

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT  
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2018-047  
(Supersedes Administrative Order S-2018-009)**

**BOND MATTERS**

Criminal defendants brought before the courts of this circuit are many times released on bail provided by them, bail bond agents or non-bail bond agent third parties. The purpose of bail is to relieve an accused of pretrial incarceration. A bail bond is a three-party contract between the state, the accused, and the surety whereby the accused is released to the custody of the surety, and the surety guarantees to the state the appearance of the accused at all criminal proceedings for which the surety bond is posted. Chapter 903, Florida Statutes (chapter 903), sets forth provisions for bail bond exoneration, forfeiture, judgment, remission and cancellation.

It is necessary to revise previously established procedures to provide for the proper and efficient administration of justice in this circuit for bail bond exoneration, forfeiture, judgment, remission, and cancellation.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is therefore ORDERED:

**1. Application**

This administrative order applies to all circuit criminal, county criminal, and criminal traffic cases in which a defendant has been released on a bail bond in accordance with the provisions of chapter 903.

**2. Types of Bonds**

The county and circuit courts will not accept personal property of any kind other than a bail bond posted by a licensed surety to satisfy the bail requirements of chapter 903 or a cash bond. Real property bonds are discouraged. "Blanket bonds" are prohibited. A blanket bond is one bail bond that provides for the release of a defendant on more than one charge or case. Any judge setting or granting monetary bail will set a separate and specific bail amount for each charge or offense. When bail is posted, each charge or offense requires a separate bond.

**3. Parties**

For purposes of this administrative order, the following terms identifying the parties have the following meanings:



A. The term “petitioner” refers to a bail bond agent or surety and includes corporate sureties, corporate bond agencies, individual sureties, individual bail bond agents and cash bond depositors.

B. The term “defendant” refers to the accused and is the principal on the bail bond.

C. The term “clerk” refers to the Office of the Clerk of Court.

D. The term “state” refers to the Office of the State Attorney.

E. The term “clerk’s legal counsel” refers to the legal department attorney(s) of the clerk.

#### **4. Motions and Applications for Relief**

Motions and applications for relief under chapter 903 must be filed with the clerk through the Florida Courts e-filing portal in the appropriate division (i.e. felony, misdemeanor or traffic). Except for motions and applications filed in First Appearance / Emergency Division “O,” motions and applications must be court and case specific and may not address more than a single court division (e.g. a motion in a felony case may not address misdemeanor bonds in the same pleading). Motions and applications must list each bond power number for which relief is sought. Motions and applications must certify service of copies to the state and the clerk’s legal counsel. Unless stated otherwise in this administrative order, all motions and applications will be filed without a notice of hearing. All motions and applications must be accompanied by the proof of the payment of the Hillsborough County Sheriff’s transportation costs in the manner set forth in section 13 of this administrative order, when applicable. When practical, motions must be filed with the required fees and costs prepaid by the petitioner.

All supporting documentation attached to motions or applications, including but not limited to docket information and recommitment certificates, must be clearly legible and the applicable entries, cases, and charges must be highlighted or noted. Motions and applications to the court must be filed by the attorney for the corporate petitioner; a corporation cannot represent itself in court without a licensed attorney. However, if the surety is a natural person and individually and personally liable on the bond such that the forfeiture or judgment would be entered against a natural person, then that non-corporate surety may proceed without an attorney.

#### **5. Forms**

Sample motions, applications and proposed orders to be used with the provisions of this administrative order can be located at [www.fljud13.org](http://www.fljud13.org) under the section entitled “Forms.” Attorneys must use these sample motions, applications, and proposed orders when proceeding under the provisions of this administrative order.

#### **6. Setting Hearings**

Whenever a hearing is permitted, such hearing must be set by contacting the judicial assistant in the division to which the case is assigned and a notice of hearing must



be filed with the clerk, with service provided to the clerk's legal counsel and the state, when appropriate. It will be the responsibility of the petitioner to set the matter for hearing before the assigned division judge when the state or the clerk's legal counsel files an objection to the relief requested.

Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. When appropriate, all motions must be filed simultaneously with a notice of hearing containing the scheduled hearing time.

**7. Notices of Hearings**

Except for an Application for Remission of Forfeiture [which requires 20 days' notice] and an Application for Exoneration [which requires three days' notice], the courts will refuse to hear any motion relating to chapter 903 unless at least five days' notice has been provided to both the state and the clerk's legal counsel. A petitioner may only set a hearing on a Motion to Discharge Forfeiture Before Judgment and a Motion to Set Aside Final Judgment of Forfeiture when an objection is filed by the state or the clerk's legal counsel, or when the petitioner objects to the payment of costs or the amount to be remitted. Any notice of hearing must clearly reference the title of the motion to be heard, the date and time for when the motion will be heard, and the location where the parties should appear.

**8. Emergency Matters**

Emergency matters may be set and heard provided that: (1) leave of court is first obtained, (2) the petitioner attempts to speak with the clerk's legal counsel, and the state when appropriate, to obtain their consent to the relief sought or the setting of the emergency hearing, and the emergency pleading recites that the clerk's legal counsel, and the state when appropriate, were contacted in accordance with this requirement, and (3) notice and copies of all motions with exhibits are provided to both the state and the clerk's legal counsel. The court may grant leave to file emergency motions in instances where the time periods contemplated by this administrative order and the provisions of chapter 903 would render the relief sought moot.

**9. Orders**

Proposed orders for all bail bond related pleadings must be filed along with the bail bond motion / application packet. The clerk's legal counsel will be responsible for uploading an agreed order to the division judge through the Judicial Automated Workflow System (JAWS). The clerk's legal counsel must not submit any order through JAWS until all parties have had a minimum of three business days to respond to the motion / application, excluding the day of service.



**10. Time**

The time periods statutorily established in chapter 903 must be strictly followed. Unless the tolling of a time period is specifically authorized under chapter 903 for the relief sought, the filing of a motion or application will not toll any time period. The computation of any time period relating to the filing of a document with the clerk will be determined by Florida Rules of Judicial Administration 2.525(f)(3) and chapter 903.

**11. Application of Rules of Civil Procedure**

Bail bonds are contracts and civil in nature and the Florida Rules of Civil Procedure apply to bail bond proceedings.

**12. Surrender or Recommitment**

Surrender or recommitment of a defendant will not be made to the court.

**13. Transportation Costs**

The Hillsborough County Sheriff's Office Transportation Section posts on its' website a Transportation Costs Rate Sheet (See [www.hcso.tampa.fl.us](http://www.hcso.tampa.fl.us)). The Transportation Costs Rate Sheet in existence at the time of the chapter 903 proceeding, or the actual receipt given to the petitioner by the Hillsborough County Sheriff's Office, will be considered prima facie evidence of the transportation costs owed or paid by the petitioner. Transportation costs of a defendant with multiple cases need only be paid once and must be paid in conjunction with the lowest case number (i.e. transportation costs would be paid in the lowest numbered felony case and such payment would be referenced in a companion misdemeanor or traffic case pleading and proposed order).

**14. Surrender Prior to Forfeiture Exoneration [§ 903.21, Florida Statutes]**

A petitioner seeking to be relieved of liability on a bond under sections 903.21(1) and (2), Florida Statutes, must, prior to the scheduled appearance date insured by the bond, file an Application for Exoneration and proposed order with the clerk that includes the facts and legal arguments in support of exoneration. Any application under sections 903.21(1) and (2), Florida Statutes, must be filed with the clerk in the appropriate division and the following must be attached to the application: (1) a certificate acknowledging the defendant's surrender from the official who had custody of the defendant at the time bail was taken or the official into whose custody the defendant would have been placed if she or he had been committed, (2) a copy of the bond(s) from which exoneration is sought, and (3) an acknowledgment from petitioner or petitioner's counsel that the state and the clerk's legal counsel were provided three days' notice of application for an order of exoneration together with copies of the official's certificate and the bond.

