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Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

May 18, 2023
OPINION 23-0044

Ms. Cherie Lott
Caldwell Parish Clerk of Court
Post Office Box 1327
Columbia, Louisiana 71418

8 BONDS – Surety

La. C.Cr.P. art. 331

La. C.Cr.P. art. 323

A court order is required for a clerk of court to cancel a judgment of forfeiture on an appearance bond.

Dear Ms. Lott:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. You have asked the following question:

Is a court order required for a clerk of court to cancel a judgment of forfeiture on an appearance bond?

Yes, a court order is required for a clerk of court to cancel a judgment of forfeiture on an appearance bond. There appears to be no authority in Louisiana law that allows for the cancellation of a judgment of forfeiture on an appearance bond without a court order.

Louisiana Code of Criminal Procedure article 331(L) states “the court shall order the bail obligation canceled when there is no further liability thereon.” Moreover, there is no Louisiana Code of Criminal Procedure article and/or Louisiana Revised Statute that gives a clerk of court the power to cancel a judgment of forfeiture on an appearance bond based upon a “peremption affidavit”. Rather, La. C.Cr.P. art. 331(L) specifically states “the court shall order” the cancellation of a “bond obligation”.

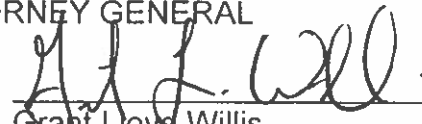
Louisiana Code of Civil Procedure Article 323(E) pertaining to secured personal surety provides that when bail is secured by a mortgage on immovable property “[t]he recorder shall cancel the mortgage from his records upon the order of the court” or “[i]n all other cases, the effect of its recordation shall cease ten years after its recordation unless it is reinscribed in the manner otherwise provided by law.” Where the court has entered a judgment of forfeiture, an order of the court is required to cancel the judgment.

We hope this sufficiently answers your inquiry. If we may be of further assistance, please do not hesitate to contact our office.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

By:



Grant Lloyd Willis
Assistant Attorney General