

OFFICE OF THE MAGISTRATE



COMMONWEALTH OF VIRGINIA
16TH JUDICIAL DISTRICT-REGION #4
1610 AVON STREET EXTENDED
CHARLOTTESVILLE, VIRGINIA 22902-8705

June 5, 2017

To: Mr. Jeffrey Fogel

From: Avnel A. Coates, 16th Judicial District Chief Magistrate

Re: Complaint

Thank you for your call on June 2, 2017. I have looked into the matter we discussed regarding your interaction with Magistrate Garwood on the morning of June 2, 2017. I appreciate that it is a difficult time whenever anyone is arrested and taken into custody.

On June 1, 2017, a warrant for assault and battery (18.2-57) was issued with you as the offender. As you stated, the warrant was issued as non-permitted. Magistrate Garwood made the decision to issue a non-permitted warrant for two appropriate reasons: (1) Officer Finke of the Charlottesville Police Department provided Magistrate Garwood with information regarding a contentious interaction, involving you, earlier in the evening on June 1, 2017 at the City of Charlottesville Police Department, and (2) the warrant was issued for the crime of assault and battery wherein there was probable cause that there was an unwanted touching of the victim with you as the offender. For both of these reasons, it is reasonable that there was a safety concern and thus a not permitted warrant was issued. Frequently, magistrates will take into consideration information provided by the courts, law enforcement, citizens, jail staff, and others when determining whether or not a summons, permitted warrant or non-permitted warrant will be issued. The interactions that occurred on the same night gave Magistrate Garwood reasonable belief that a permitted warrant would not be reasonable in this instance and he acted within his reasonable discretion. I apologize for the miscommunication which led you to believe that Magistrate Garwood issued a non-permitted warrant because "he did not like the way you spoke to the Sergeant."

During your bail hearing, you stated that Magistrate Garwood said "I have the power to hold you without bond". While Magistrate Garwood and all magistrates have this "power" in similar circumstances, Magistrate Garwood used reasonable, professional judgement in making a bond determination. Based on the facts in front of him (the charge, lack of criminal history, ties to the community, etc.), you were released on an unsecured bond in the amount of \$2,500.00 and not held without bond. How someone presents in front of the magistrate is highly considered in bond hearings. This important interaction gives insight on whether or not a person may be a danger in the community, a danger to themselves or is a "flight risk" and will not appear in court. Sometimes a magistrate may remind an offender of the possible outcomes of a bond hearing in

order to give an offender a chance to correct any aggressive, unprofessional, combative, disrespectful, untruthful behavior. Many times when an offender is given this type of warning their demeanor changes and crisis escalation is avoided. The offender becomes more engaged and has a meaningful bond hearing. As in this case, the magistrate uses reasonable judgement and discretion and issues an appropriate bond determination.

Please feel free to email me with any additional questions or concerns. Again, I appreciate all calls of concern so that they may be properly addressed.