A petitioner seeking to be relieved of liability on a bond under section 903.21(3), Florida Statutes, must, prior to the scheduled appearance date insured by the bond, file an



Application for Exoneration and proposed order with the clerk that includes the facts and legal arguments in support of exoneration. Any application under section 903.21(3), Florida Statutes, must be filed with the clerk in the appropriate division and the following must be attached to the application: (1) documentation from the holding jail or prison that the defendant is in custody, (2) documentation substantiating that the person in custody is in fact the correct defendant, and (3) documentation indicating the petitioner agrees to pay the transportation costs of returning the defendant to the jurisdiction of the court. Costs will include any state and local assessments authorized by sections 938.01(1), and 943.25, Florida Statutes, and any costs to the state, sheriff, and clerk recoverable in accordance with chapter 903.

The clerk's legal counsel will file and serve his or her response to an Application of Exoneration filed under section 903.21(1) and (2) or (3), Florida Statutes, after the 3 days' notice has expired. If an objection is filed by the clerk or state, or the petitioner disagrees with the amount of costs to be paid, it will be the responsibility of the petitioner's counsel to set the matter for hearing to determine the appropriateness of the discharge or the amount of costs to be paid. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to both the state and the clerk's legal counsel. Time is of the essence as the petitioner must obtain an order prior to the scheduled appearance date insured by the bond.

If the criteria for exoneration are met and the clerk's legal counsel or the state have no objection to the relief requested, the clerk's legal counsel will submit the proposed order to the assigned judge for disposition via JAWS.

**15. Capias Recall and Vacating or Setting Aside Bond Forfeitures  
[§ 903.26, Florida Statutes]**

A motion to recall a capias may be filed in conjunction with a motion to vacate or set aside a related bond forfeiture. All permitted motions or petitions to recall a capias and address a related bond forfeiture must comply with the requirements of chapter 903 and this administrative order. The petitioner, or a defendant, must file a motion to vacate or set aside bond forfeiture along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. A motion to vacate or set aside forfeiture does not toll the statutory time period before the entry of a judgment in accordance with section 903.27, Florida Statutes.

**A. Defendant's Motion to Recall Capias, Vacate Forfeiture and Reinstatement Bond [Procedural or Due Process Grounds]**

A defendant, self-represented, through counsel, or in concert with the surety petitioning to have a capias recalled and the forfeiture vacated on procedural or due process grounds, must, prior to the expiration of the statutory time period set forth in



section 903.26(2)(a), Florida Statutes, file with the clerk a Motion to Recall Capias, Vacate Forfeiture and Reinstate Bond along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. The vacating of a bail bond forfeiture is an equitable proceeding and is based on some procedural or due process error in the entry of the forfeiture (i.e. deficient notice). A surety has no legal basis to object to a procedural or due process reinstatement of the bond. If a capias is withdrawn or recalled for a due process violation and the forfeiture is vacated, the parties return to their pre-forfeiture status, and the bond will remain in full force and effect. The surety will not be liable for any clerk or statutory fees associated with the original vacated forfeiture.

The Motion to Recall Capias, Vacate Forfeiture and Reinstate Bond must provide the bond power number and surety information and must be served on the state, the clerk's legal counsel and the surety, if the surety agent has not joined in or approved the motion. Nothing in this administrative order affects the court's inherent ability to vacate the forfeiture on the court's own motion and reinstate the bond. If the court recalls or withdraws the capias, then the court will vacate the forfeiture and reinstate the bond.

While it is the intention of this administrative order to simultaneously resolve the bond forfeiture in conjunction with the capias proceeding, should the bond forfeiture not be addressed for any reason, nothing in this administrative order affects the surety's ability to later address the bond forfeiture in accordance with the provisions of chapter 903 and this administrative order.

