

# **BOND HEARINGS IN GENERAL DISTRICT COURT**

Paul D. Merullo, Judge  
Virginia Beach Bar Association CLE  
September 29, 2024

Bond hearings: One of the most consequential proceedings in General District Court, yet a typical bond hearing lasts 5 to 15 minutes.



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**BOND DENIED TWICE**  
SUSPECT IN SHOOTING OUTSIDE LOCAL RESTAURANT



# An illustrative misdemeanor bond hearing court file:

**ORDER FOR CONTINUED CUSTODY**

Commonwealth of Virginia

Jurisdiction: VIRGINIA BEACH GEN DIST - CRIMINAL

ACCUSED: HOWARD, DONALD  
NAME (LAST, FIRST, MIDDLE)  
 4621 TWAIN LANE  
 VIRGINIA BEACH, VA 23462  
 224-39-2821  
SOCIAL SECURITY NUMBER

[ ] Juvenile & Domestic Relations District Court  
 General District Court [ ] Circuit Court

8/20/1986  
DATE OF BIRTH

Hearing Date and Time: 10/2/2024 11:00 am CHARGED UNDER:  State [ ] Local Ordinance

CHARGE(S): CTRM: F

Offense Tracking Number	Offense Date	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
810GM2400032886	8/8/2024	DIS-5311-M1	18.2-415	GC24008136-00
		Description: DISORDERLY CONDUCT		
		Description:		
		Description:		
		Description:		
		Description:		
		Description:		

[ ] Addendum listing additional charges is attached and incorporated.

Public Workforce [ ] Authorized [ ] Not Authorized

BAIL: \$ [ ] Secured Bond [ ] Unsecured Bond [ ] Recognizance  
 [ ] Custody and Supervision of Pretrial Services Agency  
 [ ] Third-Party Custody and Supervision

[ ] No Change in Existing Amount of Bond [ ] Amend Bond to \$ .....  
 [ ] Held Without Bail [ ] No change in Existing Bail Conditions

Accused [ ] may [ ] may not leave the Commonwealth of Virginia [ ] may [ ] may not leave .....  
CITY/COUNTY

**Additional Conditions of Bail:**

The Accused must

[ ] Submit to Drug/Alcohol Screening [ ] Submit to Drug/Alcohol Testing [ ] Comply with a Curfew of .....

[ ] Avoid All Contact with .....

[ ] Refrain from Possessing Firearm, Destructive Device, Dangerous Weapon

[ ] Refrain from Excessive Use of Alcohol [ ] Refrain from Use of Illegal Drugs/Controlled Substances not Prescribed by a Health Care Provider

[ ] Maintain or Seek Employment [ ] Maintain or Commence Education

[ ] The Accused is assigned to home-electronic incarceration by Judge

[ ] The Accused is to be monitored by a GPS/other tracking device

[ ] The Accused is to be released only to the custody of [ ] authorized facility representative OR [ ] the following person

..... for transportation directly to the following facility: .....  
NAME OF PERSON NAME OF FACILITY

[ ] Other:

TO THE SHERIFF, JAIL OFFICER OR CORRECTIONAL OFFICER:

Hold the accused in custody pending the hearing date and convey the accused to the appropriate court so that the accused will be present in court at the hearing date and time, unless otherwise ordered by the appropriate judicial officer.

8/13/2024

DATE

[ ] CLERK [ ] JUDGE

# WARRANT OF ARREST—MISDEMEANOR (STATE)

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-71, -72

Virginia Beach

CITY OR COUNTY

- General District Court
  Criminal
  Traffic  
 Juvenile and Domestic Relations District Court

### TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about 08/08/2024 did unlawfully in violation of Section

**18.2-415**

, Code of Virginia: commit an act of disorderly conduct in a public building with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, by engaging in conduct having a direct tendency to cause acts of violence by the person or persons at whom such conduct was directed.

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

**LADD, S R VBPD**

, Complainant.

Execution by summons  permitted at officer's discretion.  not permitted.

08/08/2024 05:08 PM

DATE AND TIME ISSUED

CLERK
  MAGISTRATE
  JUDGE  
 Michael Arlinsky

## CCRE/Fingerprinting Required

CASE NO. GC24008136-00 **KW**

ACCUSED:

**Howard, Donald**

LAST NAME, FIRST NAME, MIDDLE NAME

4621 Twain Lane

ADDRESS/LOCATION

Virginia Beach, VA 23462

To be completed upon service as Summons

Mailing address  Same as above

RACE	SEX	BORN	HT.	WGT.	EYES	HAIR
W	M	MO. DAY YR. 08/20/1986	FT. IN. 5' 05"	150	BLU	BRO

SSN

224-39-2821

DL#

STATE

Commercial Driver's License

Commercial Motor Vehicle
  Hazardous Materials

### CLASS 1 MISDEMEANOR

- EXECUTED by arresting the Accused named above on this day:  
 EXECUTED by summoning the Accused named above on this day:  
 For legal entities other than individuals, service pursuant to Va. Code § 19.2-76.

