

STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 13B

OFFICIAL POLICIES ON PRETRIAL RELEASE
EFFECTIVE MARCH 1, 2022

2022
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BRUNSWICK COUNTY, C.S.C.

I. AUTHORITY

BY _____

NCGS 15A-535 provides: "Subject to the provisions of this Article (Article 26, Bail), the Senior Resident Superior Court Judge of each Judicial District, in consultation with the Chief District Court Judge, must devise and issue recommended policies to be followed within the district in determining whether and upon what conditions a defendant may be released before trial."

II. DEFINITIONS

Certain terms used in bail practice have now acquired statutory definitions. NCGS 15A-531 states that the following definitions apply unless the context clearly requires otherwise:

- A. **Bail Bond.** An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State of North Carolina in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to NCGS 109-25, an appearance bond secured by at least one solvent surety, and house arrest with electronic monitoring.
- B. **Obligor.** A principal or surety on a bail bond.
- C. **Principal.** A defendant or material witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.
- D. **Surety.** One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.

III. PURPOSE OF BAIL

The traditional purpose of bail is to assure the defendant's appearance in court.

The purpose of the law on bail, NCGS Chapter 15A, Article 26, is to impose the least restrictive non-monetary form of pretrial release that will reasonably assure the defendant's appearance in court, to end or to minimize the abuses of *ex parte* bail fixing policies calling for secured bonds in predetermined amounts in all cases charging certain offenses, and to vest the decision making process as to form of release and amount of bond in the judicial official who may know the most or can most readily learn the most about the defendant.

IV. FORMS OF PRETRIAL RELEASE

In determining the conditions of pretrial release a judicial official must impose at least one of the following conditions:

- A. Release the defendant on a written promise to appear.
- B. Release the defendant upon the execution of unsecured appearance bond in an amount specified by the judicial official.
- C. Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- D. Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- E. House arrest with electronic monitoring. Pursuant to G.S. 15A-534(a)(5), if electronic monitoring is ordered as a condition of bond then a defendant MUST execute a secured appearance bond under subdivision "D" above.
- F. Use of Conditions: Restrictions may be imposed on travel, associations, conduct, or place of abode, no matter what type of pretrial release is set.
 - 1. Any restrictions imposed should be *reasonable* and *related to the purposes* of the pretrial provisions. Conditions should not be used as punishment. [Note: NCGS 15A-534.4 sets out specific conditions that may be imposed on a defendant who is charged with certain sex offenses and crimes of violence against child victims.]
 - 2. The conditions should relate to those reasons listed under NCGS 15A-534(b):
 - a. to assure defendant's appearance (travel);
 - b. the danger of injury to any person (conduct/association);
 - c. the destruction of evidence (conduct/travel/association);
 - d. the subornation of perjury or intimidation of potential witnesses.

V. **CHOOSING THE FORM OF PRETRIAL RELEASE – NCGS 15A-534**

Statutory Preference for Conditions Other Than Secured Bond.

Under state law, a judicial official must impose a written promise, unsecured bond or custody release unless the judicial official determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. G.S. 15A-534(b). If release on a written promise, unsecured bond or custody release will not reasonably assure appearance, will pose a danger of injury to any person, or is likely to result in destruction of evidence, subornation of perjury or intimidation of potential witnesses, the judicial official shall impose a secured bond.

A. Policy Preference for Non-Monetary Conditions.

When setting conditions of release, this policy requires a preference for non-financial conditions of release (written promise and custody release) over financial conditions (unsecured and secured bond).

B. Policy Preference for Conditions Other than Secured Bond for Certain Charges.

When conditions of release are determined for a defendant where the highest charge is a nonviolent Class 1, 2 or 3 misdemeanor, the judicial official shall impose a type of release other than a secured bond, unless:

- Such a condition will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses within the meaning of G.S. 15A-534(b);
- The defendant is charged with a crime that triggers application of the G.S. 15A-534.1 domestic violence statute; involves a crime of violence on a person; involves breaking or entering a home; a defendant is charged with use of a firearm or other deadly weapon.

C. Written Promise to Appear.

The written promise to appear is the recommended form of pretrial release except in cases in which the defendant is charged with a violation under NCGS Chapter 20 (Motor Vehicles).

