

Exhibit

17

CAUSE NO. 90744

CAUSE NO. 14-158 and Ex. 14-19

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
vs.	§	ELLIS COUNTY, TEXAS
	§	
<u>WILLIAM M. WINDSOR</u>	§	
(Defendant/Principal)	§	443 RD JUDICIAL DISTRICT

STATE OF TEXAS' MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE COURT:

Plaintiff, The State of Texas, files this motion for summary judgment and in support thereof would respectfully show the Court the following:

I. INTRODUCTION

This is a bond forfeiture proceeding brought by the State of Texas pursuant to Tex. Code Crim. Pro. article 22.02. In order to be entitled to a forfeiture of a bond, Plaintiff must show (1) a valid bond executed by the surety; (2) that the defendant's name was distinctly called at the courthouse door; and (3) the defendant failed to appear within a reasonable time of that call. *Burns v. State*, 861 S.W.2d 878, 888 (Tex. Crim. App. 1993).

The summary judgment evidence, which is comprised of the bond executed by Defendant¹, the certification of call², and the judgment nisi forfeiting that bond³, establishes each of these elements as a matter of law. The Judgment Nisi is prima facie proof of the second and

¹A copy of the bond is attached hereto as Exhibit A.

²A certified copy of the certification of call is attached as Exhibit B.

³A certified copy of the judgment nisi is attached as Exhibit C.

third elements. *Burns. v. State*, 861 S.W.2d at 887. Thus, the court must presume that the Judgment Nisi is in accordance with the statutory requirements, unless it affirmatively appears otherwise. *Id.* The bond establishes the first element of the State's bond forfeiture suit. Further, the certification of call establishes the second element of the State's bond forfeiture suit.

II. THE SUMMARY JUDGMENT EVIDENCE

On December 19, 2014, William M. Windsor, Defendant, executed a bond payable to the State of Texas in the amount of \$100,000.⁴ This bond, which was a valid and binding undertaking in law, was conditioned on Defendant's personal appearance before the 443rd District Court of Ellis County, Texas, in cause numbers 14-158 and Ex. 14-19.⁵ On December 30, 2014, Defendant failed to appear when this case was called for a hearing.⁶ Thereafter, Defendant's name was called distinctly at the door of the courthouse and a reasonable time was given him after such call was made in which to appear.⁷ Defendant, however, failed to appear and the bond was forfeited.⁸

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the State of Texas, Plaintiff, respectfully requests that the Court grant this motion and render judgment against William M. Windsor in the amount of \$100,000 plus court costs.

⁴See Exhibit A.

⁵See Exhibit A.

⁶See Exhibits B and C.

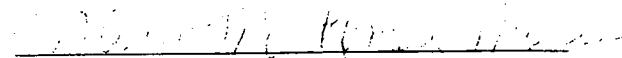
⁷See Exhibit B and C.

⁸See Exhibit C.

Respectfully Submitted,

PATRICK M. WILSON
COUNTY & DISTRICT ATTORNEY

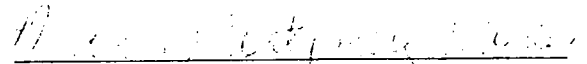
BY:



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CERTIFICATE OF SERVICE

This certifies the foregoing State of Texas' Motion for Summary Judgment was served on defendant via the electronic filing system on the 14th day of March, 2016.



M. Ann Montgomery-Moran

CAUSE NO. 90744

CAUSE NO. 14-158 and Ex. 14-19

THE STATE OF TEXAS

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IN THE DISTRICT COURT

vs.

ELLIS COUNTY, TEXAS

WILLIAM M. WINDSOR
(Defendant/Principal)

443RD JUDICIAL DISTRICT

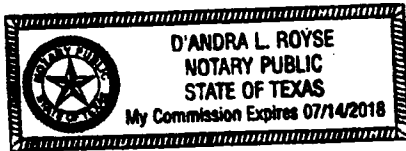
AFFIDAVIT

Before me, the undersigned authority, personally appeared **Tabitha Smith**, who, being by me duly sworn, testified as follows:

“My name is **Tabitha Smith**, I am over 18 years of age, of sound mind, and capable of making this affidavit, and personally acquainted with the facts herein stated. I am employed with the Ellis County and District Attorney’s Office as the bail bond forfeiture clerk. As part of my duties and responsibilities, I maintain the files for all bail bond forfeitures cases both in county and district courts. Attached to this affidavit is a true and correct copy of the original bond signed by William M. Windsor on December 19, 2014. The original bond is part of the bond forfeiture file that was assigned Cause No. 90744.”

