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Dallas bail bondsman avoids taking loss when defendants skip town by reporting they were rearrested

By Kevin Krause and Ed Timms, Staff Writers

Joellen Hamil left North Texas with her children shortly after bonding out of jail on a theft charge and settled in her Pennsylvania hometown.

Not long after his sixth or seventh drunken-driving arrest, Luis Alonso Lopez skipped bail only to be tracked down in Florida years later.

Enrique Trejo disappeared after a bail bond freed him from jail; he has yet to be brought back to face trial.

In these cases and others, the bondsman who helped spring these people from jail claimed in court papers that they had been rearrested, without including any documentation to back up those claims. That saved the bondsman thousands of dollars that in some cases would have been forfeited to Dallas County as required by law when someone jumps bail.

The county, unlike other large metro areas, lacks standard rules for such procedures, and prosecutors and judges in most cases accept arrest claims as fact in an "honor system" with little or no scrutiny. It's the latest example of how the county's handling of bail bond cases has led to declining forfeiture revenue and problems collecting on judgments, as detailed in previous reports by *The Dallas Morning News*.

The bondsman's attorney provided no details or documentation in his court filings to prove that the three defendants had been arrested for fleeing before their trials. In two cases, the warrants are still active and *The News* could find no records of the defendants being returned to custody. A random examination of dozens of Dallas County bond forfeiture cases reveals that some bondsmen and their attorneys routinely attach documentation in court filings that back up their claims of rearrest while others do not.

"Who in the world would be agreeing to that?" Kathy Braddock, chief of the Harris County district attorney's bond forfeiture division, said when told about the cases.

She said a district attorney should always verify rearrest claims before agreeing to a settlement with a bondsman.

The attorney who filed court papers in the incidents, Michael Todd, said he presented information to the district attorney's office and assumed it was sufficient because prosecutors never challenged it. But when pressed for details about the arrests, Todd would not provide any specific information such as dates or locations of arrests.

It's unclear how often lawyers don't provide proof of claims that get bondsmen off the hook financially in Dallas County, but to the extent that it happens, bondsmen lose any incentive to track down fugitives, who may continue to jeopardize public safety because the law lost track of them.

District Attorney Craig Watkins, a former bail bondsman, declined to comment on specific cases but said his office and a new county task force are working on new bond forfeiture policies that will require better documentation.

He said the process in Dallas County has been too informal for years. He likened the Frank Crowley criminal courthouse to a junior high school where everyone knows and trusts one another. If a lawyer files a motion asserting something, then "there's no reason to distrust them," Watkins said.

"Dallas County has been on the honor system a long time," Watkins said.

Robert Schuwerk, a University of Houston law professor and legal ethics expert, said that when lawyers make assertions in motions, they have an obligation to "engage in a reasonable inquiry" to determine if the claims are true. Schuwerk also questioned why a judge would grant relief to a lawyer who didn't document his claims.

"The fact that the other side didn't complain didn't relieve the judge of his obligation" to rule appropriately, he said. "Normally, you have to produce admissible evidence."

Rearrest in doubt

Bail bonds secure a defendant's release from jail and serve as insurance for the county that he will show up for court hearings and his trial. If not, bondsmen must pay the entire amount of the bond to the county.

But in felony court, if a defendant is rearrested within nine months of his missed court date, the bondsman doesn't have to pay, according to state law. The arrest can be anywhere in the U.S. Typically, bondsmen or their attorneys have to provide proof of incarceration, say legal experts and prosecutors in other counties.

But there's no court record that Todd did so in at least five cases.

He made the arrest claims in what are called bills of review -- special appeals that can be filed up to two years after a final forfeiture judgment.

Todd said his claims that absconders had been rearrested were not sworn statements but merely allegations that had to be proved to the courts. He said they are usually based on information bondsmen give him.

David Wells was the owner of the bond companies involved in the cases. Wells is no longer in the bail bond business because of a 2008 income tax evasion conviction. He could not be reached for comment.

"I never approached a judge about a bill of review without first reviewing the information with an assistant district attorney," Todd said.

