

Robert Edward TROUTT *v.* Judge John LANGSTON
and Tommy ROBINSON

CR 84-141

675 S.W.2d 625

Supreme Court of Arkansas
Opinion delivered August 21, 1984

CRIMINAL LAW — BONDSMAN MAY SURRENDER DEFENDANT WITHOUT CAUSE — CONSIDERATION MUST BE RETURNED TO DEFENDANT. — The bondsman may surrender the defendant without cause pursuant to Ark. Stat. Ann. § 43-716 (Repl. 1977) only if the consideration for making the bond is returned to the defendant.

Appeal from Pulaski Circuit Court, Fourth District; *John Langston*, Judge; Temporary Writ of Mandamus granted.

Guy Jones, Jr., for petitioner.

Steve Clark, Att'y Gen., by: *Theodore Holder*, Asst. Att'y Gen., for respondent.

Temporary Writ of Mandamus is granted. The bondsman may surrender the defendant without cause pursuant to Ark. Stat. Ann. § 43-716 (Repl. 1977) only if the consideration for making the bond is returned to the defendant.

ADKISSON, C.J., PURTLE and HAYS, JJ., concur.

GEORGE ROSE SMITH, J., dissents.

GEORGE ROSE SMITH, Justice, dissenting. I think the bondsman had an absolute right to avoid possible liability by surrendering the petitioner to the jailer. Ark. Stat. Ann. § 43-716; *Craig v. State*, 257 Ark. 112 (1974). The petitioner might have raised the question, in the Court below, of his entitlement to a return of the money he paid the bondsman, but that question was not raised below and is not before us on a petition for a Writ of Mandamus.