**B. Defendant's Motion to Recall Capias, Set Aside Forfeiture and Reinstate Bond [Non-Procedural or Non-Due Process Grounds]**

A defendant, self-represented, through counsel, or in concert with the surety petitioning to have a capias recalled and the forfeiture set aside on non-procedural or non-due process grounds, must, prior to the statutory time period set forth in section 903.26(2)(a), Florida Statutes, file with the clerk a Motion to Recall Capias, Set Aside Forfeiture and Reinstate Bond along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. The setting aside of a bail bond forfeiture that does not involve a procedural or due process error is an equitable proceeding and requires the agreement of the surety to reinstate the bond.

The Motion to Recall Capias, Set Aside Forfeiture and Reinstate Bond must provide the bond power number and surety information and must be served on the state and the clerk's legal counsel, together with the surety, if the surety has not previously joined in or approved of the motion. Nothing in this administrative order affects the court's inherent ability to set aside the forfeiture on the court's own motion and reinstate the bond subject to the approval from the surety on the original bond.



**i. Surety's Objection to Bond Reinstatement**

A surety's filed objection to the bond reinstatement will automatically prevent the forfeiture from being addressed and the bond reinstated by the court in accordance with section 903.31(2), Florida Statutes. The surety's objection to the bond reinstatement does not affect the court's inherent discretion to recall its capias. The only valid grounds for discharging a forfeiture are set forth in section 903.26, Florida Statutes. As such, the recalling of a capias is not a legal ground to discharge the bond forfeiture.

**ii. Surety's Failure to Address Bond Reinstatement**

If the court recalls or withdraws the capias, the court may not reinstate the bond in accordance with section 903.31(2), Florida Statutes. The setting aside or withdrawal of a capias has no effect on the reinstatement of a bond. If the bond forfeiture is not addressed for any reason, nothing in this administrative order affects the surety's ability to address the bond forfeiture in accordance with the provisions of chapter 903 and this administrative order. However, should the forfeiture not be discharged or set aside in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture under section 903.26(2)(a), Florida Statutes, the clerk will enter a final judgment in accordance with section 903.27, Florida Statutes.

**16. Bond Forfeiture Discharge – Court Discharge [§ 903.26(5)(a) or (b), Florida Statutes]**

A petitioner seeking to have a bond forfeiture discharged under section 903.26(5)(a) or (b), Florida Statutes, must file their motion along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. The court will refuse to hear, and the clerk will not discharge, any forfeiture when a Motion to Discharge Forfeiture Before Judgment is not filed in accordance with the time periods set forth in this administrative order.

The petitioner must attach to the motion a copy of the Notice of Forfeiture as well as documentation supporting the claim that: (1) it was impossible for the defendant to appear as required or within 60 days after the date of the required appearance due to circumstances beyond the defendant's control (in accordance with section 903.26(5)(a), Florida Statutes, the potential adverse economic consequences of appearing as required may not be considered as constituting a ground for such a determination), or (2) at the time of the required appearance or within 60 days after the date of the required appearance, the defendant was confined in an institution or hospital, was confined in any county, state, federal, or immigration detention facility, was deported, or is deceased. Proper documentation of confinement must be from the institution, hospital, or detention facility in which the defendant was confined at the time of the required appearance or within 60 days after the date of the required appearance and must specify the dates of confinement. Proper documentation of death or



deportation must specify the date of death or deportation. Proof of the confinement, death or deportation and that the confined, deceased or deported person is the defendant must be shown by admissible evidence. The Motion to Discharge Forfeiture Before Judgment must also have attached documentation from the Hillsborough County Sheriff's Office, or one of its approved contractors, stating the cost of returning the defendant to Hillsborough County. The petitioner must serve copies of the Motion to Discharge Forfeiture Before Judgment on the state and the clerk's legal counsel.