But in Dallas County, prosecutors apparently do not contest information that bondsmen provide in bills of review. Doing so would require a hearing. Todd and other lawyers say they cannot recall the last time a hearing was held in Dallas County over a contested bill of review.

When Lopez, 48, missed his 2006 court date for a felony DWI charge, a judge forfeited \$7,000 in bonds posted by Wells' company David's Bail Bonds.

Todd filed bills of review in December 2007 in which he said Lopez had been rearrested within nine months of a missed court date. The filings had no details or documentation of that arrest attached. But Todd said recently that he followed his normal procedure and "produced information for the district attorney's office to review and agree to a settlement."

A judge -- it's not clear who from the signature -- granted his motions, and Wells didn't have to pay the forfeitures.

However, records show that the Dallas County warrant against Lopez remained active until he was arrested in Miami in July 2010 after a traffic stop.

The Dallas County sheriff's fugitive squad brought Lopez back to Dallas, and he was sentenced to prison for the crime about three months later.

Todd said his client couldn't find his file on Lopez and thus couldn't provide details about the arrest that he told the courts happened in 2007.

The Dallas County Sheriff's Department spent more than \$1,300 to bring Lopez back to Dallas, records show. Neither Wells nor his insurance company was required to reimburse the sheriff.

Todd is listed as one of three directors of an umbrella company that owns David's Bail Bonds II and Town East Bail Bonds II, which were formed by Wells' former partner, Mark Toliver, and have the same addresses as the companies Wells owned. The only difference in the names is the numeral II. The umbrella company, Weltee Enterprises Inc., was incorporated in early 2009.

No objection from DA

In the Hamil case, Todd filed a bill of review on behalf of Wells' Town East Bail Bonds. Todd was seeking to help Town East avoid liability for a \$3,000 bond it had forfeited when Hamil missed a 2006 court date.

Hamil, of Mesquite, had been accused of stealing money from customers' accounts while she worked for State Farm in 2003.

Todd claimed in his filing that she had been rearrested within nine months of her missed court date, but he included no details of the arrest or evidence. The DA's office didn't object, and a judge signed an order that allowed Wells to avoid paying the forfeiture.

Hamil died in an Erie County nursing home in early 2010 at age 51 after a lengthy battle with cancer. The Dallas County bond forfeiture warrant for her arrest was still active as of October.

When asked about the case, Todd could not provide details of a new arrest. He said that since 2007 he has represented bail bond companies in hundreds of cases.

"Consequently, four years after I have handled a matter, I am not going to have automatic recall of what transpired," Todd wrote in response to questions emailed to him.

In the Hamil case, he said, "We had secured information that she came into contact with law enforcement in the state of Pennsylvania... I presented this information to the district attorney's office, and a settlement was reached on the case."

Todd said she was released in Pennsylvania because of her status as a witness in a Dallas County sexual assault case.

A Hamil family member was molested by an uncle in 2006 and Hamil was listed as a witness in the case. In 2008, the DA's office attempted to have Hamil returned to Dallas to testify in the assault case but was not successful, court records show.

Tim Hamil, her former husband, said he also moved to Pennsylvania for a while and made many trips back and forth until her death. He said he was in touch with her until the end and wasn't aware of her being arrested there. He said she took the kids and left Texas shortly after the sexual assault.

State District Judge Michael Snipes, who granted Todd's appeal on behalf of Wells, said he would normally personally confirm a rearrest claim or ask his court coordinator to do so.

"In this case the motion was filed by Michael Todd, who I have known for 20 years and worked extensively with as a federal prosecutor," Snipes said. "I would have no reason to doubt his word."

Braddock, the Harris County prosecutor, said that if bondsmen in her county don't attach evidence to their bills of review, their lawyers will hand her office a packet of information supporting their claims. "We verify it here," she said.

The intent of the bill of review, she said, is to return some of the forfeited money to bondsmen who continue to hunt for defendants and spend time and money to bring them back to face trial.

