Responsibilty for bail bonds

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Subject:
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COURTS RESPONSIBILITY FOR AND CUSTODIANSHIP OF BAIL BONDS

To: Oliver Lawton, Clerk, Circuit Court, St. Augustine

Prepared by: A. S. Johnston, Assistant Attorney General

QUESTION:

Is the clerk of the county court or is the sheriff responsible for and custodian of appearance (bail) bonds prior to forfeiture?

SUMMARY:

When a sheriff approves an appearance (bail) bond, he has the responsibility and custodianship for said bond. When the committing magistrate approves the appearance (bail) bond, the custodianship and responsibility, therefore, may be placed either in the clerk of the court or the sheriff, by direction of the court.

Inasmuch as the responsibility for, and the custodianship of, fine and costs bonds (s. 921.15, F. S.), appeal bonds (s. 924.15, F. S.), and the responsibility for the collection of fine and forfeitures arising from offenses tried in county court (s. 34.191, F. S.) are clearly defined and determined by the respective statutes, this opinion must be considered as relating strictly to the responsibility and custodianship of appearance (bail) bonds only.

Section 903.34, F. S., specifically places the responsibility for the approval of appearance (bail) bonds in the committing magistrate or the sheriff:

"903.34 Who may admit to bail. -- In criminal actions instituted or pending in any state court, bonds given by defendants before trial until appeal shall be approved by a committing magistrate or the sheriff. . . ."

The sheriff of the county is designated by statute to be the executive officer of the county court and is designated to serve and execute all civil and criminal processes of said court and do and perform all duties in and about said court which are required to be performed by an executive officer (s. 34.07, F. S.). The sheriff is further required to perform the duties as may be imposed upon him by law (s. 30.15, F. S.) and is obligated under his bond to the faithful discharge of his duties in office.

It therefore must follow that when pursuant to s. 903.34, F. S., the sheriff approves an appearance (bail) bond, such approval and responsibility for the safekeeping of said bond until its return date, in the absence of legislative direction, falls upon the sheriff of the county. Likewise, it must follow that if the appearance (bail) bond is approved by the committing magistrate instead of the sheriff, pursuant to s. 903.34, F. S., the committing magistrate can either deliver the bond to the clerk of the court or to the sheriff, as custodians thereof, and such custodianship would then be placed in either the clerk or the sheriff as the court so directs.