The clerk's legal counsel will file and serve his or her response to a Motion filed under section 903.26(a) or (b), Florida Statutes. If an objection is filed, or the petitioner disagrees with the amount of costs to be paid, it will be the responsibility of the petitioner to set the matter for hearing to determine the appropriateness of the discharge or the amount of costs to be paid. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to both the state and the clerk's legal counsel. Time is of the essence as the petitioner must obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture, or the clerk will enter a final judgment in accordance with section 903.27, Florida Statutes.

If the clerk's legal counsel has no objection to the relief sought, the clerk's legal counsel will submit the proposed order to the assigned judge for disposition via JAWS. An Order Discharging Bond Forfeiture Before Judgment entered under sections 903.26(5)(a) or (b), Florida Statutes, will only discharge the forfeiture, and provide for payment of any costs authorized by chapter 903 and sections 938.01(1) and 943.25, Florida Statutes. If an Order Discharging Bond Forfeiture Before Judgment has not been entered on or before the 61<sup>st</sup> day from the date of the notice of forfeiture and the bond is secured other than by money and bonds authorized in section 903.16, Florida Statutes, the clerk will, without delay, enter a Final Judgment of Forfeiture in accordance with section 903.27, Florida Statutes.

**17. Bond Forfeiture Discharge – Court Discharge [§ 903.26(5)(c), Florida Statutes]**

A petitioner seeking to have a bond forfeiture discharged under section 903.26(5)(c), Florida Statutes, must file their motion along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. The court will refuse to hear, and the clerk will not discharge, any forfeiture when a Motion to Discharge Order of Forfeiture Before Judgment is not filed in accordance with the time periods set forth herein.

The petitioner must attach to the motion a copy of the Notice of Forfeiture as well as documentation supporting the claim that: (1) there was a surrender or arrest of the defendant at the time of the required appearance or within 60 days after the date of the required appearance in any county, state, or federal jail or prison, and (2) a hold has been



placed to return the defendant to the jurisdiction of the court. In addition, the petitioner must attach documentation from the Hillsborough County Jail indicating whether the defendant was arrested or surrendered within Hillsborough County or outside of Hillsborough County and highlight in such documentation any applicable charge(s) and case number(s) for which the defendant has been recommitted. If the arrest or surrender was outside of Hillsborough County, the documentation must include the cost of transporting the defendant back to Hillsborough County or a notation that the defendant was allowed to post a new bond at the surrender or arrest location. The petitioner must serve copies of the Motion to Discharge Forfeiture Before Judgment on the state and the clerk's legal counsel.

The clerk's legal counsel will file and serve his or her response to a motion filed under section 903.26(5)(c), Florida Statutes. If an objection is filed, or the petitioner disagrees with the amount of costs to be paid, it will be the responsibility of the petitioner to set the matter for hearing to determine the appropriateness of the discharge or the amount of costs to be paid. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to both the state and the clerk's legal counsel. Time is of the essence as the petitioner must obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture, or the clerk will enter a final judgment in accordance with section 903.27, Florida Statutes.

If no objection is received from the clerk's legal counsel or the state, the clerk's legal counsel will submit the proposed order to the assigned judge via JAWS. The court will condition a discharge or remission on the payment of costs and the expenses incurred by an official in returning the defendant to the jurisdiction of the court. Costs will include any state and local assessments authorized by sections 938.01(1), and 943.25, Florida Statutes, and any costs to the state, sheriff, and clerk recoverable in accordance with chapter 903.

**18. Bond Forfeiture Discharge – Court Discharge [§ 903.26(5)(d), Florida Statutes]**

A petitioner seeking to have a bond forfeiture discharged under section 903.26(5)(d), Florida Statutes, must file their motion along with a proposed order in sufficient time to obtain an order no later than the 61<sup>st</sup> day from the date of the notice of forfeiture. The court will refuse to hear, and the clerk will not discharge, any forfeiture when a Motion to Discharge Forfeiture Before Judgment is not filed in accordance with the time periods set forth in this administrative order.