The written promise to appear may be selected by the magistrate as the form of pretrial release upon the magistrate's finding that such form will reasonably assure the defendant's court appearance after the magistrate has taken into account the release criteria set out in NCGS 15A-534(c), namely:

1. the nature and circumstances of the offense charged;
2. the weight of the evidence against the defendant;
3. the defendant's family ties;
4. the defendant's employment;
5. the defendant's financial resources;
6. the defendant's character;
7. the defendant's mental condition;
8. the defendant's degree of intoxication, if any;
9. the defendant's length of residence in the community;
10. the defendant's record of convictions;
11. the defendant's history of flight to avoid prosecution or failure to appear at court proceedings; and
12. any other evidence relevant to the issue of pretrial release.

D. Unsecured Bond in a Specific Amount.

The unsecured bond in a specific amount is the recommended form of pretrial release in cases arising under NCGS Chapter 20 (Motor Vehicles), and upon the magistrate's finding that this form of release will reasonably assure the defendant's court appearance on the basis of the release criteria set out above.

E. Release to the Custody of a Designated Person or Organization Agreeing to Supervise the Defendant.

This form of release may be selected in cases if the magistrate finds: (1) that by reason of defendant's age or mental condition a custodial release is most likely to assure the defendant's court appearance, and (2) such custodian and the defendant are both present, and both agree in writing to the terms of release.

Additionally, a district court judge or superior court judge may release a defendant to be supervised and monitored by the Brunswick County Sheriff's Pretrial Release Division, as a form of Supervised Custodial Release pursuant to G.S. §15A-134(a)(3), subject to the following:

1. The BCSO Pretrial Release (PTR) division must screen and accept the defendant prior to this type of pretrial release. Additionally, a defendant must reside in Brunswick County (or have a place to stay in Brunswick County) AND execute a contract with the BCSO PTR division wherein the defendant agrees to be monitored and shall be subject to the rules of pretrial release as set forth in the contract and otherwise imposed by the BCSO PTR division. For non-indigent defendants, there is a \$120.00/month monitoring fee for the BCSO PTR as of 2/1/2022.
2. Given that a defendant must be screened and accepted by the sheriff's office prior to being placed on pretrial electronic monitoring, a judicial official shall also set an alternate bond in the event the defendant does not qualify for BCSO pretrial electronic monitoring through the screening process (i.e. If the defendant does not qualify for electronic monitoring through the BCSO PTR division, then defendant shall alternatively post a \$5,000 secured bond).

3. **If a defendant breaches the terms and conditions of the BCSO PTR division as set forth in the PTR contract and/or guidelines**, the Brunswick County Sheriff may take defendant into custody for such breach. Under G.S. 15A-401(b)(2)f, a law enforcement officer may arrest a defendant without a warrant for violation of pretrial release conditions and bring the defendant before a judicial official. When a defendant appears before a judicial official after such an arrest, the judicial official shall first determine whether or not a valid condition of release was violated. If there is no probable cause to believe that a valid condition of release was violated, the judicial official shall order the defendant released on the existing release order. If there is probable cause to believe that a valid condition of release was violated, the judicial official shall determine the defendant's eligibility for and conditions of release as set out in this policy and, if new conditions are warranted, shall enter a new release order. When setting new conditions of release after a warrantless arrest for a violation of conditions of pretrial release, the judicial official shall not issue new criminal process (such as a Magistrate's Order) unless the conduct also constitutes an independent, new substantive criminal offense (such as communicating threats or trespass). "Violation of court order" is not a substantive crime in North Carolina. If the judicial official decides to pursue contempt for violation of the prior release order, the judicial official should proceed accordingly.

Magistrates are not authorized to impose pretrial monitoring through the BCSO as a condition of release.

Pretrial release under paragraph F of this section must be selected if the defendant objects to the custodial form of release as set forth in subsection E above.

- F. Release on a Secured Appearance Bond in a Specified Amount Secured by a Cash Deposit, Mortgage, or at Least One Solvent Surety; and/or
- G. House Arrest with Electronic Monitoring.

This condition of bond is separate from the BCSO pre-trial supervision program and is monitored by a private third-party company/provider. The court may impose pretrial house arrest release in which the defendant is required to remain at his or her residence unless the court authorizes the defendant to leave for purposes of employment, counseling, a course of study, or vocational training. The defendant shall be required to wear a device which permits the supervising agency to electronically monitor the defendant's compliance with the terms and conditions set forth by the court. If house arrest with electronic monitoring is imposed, the defendant **MUST** execute a secured appearance bond under subsection D above.

