International Fidelity Insurance Company.

AFFIRMED.