The petitioner must attach to the motion a copy of the Notice of Forfeiture as well as documentation supporting the claim that: (1) the state is unwilling to seek extradition of the fugitive defendant within 30 days after a request by the surety agent to do so, and (2) contingent upon the surety agent's consent to pay all costs and the expenses incurred



by an official in returning the defendant to the jurisdiction of the court, up to the penal amount of the bond. Proof of the state's unwillingness to extradite the defendant must be shown by admissible evidence. The petitioner must serve copies of the Motion to Discharge Forfeiture Before Judgment on the state and clerk's legal counsel.

The clerk's legal counsel will file and serve his or her response to a motion filed under section 903.26(5)(d), Florida Statutes. If an objection is filed, or the petitioner disagrees with the amount of costs to be paid, it will be the responsibility of the petitioner to set the matter for hearing to determine the appropriateness of the discharge or the amount of costs to be paid. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to both the state and the clerk's legal counsel. Time is of the essence as the petitioner must obtain an order no later than the 61<sup>st</sup> day from the date of the Notice of Forfeiture, or the clerk will enter a final judgment in accordance with section 903.27, Florida Statutes.

If no objection is received from the clerk's legal counsel or the state, the clerk's legal counsel will submit the proposed order to the assigned judge via JAWS. The court will condition a discharge on the surety agent's consent to pay all costs and the expenses incurred by an official in returning the defendant to the jurisdiction of the court, up to the penal amount of the bond. Costs will include any state and local assessments authorized by sections 938.01(1), and 943.25, Florida Statutes, and any costs to the state, sheriff, and clerk recoverable in accordance with chapter 903.

**19. Bond Forfeiture Discharge – Clerk's Discharge [§ 903.26(8), Florida Statutes]**

A petitioner seeking to have a bond forfeiture discharged under section 903.26(8), Florida Statutes, must, prior to the entry of a judgment in accordance with section 903.27, Florida Statutes, file with the clerk an Application for Clerk's Discharge of Forfeiture Before Judgment ("Application"). The petitioner must attach to the Application a copy of the Notice of Forfeiture, as well as documentation supporting the claim that: (1) the defendant is arrested and returned to the county of the jurisdiction of the court, or (2) has posted a new bond for the case at issue before judgment. Proper documentation will be in the form of an affirmation by the sheriff or the chief correctional officer indicating that the defendant has been arrested or surrendered and returned to Hillsborough County. In accordance with section 903.26(8), Florida Statutes, a clerk's discharge of the forfeiture of a bond is conditioned on the payment of any costs and expenses incurred in returning the defendant to Hillsborough County. Costs will include any state and local assessments authorized by sections 938.01(1), and 943.25, Florida Statutes, and any costs to the state, sheriff, and clerk recoverable in accordance with chapter 903.



If the petitioner fails to pay the costs and expenses incurred in returning the defendant to the county of jurisdiction, the clerk will not discharge the forfeiture of the bond. If the petitioner and the sheriff fail to agree on the amount of said costs, then the court, after notice to the sheriff and the state, will determine the amount of the costs. It will be the responsibility of the petitioner to set the matter for hearing to determine the amount of costs to be paid. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to both the state and the clerk's legal counsel.

**20. Bond Forfeiture to Judgment [§ 903.27, Florida Statutes]**

A bond forfeiture must be paid, or discharged by court order, on or before the 61<sup>st</sup> day from the date of the Notice of Forfeiture, or the clerk will enter a judgment against the surety in accordance with section 903.27, Florida Statutes, and let execution issue.

**A. New Case File**

When a forfeiture in a county criminal case (i.e. misdemeanor or traffic) goes to Final Judgment, the clerk will create a new circuit case file with a new case number for the purpose of addressing the forfeiture only and randomly assign the new case to one of the standard divisions in the Circuit Criminal Division. A defendant's underlying county criminal case(s) will remain assigned to the appropriate County Criminal Division.