VI. SUGGESTED BAIL BONDS

The bond amounts set out below are applicable to both secured and unsecured bonds. They are merely suggested bonds. The actual bond may be more or less than the amounts suggested below and is in the sole discretion of the judicial official setting bond.

The circumstances of each individual case will govern each decision. A rigid bail schedule is incompatible with such an individualized decision. The magistrate will select a bond amount that is appropriate and indicated by using the same release criteria set out in Section V. A. above, using those criteria here for determination of the amount of bond in the same manner as the magistrate used to determine the form of release.

A. MISDEMEANORS AND NON-DRUG TRAFFICKING FELONIES

- | | | | |
|-----|--|---|-------------------------------|
| 1. | For Class B1 felonies* | - | \$250,000.00 - \$1,000,000.00 |
| 2. | For Class B2 felonies* | - | \$200,000.00 - \$400,000.00 |
| 3. | For Class C felonies* | - | \$75,000.00 - \$150,000.00 |
| 4. | For Class D felonies* | - | \$50,000.00 - \$100,000.00 |
| 5. | For Class E felonies | - | \$40,000.00 - \$75,000.00 |
| 6. | For Class F felonies | - | \$25,000.00 - \$50,000.00 |
| 7. | For Class G felonies | - | \$15,000.00 - \$35,000.00 |
| 8. | For Class H felonies | - | \$2,500.00 - \$20,000.00 |
| 9. | For Class I felonies | - | \$2,000.00 - \$5,000.00 |
| 10. | For Habitual DWI* | - | \$30,000.00 - \$45,000.00 |
| 11. | For Class A1 misdemeanors | - | \$500.00 - \$2,500.00 |
| 12. | For Class 1 misdemeanors | - | \$250.00 - \$1,000.00 |
| 13. | For Class 2 misdemeanors | - | \$200.00 - \$500.00 |
| 14. | For Class 3 misdemeanors | - | \$100.00 - \$250.00 |
| 15. | For NC Probation Violation: | | |
| | a. absconding or subsequent conviction | - | \$25,000.00 - \$100,000.00 |
| | b. all other violations | - | \$5,000.00 - \$20,000.00 |

16. For Fugitive Warrant – Set amount appropriate for underlying offense with consideration for the nature of any violations and any new charges.
17. For Governor’s Warrant – No bond
18. For Interstate Compact – No bond
19. For Parole Warrant – No bond

*Each of these offenses carries a mandatory minimum active sentence.

B. DRUG TRAFFICKING OFFENSES**

1.	For Class C	-	\$250,000.00 - \$500,000.00
2.	For Class D	-	\$200,000.00 - \$300,000.00
3.	For Class E	-	\$75,000.00 - \$200,000.00
4.	For Class F	-	\$50,000.00 - \$75,000.00
5.	For Class G	-	\$30,000.00 - \$50,000.00
6.	For Class H	-	\$25,000.00 - \$35,000.00

**Please see chart attached for classes of drugs and quantities.

VII. CAPITAL OFFENSES (CLASS A FELONIES)

- A. A magistrate does not have authority to grant pretrial release to any defendant charged with a capital offense.
- B. A district court judge or a superior court judge, in the exercise of the judge’s discretion after consideration of those factors set forth in NCGS 15A-534, may set bail in capital cases.

VIII. GUIDELINES

- A. Except under extraordinary circumstances, a magistrate should not grant pretrial release by personal recognizance, unsecured bond, or custodial release to any person who is not a resident of North Carolina.
- B. A magistrate may---but is not required---to accept the defendant’s oral and unconfirmed answers to the release criteria (set out in Section V. A. above) on misdemeanor charges.
- C. A magistrate should not grant pretrial release by personal recognizance, unsecured bond, or custodial release to any person charged with a felony except upon the defendant’s sworn and written questionnaire on the release criteria, answered

favorably, and upon the magistrate's independent confirmation of a sufficient portion of those answers to prove their accuracy.

