

02-040

**COURTS NOT OF RECORD: JURISDICTION AND PROCEDURE, CIVIL MATTERS.**

**Order of remittance does not serve as satisfaction of judgment in general district court; does act as satisfaction of judgment entered on previously forfeited bond under applicable statutes pertaining to judgments filed in circuit courts.**

The Honorable Joel C. Cunningham  
Judge, General District Court of Halifax County  
May 29, 2002

**Issue Presented**

You ask whether, after the forfeiture of a bond in a general district court criminal matter has led to a docketed judgment, the order of remittance of the forfeiture serves as satisfaction of the judgment pursuant to § 16.1-94.01 of the *Code of Virginia*.

**Response**

It is my opinion that the order of remittance does not serve as a satisfaction of the judgment pursuant to § 16.1-94.01; however, it does act as a satisfaction of the judgment under the applicable statutes pertaining to judgments filed in circuit courts.

**Facts**

You present a situation where a defendant released on bail in general district court fails to appear in court, resulting in forfeiture of the bond and a judgment docketed against him for the amount of the bond. The defendant appears before the general district court within twelve months of the forfeiture, however, and the court remits the amount of the forfeiture to the defendant.

**Applicable Law and Discussion**

Prior to admitting a person to bail, the judicial officer shall obtain such person's criminal history.<sup>1</sup> "If the person is admitted to bail, the terms [of bail] will be reasonably fixed to assure the appearance of the accused."<sup>2</sup> The appropriate judicial officer may order the person or his surety to post bond "as a condition of bail to assure performance of the terms and conditions contained in the recognizance."<sup>3</sup> Section 19.2-135 provides that a person under recognizance in a case must appear before the court to answer for the offense charged at the time stated in the recognizance. Section 19.2-143 authorizes forfeiture of a bail bond posted in a criminal proceeding when the defendant fails to appear. Section 19.2-143 then states that, if the defendant fails to appear before the district court within sixty days, judgment shall be entered by the court, and

his default shall be entered by the judge of such court, on the page of his docket whereon the case is docketed .... [S]uch judge ... shall promptly transmit to the clerk of the circuit court of his county or city wherein deeds are recorded an abstract of such judgment as he may render thereon, which shall be forthwith docketed by the clerk of such court.

If the defendant ... appears before or is delivered to the court within twelve months of the findings of default, the court shall remit any bond previously ordered forfeited by the courts, less such costs as the court may direct.

Chapter 17 of Title 8.01, §§ 8.01-426 through 8.01-465, governs judgments generally in the circuit courts. Section 8.01-446 states that each circuit court clerk

shall keep in his office, in a well-bound book, a judgment docket, in which he shall docket, without delay, any judgment for a specific amount of money rendered in his court, and shall likewise docket without delay any judgment for a specific amount of money rendered in this Commonwealth by any other court of this Commonwealth or federal court, when he shall be required so to do ..., and any ... judgment rendered by a district court judge ... of which a legible abstract is delivered to him certified by the district court judge who rendered it ....

Section 8.01-449 provides that, "[w]here a well-bound book is used for the judgment docket," there shall be a separate column for satisfaction or discharge of the judgment. Section 8.01-450 requires all judgments to be indexed in the name of the defendant. Under § 8.01-457, it is the duty of circuit court clerks, "upon the release of any recognizance by court order, to mark the same satisfied upon the judgment lien docket at every place such judgment or recognizance ... shall have been recorded upon such lien docket." Significantly, §§ 8.01-426 through 8.01-465, "so far as they relate to the docketing of judgments, the entering of satisfaction thereof, and the liens of judgments and enforcement of such liens, shall be construed as embracing recognizances, and bonds having the force of a judgment."<sup>4</sup>

Section 16.1-94.01 provides the methods for satisfying judgments in general district courts. It does not appear to provide for the satisfaction of a judgment entered on a previously forfeited bond under § 19.2-143.

Section 19.2-143 makes clear that an abstract of the judgment entered in the general district court shall be docketed with the clerk of the circuit court and that the bond previously forfeited shall be remitted by the court to the defendant if he appears within the prescribed time period. It thus seems clear that the district court must embody that remittance in an order. That order, like any other order vacating or modifying a judgment, would be filed without requiring an additional document, such as a certificate of satisfaction.

It seems implicit that, if the original judgment of forfeiture must be sent to the circuit court clerk, the order of remittance must also be sent to the circuit court clerk. The circuit court clerk then would be required to record and index satisfaction of the judgment, so that anyone searching the records and

discovering the abstract of judgment would also find the order of remittance satisfying that judgment.

### **Conclusion**

Accordingly, it is my opinion that the order of remittance entered upon the appearance of the defendant would not serve as a satisfaction of the judgment pursuant to § 16.1-94.01; however, the order would operate as a satisfaction of the judgment docketed in the circuit court.

<sup>1</sup>Va. Code Ann. § 19.2-120 (Michie Repl. Vol. 2000).

<sup>2</sup>*Id.* § 19.2-121.

<sup>3</sup>*Id.* § 19.2-119 (defining "bond"). The term "recognizance" "means a signed commitment by a person to appear in court as directed and to adhere to any other terms ordered by an appropriate judicial officer as a condition of bail." *Id.*

<sup>4</sup>*Id.* § 8.01-465 (Michie Repl. Vol. 2000).

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