

Villarreal v. State

When a principal failed to appear at a hearing, the judge declared his bond forfeit. The surety challenged the State's motion for summary judgment on the forfeiture order, claiming in an affidavit that the principal had never been released to the bonding company.

The State, to prevail, needed only to establish that a bond had been granted and that a subsequent forfeiture order had been issued. The court granted summary judgment for the State, stating that the surety had failed to raise an issue that would defeat summary judgment since the only evidence offered by the surety was its sworn affidavit opposing the motion. According to the court, the affidavit was insufficient because it was based upon personal knowledge of an affiant who had reviewed the surety's files and records of the sheriff's office. Since the records themselves were not verified, the statements were inadmissible hearsay because the declarant could not speak to the accuracy of the records.