8/8/24

1710

DATE AND TIME OF SERVICE

Ladd, S.R.

ARRESTING OFFICER

4595 VBPD 125

BADGE NO., AGENCY AND JURISDICTION

for Chief of Police

SHERIFF

Attorney for the Accused:

Short Offense Description (not a legal definition):

**DISORDERLY CONDUCT IN STREET/PUBLIC PLACE**

Offense Tracking Number:

**810GM2400032886**

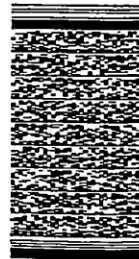
FOR ADMINISTRATIVE USE ONLY

Virginia Crime Code:

**DIS-5311-M1**

# M

10-2-24  
Feb 05, 2025  
11:00 AM  
 Hearing Date/Time



# STATE

**COMMITMENT ORDER**

Commonwealth of Virginia

ACCUSED: Howard, Donald  
NAME (LAST, FIRST, MIDDLE)

Jurisdiction: Virginia Beach

ADDRESS: 4621 Twain Lane  
Virginia Beach, VA 23462

- General District Court (Traffic)
- General District Court (Criminal)
- General District Court (Civil)
- Juvenile & Domestic Relations District Court
- Circuit Court

SSN: 224-39-2821 DOB: 08/20/1986

SEX: STATUS: CHARGED UNDER:

Male  Female  Adult  Juvenile  State  Local Ordinance

**CHARGE(S):**

Offense Tracking Number	Offense Date	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
810GM2400032886	08-08-24	DIS-5311-M1 DISORDERLY CONDUCT IN STREET/PUBLIC PLACE	18.2-415	

Addendum listing additional charges is attached and incorporated.

BAIL: \$ .....  Secured  Unsecured  Recognizance  
 Held without bail  No additional bail required  
 Release by Judicial Officer to custody of responsible person or when accused is no longer intoxicated

Accused  may  may not depart the Commonwealth of Virginia.  Other conditions of bail on page two.

If NOT released on bail,  
 Court appearance location, date and time:  
 GENERAL DISTRICT  J&DR  CIRCUIT  
Virginia Beach  
Aug 09, 2024 02:00 PM

If released on bail,  
 Hearing date and time:  
Aug 09, 2024 02:00 PM

Since accused is unable or unwilling to participate in a bail hearing, I order accused to be returned to Judicial Officer for bail determination.

Currently serving sentence

Charges pending in ..... Court

Place held in custody (if other than facility serving this jurisdiction): .....

TO THE SHERIFF, JAIL OFFICER OR CORRECTIONAL OFFICER: You are ordered to take custody of and convey the accused to the Court, unless otherwise released.

08/08/2024 05:36 PM  
DATE AND TIME

.....  
 NAME OF FACILITY

[Signature]  
 MAGISTRATE  CLERK  JUDGE Michael Arlinsky

Received: 8.8.24 @ 1820  
DATE AND TIME

By: [Signature]

CHECKLIST FOR BAIL DETERMINATIONS

Commonwealth of Virginia

Name of the Accused Howard, Donald

Nature and Circumstances of the Offense Disorderly Conduct--Threatened to kill

Weight of the Evidence Possessed small knives

Length of Time in Community 37 years

Place of Employment Unempl How Long

Family Ties Sister, Grandparents

Involvement in Education Some coll

Financial Resources None, Homeless--Getting mail at local address

Pending Charges

Was a firearm allegedly used in the offense:  No  Yes

Currently on probation or parole?  No  Yes

Prior criminal record M Contrib Delinq Minor '06; M Poss MJ '07; F Eluding Police '07; F Poss Sched 1/2 '08; M Dest Prop '08; M Driving Forfeit Lic DNR '08; M Poss MJ 2nd Off '10, '14; F Viol Prob Fel Off '10; M Good Behav Viol '10, '16; M DWI 1st '11; F VoP '11; M Driving Forfeit Lic '12; M Poss MJ '12; Nolle Prossed F Abduction/Kidnapping '13 (Contin other)

The secured bond provision in Virginia Code § 19.2-123 applies  and is waived with the concurrence of the attorney of the Commonwealth or the attorney for the county, city or town.