Tabitha Smith
Affiant

SWORN TO AND SUBSCRIBED before me on the 17th day of March, 2016.



D'andra L. Royse
Notary Public, State of Texas



STATE OF TEXAS

EXTRADITION APPEARANCE BOND

COUNTY OF ELLIS

Know All Men by These Presents:

That we, William M. WINDSON as PRINCIPAL, and other subscribers hereto as Surety, are held and firmly bound unto the State of Texas in the penal sum of \$ 100,000.00 PR Bond Dollars, and in addition, we are bound for the payment of all necessary and reasonable fees and expenses incurred by any and all Sheriffs and other Peace Officers in re-arresting the Principal in the event the conditions of the bond are violated. For the payment of which sum or sums, well and truly to be made, each of us do bind ourselves, our heirs, executors, and administrators, jointly and severally by these present.

The conditions of the above obligation is such that whereas the above named principal stands charged with OUT OF STATE FELONY AND MISDEMEANOR OFFENSES FROM THE STATE OF MONTANA, duly presented in the DISTRICT Court of ELLIS COUNTY, Texas, to wit: EXTRADITION HEARING FOR STATE OF MONTANA. Additional terms of release are attached to the bond.

Now if the above named principal shall well and truly make his appearance before said court INSTANTER, or upon notice of the court and further shall well and truly make his personal appearance before any Court or Magistrate to which said charge may be transferred or before whom this cause may hereafter be pending at any time when, and any place where his presence may be required under the Code of Criminal Procedure of the State of Texas or by any Court or Magistrate, and for all subsequent proceedings had relative to said charge and there remain from day to day and term to term until discharged by due course of law, then and there to answer the said accusations against him, then this obligation shall become null and void; otherwise to remain in full force and effect.

CASH BOND: Following the disposition of this case, any monies not held by the court will be paid to the person in the name of whom a receipt was issued, or to the defendant, if no other person is able to produce a receipt for the funds. PR Bond in the amount of one hundred thousand dollars -

Signed and dated on this 19 day of December, 2014.

<u>William M. Windson</u> Principal's Signature or Mark	_____ Surety's Signature
<u>William M. WINDSON</u> Principal's Printed Name	_____ Printed Name of Surety/Licensed Surety Company
<u>1000 S. SITERMAN</u> Principal's Permanent Address	_____ Surety's Mailing Address
<u>RICHARDSON TX 75081</u> City State Zip	_____ City State Zip
<u>273 578-1094</u> Principal's Telephone Number	<u>()</u> Surety's Telephone Number
Taken and approved this <u>19</u> day of <u>Dec</u> <u>Johnny Brown</u> , 20 <u>14</u> Sheriff of Ellis County, Texas.	Defendant/Principal's Information: Race: <u>W</u> Sex: <u>M</u> DOB: <u>10-2-1948</u> Place of Birth: <u>COLUMBUS, GEORGIA</u> Date of Arrest: <u>10-28-2014</u>
By <u>[Signature]</u> #213 Deputy	Arresting/Detaining Agency: <u>ELLIS COUNTY SHERIFFS DEPT.</u>
<u>[Signature]</u> Bond Received By	Warrant # _____
<u>[Signature]</u> Principal's Signature Witnessed By	CASH BOND NUMBER SURETY NAMED HEREIN HAS COLLATERAL IN THE AMOUNT INDICATED AND, IF SUBMITTED FOR APPROVAL, I WOULD ACCEPT SAME. JOHNNY BROWN, SHERIFF ELLIS COUNTY TEXAS
<u>[Signature]</u> Principal Released from Custody By	

By [Signature]

14-158
CAUSE NO. EX14-19

FILED FOR RECORD
2014 DEC 30 PM 2:52
HEAR THE COURT
DISTRICT CLERK
ELLIS COUNTY, TX

STATE OF TEXAS

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IN THE DISTRICT COURT

— 40TH JUDICIAL DISTRICT
— 443RD JUDICIAL DISTRICT

vs.

