

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER 4.205 - 11/16\*

IN RE: FORFEITURE AND DISCHARGE OF  
SURETY AND CASH BONDS

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It is statutorily mandated that surety bonds be forfeited and that agents and cash bond depositors should automatically have their bonds discharged upon the happening of certain events. Florida Statute § 903.26 requires a bond to be forfeited if the defendant fails to appear in court as required and if the proper prerequisites are followed. Florida Statute § 903.26(2)(b) requires that upon issuance of a warrant or capias for a defendant who has failed to appear as required, the Clerk of Court shall promptly notify the trial judge of the existence of a surety or cash bond available for forfeiture and, once forfeited, the Clerk shall automatically enter such forfeiture. Florida Statute § 903.26(2)(a) requires the Clerk of Court, within five (5) days of such forfeiture, to mail the statutorily required notice of forfeiture to the surety. Failure of the surety bond agent to pay the forfeiture within sixty (60) days of the mailing of the statutorily required notice shall preclude any surety application for remission pursuant to Florida Statute § 903.28. If the forfeiture is timely paid, the surety shall be entitled to the remission provisions of Florida Statute § 903.28.

It will benefit the Court, Clerk of Court, surety bond agents and cash depositors to reiterate those events both covered and not addressed by statute and be set forth herein by administrative order. Nothing in this Administrative Order shall be deemed as superseding, modifying, or changing existing and controlling statutory and case law.

**NOW, THEREFORE**, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

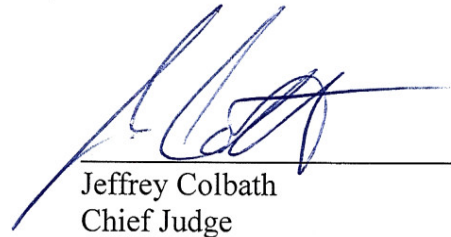
1. The Clerk shall automatically discharge a forfeiture if the trial court recalls or quashes the warrant or capias for the defendant within sixty (60) days of the forfeiture of a bond.
2. The Clerk shall, within ten (10) business days of notice of the following, unless good cause is shown, discharge the bond, as to a specific charge or charges whether secured by cash or surety, in any case that one of the following events has occurred:
  - a. A qualifying event listed in Florida Statutes §§ 903.20, 903.21, 903.22, 903.31(1)

- b. *A nolle prosequi* or "no file" announced or filed by the State Attorney's Office or a dismissal of charges entered by the court. **A change in charge does not constitute a nolle prosequi or "no-file."**
  - c. A defendant's admission to a pretrial intervention program. *See* F.S. § 903.31(2).
  - d. **When all felony charges have been reduced to a misdemeanor. The discharge does not apply to non-monetary conditions of release, without prejudice to the state or defense to seek a modification of the non-monetary conditions.**
3. When a **felony charge is increased in severity or an additional charge is added** and the defendant is not rearrested, the Clerk, **prior to the matter being addressed by the court**, shall maintain the current bond without prejudice to the state or defense to seek a modification of the bond.
  4. When a **felony charge is decreased in severity to a lesser felony**, the Clerk shall maintain the current bond, without prejudice to the state or defense to seek a modification of the bond, **The state agrees to provide a copy of the indictment or information, as soon as practicable, to the defense upon filing, or amending to, a lesser felony charge.**
  5. When there are multiple charges and the counts change (either increased or decreased), the bond amounts will stay the same as previously set for the original counts that remain, notwithstanding the charge. **If the charges remain the same but the counts they are assigned to differ, the bonds remain as previously set per charge, not count.**
  6. The Clerk shall discharge any bond on a felony charge **when that felony charge has been no filed.** Any bond on accompanying misdemeanor charge(s) shall remain in effect without prejudice for the state or defense to seek a modification of bond.
  7. **When a defendant is in custody, the state shall inform the first appearance judge at the 30 day return hearing, whether charges have been filed, including the nature of the charges, and any request for extension pursuant to Florida Rule of Criminal Procedure 3.134(2). If the state has filed lesser felony charges, the matter of bond modification, including non monetary conditions, may be addressed by the first appearance judge, or set for arraignment/bond hearing before the assigned trial division judge.**
  8. The Clerk of Court shall immediately issue a final judgment of forfeiture pursuant to Florida Statute § 903.27(1) if the surety fails to pay the forfeiture within the required sixty (60) day time period. If however, the fugitive defendant is surrendered to Palm Beach County authorities prior to the Clerk's entry of the final judgment of forfeiture the Clerk of Court shall discharge the forfeiture, and release the surety or if paid, remit to the surety 100% of the monies paid so long as the surety pays all costs and

expenses associated with the return of the defendant to Palm Beach County. *See* F.S. § 903.26(8).

9. In order to challenge the validity of the final judgment of forfeiture, the surety must pay the amount of the judgment within thirty five (35) days of issuance by the Clerk. *See* Florida Statute §§ 903.27(4), (5).
10. Pursuant to Florida Statute §903.286, the Clerk of Court shall withhold from the return of a cash bond posted on behalf of a defendant by a person other than a bail bond agent licensed pursuant to Chapter 684, Florida Statutes, sufficient funds to pay any unpaid cost of prosecution, costs of representation court fees, court costs and criminal penalties.
11. **Prior to the expiration of a bond in the thirty-sixth (36) month as provided for in Florida Statute s. 903.31(1), the Clerk shall schedule before the appropriate division judge a "Status Hearing on Surety Bond". This hearing shall be scheduled during the thirty-fourth (34) month after the issuance of the original appearance surety bond.**
12. If so agreed to between the Clerk of Court and the surety, statutorily required notice to the surety may be made by electronic mail.

**DONE** and **SIGNED**, in Chambers, at West Palm Beach, Palm Beach County, Florida, this 21 day of November, 2016.



Jeffrey Colbath  
Chief Judge

\*supersedes admin. order 4.205-4/14