Prior charges of failing to appear M FTA '23; M FTA DNR '24

Is this person likely to obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness, juror, victim, or family or household member as defined in Virginia Code § 16.1-228?

No  Yes

Pursuant to Virginia Code § 19.2-130.1, terms of bail set in accordance with the order of a court that issued a capias.

Other information Nolle Pross: M Dom Assault '13; M DWI 2nd w/i 5 years '13; M DWI Ref '13; M Assault '14; M Poss MJ 1st Off '16; Nolle Pross: Fel Lic Revoked (DWI/Manslaughter '17; M DWI Ref 3rd Off '17; F DWI 3rd off '17; M Driving after Lic Forfeit '23. Present charges of threatening with a knife and past charges of violence-Danger to community.

Bail Set Held without Bail

Special instructions or conditions

Check if more information is on reverse

[x] MAGISTRATE [ ] JUDGE

Michael Arlinsky

08/08/2024  
DATE



Sample questions defense attorney could ask client if answers are likely to be favorable:

1. Where will you be living if you are released? Do you own or rent? Is your name on the lease? Who else lives there with you?
2. Family situation (i.e. married/single, children)
3. Level of education
4. Are you employed? Where? What kind of work? Length of employment
5. Are you currently on probation?
6. Do you have any other pending charges?
7. How did you come into contact with police when you were arrested/turned self in?
8. When did you find out you had an outstanding warrant? (If applicable)
9. If the court puts you on pretrial supervision can you remain drug/alcohol free and comply with random testing and pretrial appointments?



Sample questions to be posed by prosecutor who is opposed to bond (if answers would be favorable to prosecution):

1. Do you have other pending charges?
2. Are you currently on probation?
3. What was the drug in question in your previous drug conviction (or drug for which you are on probation)?
4. Have you previously done inpatient substance abuse treatment?
5. Before you were arrested did you know you had an outstanding warrant?
6. How did you come into contact with police when you were arrested on this warrant?

Issues that may be adverse to the defendant to be pointed out in CWA proffer:

- ✓ Weight of the evidence is strong
- ✓ Prior history of failure to appear/pretrial noncompliance
- ✓ Pending charges similar to charges before the court
- ✓ Prior inpatient substance abuse treatment (where new inpatient program is being proposed)
- ✓ Prior convictions or active probation for conduct similar to charges before the court
- ✓ Lengthy or bad criminal record generally



# Statutory Factors:

Nature and circumstances of offense

Whether a firearm was used

Weight of the evidence

Financial resources of defendant

Character of the accused

Length of time in community

Record of convictions

History of court appearances/FTA

Likelihood to obstruct, intimidate

“any other information available” re: appearance

Va Code 19.2-121

Practice pointer: Defense options if court denies motion for bond:

- ✓ Appeal to Circuit Court
- ✓ Ask judge to note “may reconsider if inpatient program is proposed”
- ✓ Move to reconsider based on proposed inpatient substance abuse program
- ✓ If possible to enter a plea (for example on a charge of FTA), ask judge if okay to just take a plea (defendant might be held w/o bond only on FTA)
- ✓ Advance defendant’s case to officer’s earlier court date, if any. Check officer traffic AND criminal availability

Commonwealth Attorney May Appeal order granting bond:

“Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.”

“The court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court.”

[Va. Code Ann. § 19.2-124](#)

Question: How often does CWA appeal GDC bond decision to Circuit Court?

## Defense motion to reconsider bond Va. Code 19.2-130

Some illustrative examples of reasons:

- Defendant suffers a continuance (i.e. Commonwealth's witness unavailable/did not appear, awaiting lab analysis, CWA stuck in a jury trial)
- Weight of the evidence is not as strong as was thought at earlier bond hearing (i.e. defense attorney obtained exculpatory video of incident)
- Defense attorney proposes inpatient substance abuse program
- Defense attorney proposes a vendor who can provide GPS location tracking or alcohol monitoring

\*\*There is no explicit limit to the number of times a defendant held in custody can move for reconsideration of bond status.