William Windsor

ELLIS COUNTY, TEXAS

CERTIFICATION OF CALL

On this the 30 day of December, 20 14, pursuant to the order of this Court and as the assigned Bailiff of the Court on said date, I did proceed to call three times, loudly and distinctly, the name of the defendant in the above entitled and numbered cause outside the doors of the Courtroom. A reasonable time was given after such call was made in which to appear, but the defendant did not answer or appear.

Ralph A. Golden
Signature

Ralph A. Golden
Printed Name

Deputy/Bailiff
Title

01:55 AM/PM
Time



CERTIFIED A TRUE COPY
MELANIE REED
District Clerk, Ellis County, Texas
ATTEST: 1-14-14 pgs 1
Melanie Reed Deputy

CIVIL CAUSE NO. 90744

and EX 14-19

THE STATE OF TEXAS

Criminal Cause No. 14-158 CR

VS.

FILED FOR RECORD

IN THE DISTRICT COURT

William M. Windsor
(Defendant/Principal) Surety

2014 DEC 30 PM 2:52

ELLIS COUNTY, TEXAS

and

MELANIE REED
DISTRICT CLERK
ELLIS COUNTY, TX

(Surety)

443RD JUDICIAL DISTRICT

JUDGMENT NISI

On December 30, 2014, the Court called for hearing the foregoing cause wherein William M. Windsor, Defendant stands charged by indictment with the felony offense of extradition hearing for State of Montana, as more fully set out and alleged in said instrument. The State of Texas appeared by its County and District Attorney. But the defendant, although duly bonded as directed by law, to appear and be present herein, came not, but failed and defaulted to appear and answer the foregoing charge, when this case was called for consideration. Whereupon, under direction of the Court, said defendant was distinctly called at the Courthouse door, and a reasonable time allowed for said defendant to respond to said call.

It appears to the Court, premises considered, that said defendant, as principal and surety, d/b/a, December 19, 2014, duly sign a written bond, on file in this cause, binding themselves by the terms thereof, for the personal appearance of said defendant to answer the above offense in this Court, at the above time and place. That said bond, conditioned according to the provisions therein contained, was made payable to the State of Texas, in the penal sum of \$ 100,000.00 and expressly provided that said defendant personally appear before this Court, at the Courthouse thereof, in Waxahachie, Texas, at the particular time set out in said bond, namely instanter, and there remain, and appear before this Court, and any other Court and Magistrate.

Said bond further provided that the foregoing principal and surety, agreed to pay all necessary and reasonable expenses incurred by any and all Sheriffs and other Peace officers in re-arresting said defendant, if required.

That said bond appears to be regular on its face, and sufficiently obligated the defendant to be present at the aforesaid time and place, but said defendant has failed and defaulted to appear and answer said charge herein, when required to do so when this cause was called for hearing; and that said bond should be forfeited against said defendant and surety as directed by law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that said bond be forfeited against said principal and surety, and that the State of Texas do have and recover judgment against said principal and surety, jointly and severally, for all necessary and reasonable expenses that may be incurred and occasioned by all Sheriffs and other Peace Officers in re-arresting said defendant.

IT IS HEREIN FURTHER ORDERED AND DECREED by the Court that this judgment be made final against said principal and surety at a hearing set by the Court for said purpose after said principal and surety have been duly cited, as directed by law, to appear and answer herein, and to present legal defense, if any, they may be able to offer, sufficient to exonerate the foregoing principal and surety from being liable for the forfeiture of said bond.

~~IT IS FURTHER ORDERED that aliases capias be issued for the re-arrest of the defendant. No bond is to be set at this time.~~

SIGNED this 30 day of December, 2014.

(Revised 11/2014)

CERTIFIED A TRUE COPY
JUDGE PRESIDING
ATTEST: _____
Deputy