When a forfeiture in a circuit criminal case goes to Final Judgment, the clerk will create a new circuit case file. The petitioner must file any Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment with the clerk in the Circuit Criminal Division to which the new case has been assigned and must include both the new court case number and the original court case number on the motions, when applicable.

**B. Satisfying the Final Judgment of Forfeiture**

To satisfy the Final Judgment of Forfeiture, the surety must pay it within 35 days of the judgment's entry.

**C. Contesting the Final Judgment of Forfeiture**

If the petitioner wants to contest the entry of final judgment, it must file a Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment of Forfeiture. The motion must be accompanied by payment of the Final Judgment of Forfeiture to the clerk, which amount will be held in escrow until such time as the court has disposed of the Motion to Set Aside Final Judgment of Forfeiture or the Motion to Stay Execution of Final Judgment of Forfeiture.



A Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment of Forfeiture must have attached a copy of the Final Judgment of Forfeiture and documentation indicating that the defendant has been arrested or surrendered to the Hillsborough County Jail. In addition, the petitioner must attach documentation from the Hillsborough County Jail indicating whether the defendant was arrested or surrendered within Hillsborough County or outside of Hillsborough County and highlight in such documentation any applicable charge(s) and case number(s) for which the defendant has been recommitted. If arrest or surrender was outside of Hillsborough County, the documentation must include the cost of transporting the defendant back to the county or a notation that the defendant was allowed to post a new bond at the arrest or surrender location. The petitioner must serve copies of any Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment of Forfeiture on the clerk's legal counsel.

The setting aside of any Final Judgment of Forfeiture will be subject to the payment of costs which may include any state and local assessments authorized by sections 938.01(1), and 943.25, Florida Statutes, and any costs to the state, sheriff, and clerk in accordance with chapter 903.

#### **D. Clerk's Response**

The clerk's legal counsel will file and serve his or her response indicating approval or objection to the Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment. If an objection to a Motion to Set Aside Final Judgment of Forfeiture or Motion to Stay Execution of Final Judgment is filed by the clerk's legal counsel, it will be the responsibility of the petitioner to set the matter for hearing before the assigned division judge. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. A notice of hearing must be filed with the clerk, with service provided to the clerk's legal counsel.

#### **21. Remission of Forfeiture [§ 903.28, Florida Statutes]**

An application for remission of forfeited bonds must be filed within two years from the date of the forfeiture. The prerequisites for remission of forfeited funds are that: (1) there was no breach of the bond, and (2) the defendant has been surrendered or apprehended. In addition, if a Final Judgment of Forfeiture has been entered in accordance with section 903.27, Florida Statutes, a petitioner will not be eligible for remission unless a timely Motion to Set Aside Final Judgment of Forfeiture has been granted and a copy of the corresponding order is attached to the Application for Remission of Forfeiture.

A petitioner seeking remission of forfeiture of bail bonds must file an Application for Remission of Forfeiture and an Affidavit in Support of Application for Remission of Forfeiture with the clerk and serve the same on the state and the clerk's legal counsel.



The Application for Remission of Forfeiture must also include: (1) a receipt for payment of the forfeiture, (2) an affidavit from the surety documenting any claimed attempt at procuring or causing the apprehension or surrender of the defendant, (3) documentation indicating that the defendant has been arrested or surrendered, and (4) a proposed Order Granting Remission of Forfeiture. If the arrest or surrender of the defendant was outside of Hillsborough County, the documentation must include the cost of transporting the defendant back to Hillsborough County.

