

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CULPEPER

Commonwealth

v.

Daniel W. Harmon-Wright, Defendant

N^o: CR 12000131

Criminal Division

MOTION TO ADMIT DEFENDANT TO BAIL AND TO SET A BOND AMOUNT

COMES NOW THE DEFENDANT, Daniel W. Harmon-Wright, by counsel, and moves this Court, pursuant to Va. Code § 19.2-131, for entry of an order admitting the Defendant to bail and setting a bond amount upon grounds as stated:

1. Defendant, a police officer, is charged in a four-count indictment of the murder of a suspect whom he had reason to detain and question. He will plead affirmatively on the grounds of self defense and the sudden emergency doctrine. This was an isolated incident occurring within the scope of his duties as a police officer, of which he has been relieved.
2. Nevertheless, the charge requires a positive showing that the Defendant does not pose an unreasonable danger to himself or others. Va. Code § 19.2-120(B)(1).
3. Defendant resides in the Gainesville area of Prince William County with his wife and nine-month-old son. His family is in this area, and he has a strong interest in going to trial on this matter. Since there is no statute of limitations on the charge of murder, it is best for him to clear this matter up expeditiously. As a police officer, the Defendant has knowledge of the necessity for his personal appearance at all court hearings in this matter, as well as the consequences of his failure to appear. He has every intention, indeed a strong desire and need to cooperate with the Court in order to state his defense, which he believes will be absolute.

4. Article 1, § 9, of the Constitution of Virginia, and the Eighth Amendment to the Constitution of the United States assert the right of the defendant to a reasonable bail. Va. Code § 19.2-120 contains a presumption that every person who has merely been charged with certain classes of offenses is not entitled to bail, subject to rebuttal. This code section has been employed in an *ex-parte* order entered by this Court to deny the Defendant the immediate bail hearing to which he was entitled, and as to which Defendant now objects. The presumption as employed operates to deny the Defendant his right to the presumption of innocence, and a reasonable bail.
5. The Defendant is presently employed by the Town of Culpeper as a police officer, but has been, as of the pendency of this action, suspended without pay or benefits. He is married and has an infant son. He has relatives in the area who can assist his wife with living expenses, but he is without means to obtain the services of a bondsman, particularly if the Court reacts merely to the fact of the indictment and fails to carefully consider the factors enumerated in Va. Code § 19.2-120(D) and § 19.2-121. The assessment of an unreasonably high bond is the same as a denial of bond entirely.

1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE CHARGED;

The Defendant is a police officer who responded to a call for investigation of a suspicious person trespassing on church property after having been ordered to depart, and refusing to do so in violation of Va. Code § 18.2-119, which property is governed by signs clearly stating the trespassing is prohibited as reflected in Exhibits "A" through "C", attached hereto. During the course of his initial conversation with the suspect, the Defendant officer observed a woman sitting in the driver's seat of her Jeep Wrangler automobile, with an opaque, silvered sun-screen entirely masking the windshield. The Defendant officer asked her why she was present at that location. After some time and a deep sigh, she responded, "I'm here to meet a friend." Defendant then

requested that the suspect produce her operator's permit. She did so, apparently offering the certificate for the officer's inspection. When, in an act of trust, the officer reached into the vehicle to secure the certificate, the suspect tightened her grasp on it with her right hand and immediately rolled up her window with her left, screaming, "No, no, no, you're not going to get it."

Having realized what was happening during the event, the officer began to extricate his arm, but not fast enough: the woman tightened the window upon his hand and fingers, causing an injury. As this was happening, she put the car in gear and began to move forward, carrying the officer along, as he was unable to free himself. She then came to a sudden stop, flinging the officer forward, further injuring his wrist and hand by the resultant torsion, and then started up again, in an apparent attempt to injure or kill the officer.

The officer began yelling at the suspect to stop the vehicle, using his right hand on the door handle to attempt to open the locked door. When this failed, he unholstered his duty weapon, a .40 caliber Glock semiautomatic handgun, and fired two or three rounds in quick succession through the glass, freeing himself from the vehicle. Unaware of any effect upon the suspect but finding himself free, the officer stepped off the running board of the vehicle, but the suspect immediately cut the front wheels hard to the left, in a further attempt to injure or kill the officer. The officer successfully dodged the rear wheels, and as the vehicle passed him on his right, he stepped out into the street from the parking lot, and took up a position behind the vehicle as the suspect executed a left turn into the street with the sun-screen still obscuring the entire windshield. As the vehicle began to accelerate, the suspect presented an obvious threat to public safety including a pedestrian who was present and more than one other vehicle coming up the road from the opposite direction, as well as any number of other persons threatened by the suspect's use of her vehicle as a weapon.