An illustrative case in which defendant is held without bond for FTA but not in custody for the underlying charge:

06/22/2024 00:40 4775 P.002/003 FROM:VBPD

**CAPIAS: ATTACHMENT OF THE BODY** VA. CODE §§ 19.2-306; 19.2-373, -432, -433; 16.1-402.6  
 Commonwealth of Virginia 19.2-306; 19.2-356; 19.2-402.2; 16.1-276; 16.1-277.1; 19.2-303.1; 19.2-304; 19.2-304.1  
 General District Court

VIRGINIA BEACH GEN DIST - CRIMINAL #1 1 Avenue and Domestic Relations District Court  
 CITY OR COUNTY 2425 NIMMO PKWY, VIRGINIA BEACH, VA 23456 (757) 385-4707  
 STREET ADDRESS OF COURT TELEPHONE NUMBER

**TO ADJ. AUTHORIZED OFFICER:**  
 You are hereby commanded in the name of the Commonwealth forthwith to arrest the Respondent, and to produce the Respondent in this Court when found, or as soon thereafter as this Court may be in session, to show cause, if any, why Respondent should not, pursuant to Va. Code § 19.2-121

has his/her suspended sentence of \_\_\_\_\_ and/or suspended fine of \_\_\_\_\_ that was previously suspended on \_\_\_\_\_ for the conviction of \_\_\_\_\_, revoked because \_\_\_\_\_ and be sentenced in accordance with Va. Code §§ 19.2-306 and 19.2-306.1.

have his/her recognizance revoked or modified because of the following violation of conditions of release:

be imprisoned, fined or otherwise punished for \_\_\_\_\_

failure to appear in this Court on 10/10/2023 8:30 am DATE AND TIME

failure to pay fines, costs, forfeiture, restitution or other penalty or an installment thereof, payment due: \$ \_\_\_\_\_ DD

failure to provide support as ordered on \$ \_\_\_\_\_ per \_\_\_\_\_ acreage as of \_\_\_\_\_ with \$ \_\_\_\_\_

failure to obey an order of [ ] this court [ ] dated \_\_\_\_\_ ordering \_\_\_\_\_

have his or her driving privilege revoked for failure to timely pay the VASAP fee

have his or her VASAP participation revoked because \_\_\_\_\_

have his or her community-based probation revoked or modified because \_\_\_\_\_

have his or her deferral of proceedings revoked and be subjected to the proceedings as provided by law because \_\_\_\_\_

(Other explain) \_\_\_\_\_

Pursuant to Va. Code § 19.2-130.1, the judge orders that the magistrate shall set the bail terms in accordance with the following, unless circumstances exist that require more restrictive terms:

AND:  may  may not set additional terms and conditions.

The following information is provided to the judicial officer in determining bail:

10/16/2023 DATE ISSUED  
 FORM GC-561X (NOV 07) 21

**CAPIAS: ATTACHMENT OF THE BODY**

CASE NO. GC23008502-01

**ARREST THIS RESPONDENT:**  
 BROOKS, ZYNNICCO STEVEN PATRI  
 LAST NAME, FIRST NAME, MIDDLE NAME  
 711 ANGLE ST.  
 ADDRESS  
 PORTSMOUTH, VA 23704

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN	HT.	WEIG.	EYES	HAIR
		MO. DAY YR.	FT. IN.	POUNDS	BR.	BLK.
B	M	05 19 85	5 09	250	BR	BLK.

SSN: 607-01-9562

**CAPIAS: ATTACHMENT OF THE BODY**

In connection with the case of:

[ ] Commonwealth of Virginia

[ ] \_\_\_\_\_

ZYNNICCO STEVEN PATRI BROOKS

UNDERLYING CASE NO. GC23008502-00

UNDERLYING CHARGE(S) \_\_\_\_\_

TREASURY AFTER BEING FORBIDDEN TO DO SO

EXECUTED by arresting the Respondent named above on this day: 6/22/24 0124 OCT 19 2024

DATE AND TIME

The K. P. P. ARRESTING OFFICER

1328 VSP 125

PLATE NO., AGENCY AND JURISDICTION

for \_\_\_\_\_

OFFENSE TRACKING NUMBER 8100C2260850201

FOR ADMINISTRATIVE USE ONLY  
 Virginia Crime Code: FTA-3020-M1

HEARING DATE AND TIME  
 8-13-24  
 8:30 AM F

ORIGINAL

Being a lawyer is an art and not a science.

How to proceed with a motion for bond will vary, depending on each particular defendant, facts of case, and charges before the court.

Question: Is it better for the defense attorney to proffer for the defendant or to have the defendant testify? Proffers and evidence that would not be admissible at trial can be admitted in a bond hearing. Va. Sup Ct. Rule 2:1101(c)

Question: Are there certain situations where defense attorney will have defendant testify about facts of the case?

Question: If you believe your defendant has zero chance of getting released, do you proceed with a bond hearing as a way to obtain extra early discovery, such as CWA proffer of facts?

Question: Is it effective for prosecutor to question the defendant about his criminal history or best to just proffer that information to the court?

Question: Is it effective for defense attorney to call family members, employer, character witnesses or preferable that defense attorney proffer?