The clerk's legal counsel will file and serve his or her response to the Application for Remission of Forfeiture. The state will review its file to determine whether prosecution of the case has been thwarted by the delay. The state must file any objection to the Application for Remission of Forfeiture setting forth its objections and serve a copy of its objection to the clerk's legal counsel and to the petitioner's attorney indicating either: (1) the prosecution of the case has been thwarted, or (2) the state cannot determine whether prosecution of the case has been thwarted. Recoverable costs incurred by the state (i.e. subpoenas, service of process, witness fees, etc.), if any, must be affirmatively listed by the state in their timely filed objection to the Application for Remission of Forfeiture, and if not listed in the objection, it will be presumed that the state has no such recoverable costs.

If an objection is filed, or the petitioner disagrees with the amount of costs to be paid, it will be the responsibility of the petitioner to set the matter for hearing before the assigned division judge. Prior to scheduling a hearing with the assigned judge, counsel must consult with opposing counsel as to the date and the time required for such hearing. The petitioner must file and serve a notice of hearing and provide at least 20 days' notice to the clerk's legal counsel and the state before a hearing on the Application for Remission of Forfeiture. The petitioner must also provide the clerk's legal counsel and the state with copies of all papers, applications, and affidavits related to the Application for Remission of Forfeiture.

Costs will be deducted from the amount of the remission. The costs may include state and local assessments authorized by sections 938.01(1) and 943.25, Florida Statutes, unpaid sheriff's costs, when a Final Judgment has been entered and set aside, and any costs the clerk or state of Florida is entitled to recover under chapter 903.

## **22. Return of Cash Bonds [§ 903.286, Florida Statutes]**

The clerk will withhold from the return of a cash bond, posted on behalf of a defendant by a person other than a licensed bail bond agent or surety, sufficient funds to pay any unpaid costs of prosecution, costs of representation as provided by sections 27.52 and 938.29, Florida Statutes, court fees, court costs, and criminal penalties, in all of a defendant's Thirteenth Judicial Circuit cases.



**23. Cancellation of Surety Bonds [§ 903.31, Florida Statutes]**

Within 10 business days after the conditions of a bond have been satisfied or the forfeiture discharged or remitted, the court will order the bond cancelled and, if the surety has attached a certificate of cancellation to the original bond, the clerk will furnish an executed certificate of cancellation to the surety without cost.

The following will satisfy the conditions of a bond that has not been declared forfeited before the 36 month expiration: (1) an adjudication of guilt or innocence, or an acquittal, or (2) if a period of 36 months has passed since the original bond was posted, or (3) a withholding of an adjudication of guilt. If no formal charges are brought against the defendant within 365 days after arrest, the court will order the bond canceled unless good cause is shown by the state.

The original appearance bond does not guarantee the following: (1) a deferred sentence, or (2) an appearance during or after a presentence investigation, or (3) an appearance during or after appeals, or (4) conduct during or appearance after admission to a pretrial intervention program, or (5) placement in a court-ordered program, including a residential mental health facility, or (6) payment of fines, or (7) attendance at educational or rehabilitation facilities the court otherwise provides in the judgment.

If the original appearance bond has been forfeited or revoked, the bond will not be reinstated without approval from the surety on the original bond.

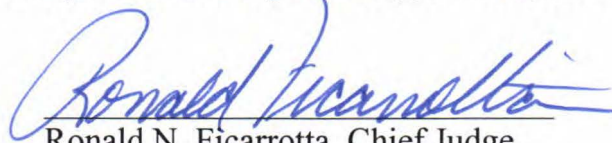
**24. Previous Administrative Order Superseded**

This administrative order supersedes Administrative Order S-2018-009 (*Bond Matters*).

**25. Effective Date**

This administrative order is effective December 1, 2018.

Entered in Tampa, Hillsborough County, Florida, on November 15, 2018.

  
Ronald N. Ficarrotta, Chief Judge

Original to: Pat Frank, Clerk of the Circuit Court  
Copies to: All Criminal Division Judges  
Andrew H. Warren, State Attorney  
Julianne M. Holt, Public Defender  
Chad Chronister, Sheriff