However, in about 90 percent of forfeiture cases, the bondsmen played no role in the rearrest, she said. Usually, Braddock said, defendants are rearrested during traffic stops because of the active warrants.

Tarrant County's written policy on the matter says bondsmen "must provide proof of incarceration." The Harris County DA's policy manual says that if the defendant is in

custody elsewhere, bondsmen "shall provide a copy of the verification of incarceration to be attached to the file" and that it should be verified.

In Dallas County, there appears to be little consistency when it comes to documenting rearrest claims in bills of review.

Randy Adler, an attorney for Aggie Land Bail Bonds, filed a bill of review in September 2010 in which he listed the date and place of arrest and attached a printout of Dallas County jail records showing when the defendant was placed into custody.

Steven S. Bell, a lawyer who has represented different bondsmen, last year included proof of arrest in two cases and did not in two others -- all four involving David's Bail Bonds, court records show. In the two cases without proof, county records show the defendants had been rearrested not long after missing their court dates.

Bell said there is no steadfast rule in Dallas County on when to attach rearrest documentation. He said he will do so if he can't easily confirm rearrest using the county's own computer system. Sometimes he will have to attach documentation if a prosecutor tells him a warrant is still active, he said.

Bell, who no longer represents David's, said that with all his cases, either it's easy to confirm rearrest on county computers or there will be documentation attached.

"If my bondsman says my guy is back in jail, if I don't have something I'm comfortable with, I will ask for documentation," Bell said. "I have a good reputation down there. I won't tell you someone has been rearrested when they weren't."

Reversed decision

In one instance, an alert clerk noticed that one of Todd's bills of review contained no rearrest records -- after the judge had already granted it.

David's Bail Bonds forfeited a \$5,000 bond after Adrian Martinez, 34, missed a 2006 court date.

Todd filed a bill of review in December 2007 in which he said Martinez had been rearrested within the legal grace period. State District Judge Robert Burns approved his motion.

A yellow sticky note attached to the motion said: "Judge, no rearrest documents are in the files. Deidre walked down to bond forfeiture [to see] what was filed on Friday. It is not in those papers, either." Burns then reversed his decision, denying the bill of review, records show.

Burns granted a 30-day stay, which gave Wells more time before having to pay the judgment. The order he signed said that "information pertaining to the rearrest of the defendant was supplied to the court and duly file marked in each respective file, but such rearrest information is now missing."

However, it wasn't until about a month later that Martinez was actually rearrested -- by Dallas police -- and returned to the jail. His attorney at the time, Brook Busby, said that to her knowledge, it was her client's only arrest since he had become a fugitive.

Burns then signed a settlement agreement that absolved Wells of liability for the forfeited bond, even though Martinez was returned to custody almost two years after his missed his court date -- well beyond the statutory grace period.

"If any party claims somebody has been rearrested, I don't accept that at face value," Burns said, adding that either he or his coordinator would try to confirm it before letting a bondsman off the hook.

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AT A GLANCE: Bond forfeitures

Since June, *The Dallas Morning News* has taken an in-depth look at Dallas County's bail bond forfeiture process. Bondsmen owe the county money when someone they bailed out of jail doesn't show for court. But the county for various reasons often never sees that money. Key findings from the series:

Current and former bail bondsmen and attorneys authorized to write bonds owed the county \$35 million in unpaid judgments, some dating back decades and thus uncollectable.

The county did not have a system to track bond forfeiture cases to make sure those with final judgments were paid on time.

For some lawyers authorized to write bail bonds, the business can be lucrative. It is largely unregulated, allowing many lawyers to walk away from money owed to the county.

District Attorney Craig Watkins, whose office is responsible for seeking judgments against bondsmen, still owed Denton County more than \$3,400 from when he wrote bonds as a defense lawyer.

Dallas County until recently was charging bondsmen bargain rates for fees owed when their clients missed court, and the county had not been charging interest on money owed.

Some criminal court judges and the DA's office have been letting bondsmen off the hook for hundreds of thousands of dollars in court judgments against them, in many cases with no explanation of their decisions.