At this point, the suspect was known to the officer to be a felon, because of her violation of numerous statutes in his presence and as to which he was the victim of some, including: attempted capital murder (§18.2-31(6) and §18.2-25); assault on a police officer (§18.2-57(C)); abduction (§18.2-47(A) and (C)); malicious wounding (§18.2-51, §18.2-53); escape from lawful detention by means of force (§18.2-478); obstructing justice (§18.2-460(C)); and disregarding order of police to stop vehicle (§46.2-817(B)). Each of these is a felonious act, and most are indicative of a depraved mind such that the felon represented a continuing danger to both the officer and the public, generally. She had already been detained on suspicion of criminal trespass, had already used her vehicle as a weapon, and might have suddenly backed up to run over the officer, or hit the one pedestrian who was walking up the sidewalk on the other side of the street, or any number of hypothetical pedestrians, children playing, etc., as she recklessly drove down the street with that sun-screen completely blocking her windshield, not caring whom she might have killed. The officer assumed an "isocles" stance and carefully took aim and eliminated the threat as he had been trained to do, and under the circumstances quite admirable in that his presence of mind all but eliminated the possibility of collateral damage.

This is not a case of a murder committed in the course of a bank-robbery; this was the action of a socially responsible police officer doing his job. The mere fact of a homicide gives rise to probable cause for an indictment to issue, but this was a clearly justified act in protection of the officer himself as well as the safety of the public generally.

2. THE HISTORY AND CHARACTERISTICS OF THE PERSON, INCLUDING HIS CHARACTER, PHYSICAL AND MENTAL CONDITION, FAMILY TIES, EMPLOYMENT, FINANCIAL RESOURCES, LENGTH OF RESIDENCE IN THE COMMUNITY, COMMUNITY TIES, PAST CONDUCT, HISTORY RELATING TO DRUG OR ALCOHOL ABUSE, CRIMINAL HISTORY, MEMBERSHIP IN A CRIMINAL STREET GANG AS DEFINED IN § 18.2-46.1, AND RECORD CONCERNING APPEARANCE AT COURT PROCEEDINGS;

The Defendant resides in Prince William County with his wife and son. He grew up in the Town of Vienna, and most of his family resides nearby. As of the date hereof, he is still employed as a

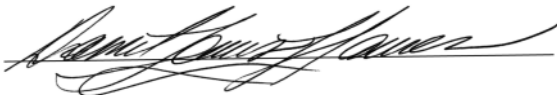
police officer with the Town of Culpeper, though without pay or benefits. He is in good physical condition, and other than the stress and anxiety that this present action has caused, is in good mental condition. He has none of the negative factors that a court might normally take into consideration; the worst of his behavior consists of a couple of traffic tickets he has received in 2006 and 2009, respectively.

3. THE NATURE AND SERIOUSNESS OF THE DANGER TO ANY PERSON OR THE COMMUNITY THAT WOULD BE POSED BY THE DEFENDANT'S RELEASE.

The Defendant needs to be able to help with and document his own defense. Because he is, in fact, not guilty of a crime in this case, he will mount a vigorous defense and will be required to assist his attorneys in doing so. The incident in question was an isolated incident arising out of his employment as a police officer and there is absolutely no reason to believe that he poses any kind of a threat to himself or any members of the community.

WHEREFORE, the Defendant, Daniel Wayne Harmon-Wright, moves this Court for admittance to bail and to set a reasonable amount for his bond, that he might be released pending trial.

Respectfully Submitted,
Daniel Wayne Harmon-Wright,
Defendant, by counsel



Daniel L. Hawes,
Counsel for the Defendant
VSB N°. 30076

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CERTIFICATE OF SERVICE: I certify, that this day of June 7, 2012, I did cause a true and correct copy of the foregoing to be faxed, mailed and/or hand-delivered to the offices of opposing counsel of record for each party, and to all *pro-se*

parties who have entered their appearances, pursuant to the provisions of Va. Code §§ 8.01-314, 16.1-89, 16.1-265; Va. Sup. Ct. Rules 1:12, 1:17, 3A:21, 4:8, 4:15, 7A:10, 8:8, 8:13; and/or Fed. R. Civ. P. 5(d), as appropriate. (Va. Sup. Ct. Rules, Form 1.):

Electronic mail upon request of
Hon. James Fisher, Commonwealth's Attorney,
to: James.Fisher@FauquierCounty.gov

A handwritten signature in black ink, appearing to read "James Fisher", written over a horizontal line.

Bond Motion - Exhibit "A"



Bond Motion - Exhibit "B"



Bond Motion - Exhibit "C"