- D. Except under exceptional circumstances, a magistrate should not grant pretrial release by written promise to appear, unsecured bond, or custodial release to any defendant who has already failed to appear in court and is then in custody by a warrant for failure to appear on a citation or an order for arrest.
- E. A magistrate should not grant pretrial release by written promise to appear, unsecured bond, or custodial release when the defendant is under arrest for a violation of NCGS 15A-534(d1), failure to appear pursuant to pretrial release under Article 26.
- F. A magistrate should not grant pretrial release by written promise to appear or unsecured bond to any defendant who is intoxicated or in a highly emotional or agitated condition.
- G. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:
 - 1. There is a reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
 - 2. The drug trafficking offense was committed while the person was on pretrial release for another offense; and
 - 3. The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.
- H. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:
 - 1. There is a reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in NCGS 14-50.16;
 - 2. The offense described in subdivision 1 of this section was committed while the person was on pretrial release for another offense; and
 - 3. The person has been previously convicted of an offense described in NCGS 14-50.16 through NCGS 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.
- I. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds there is reasonable cause to believe that the person committed a felony or Class A1 misdemeanor offense

involving the illegal use, possession, or discharge of a firearm; and the judicial official also finds any of the following:

1. The offense was committed while the person was on pretrial release for another felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm.
 2. The person has previously been convicted of a felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm and not more than five years have elapsed since the date of conviction or the person's release for the offense, whichever is later.
- J. Persons who are considered for bond under the provisions of paragraphs G, H, and I of this Section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community.

**IX. REQUIRED WRITTEN FINDINGS IN ACCORDANCE WITH
NCGS 15A-534(b)**

- A. In all charges involving felonies designated A, B1, B2, C, D, E, F, G, H, or in Class A1 misdemeanors wherein a defendant is subject to an active sentence in grids under Structured Sentencing, it may be presumed that release under NCGS 15A-534(a)(1)(2) or (3) will not reasonably assure the appearance of the defendant and the judicial official may set a secured bond without giving any specific reason in writing, under NCGS 15A-534(b).
- B. In regards to all Class 1, 2, or 3 misdemeanors or Class I felonies, conditions of release must be one of those set forth in NCGS 15A-534(a)(1)(2) or (3) **unless the judicial official records in writing the reasons for setting of a secured bond in accordance with NCGS 15A-534(a)(4), except when a bond is being set pursuant to a failure to appear. In such case, no written findings need be made and it may be presumed that release under NCGS 15A-534(a)(1)(2) or (3) will not reasonably assure the defendant's appearance.**
- C. By way of illustration, examples of reasons for setting a secured bond in accordance with NCGS 15A-534(b) include:
1. The defendant's criminal record is such that he is subject to an active sentence upon conviction;
 2. The defendant poses a danger of injury to some person;
 3. The defendant's release without a secured bond is likely to result in the destruction of evidence, subornation of perjury, or intimidation of potential witnesses;
 4. Any other specific finding as to why the judicial official believes that conditions (1) (2) or (3) of NCGS 15A-534(a) would not reasonably assure a defendant's appearance, would pose a danger of injury to any person, or is

likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.

- D. In regards to defendants charged with DWI, the judicial official may presume that any defendant who has registered at least a 0.08 on the intoximeter poses a danger of injury to other persons if not placed under a secured bond and the judicial official may set a secured bond without giving any written reason therefore, pursuant to NCGS 15A-534(b).
- E. In DWI cases in which there is an alleged willful refusal to submit to an intoximeter, a judicial official who has observed the defendant and finds probable cause that the defendant is impaired at that time may presume that the defendant poses a risk of injury to persons and may place the defendant under a secured bond without giving any written reason therefore, pursuant to NCGS 15A-534(b).
- F. In DWI cases wherein the defendant registers less than 0.08 on the intoximeter, the judicial official shall impose conditions set forth in NCGS 15A-534(a)(1)(2) or (3) unless he makes written findings as required by NCGS 15A-534(b).
- G. By way of illustration, examples of reasons for setting a secured bond in accordance with NCGS 15A-534(b) in DWI cases include:
 - 1. The defendant has committed acts which constitute grossly aggravating factors and is subject to mandatory imprisonment and conditions (1) (2) or (3) of NCGS 15A-534(a) will not assure the defendant's appearance;
 - 2. The defendant poses a danger of injury to persons;
 - 3. The defendant's release without a secured bond is likely to result in the destruction of evidence, subornation of perjury, or intimidation of potential witnesses;
 - 4. Any other specific finding as to why the judicial official believes that release under NCGS 15A-534(a)(1)(2) or (3) would not reasonably assure the appearance of the defendant.

X. RECOMMENDATIONS OR ORDERS

Magistrates in this district will observe the following procedure:

- A. Transmittal forms from all judges containing the word "recommendation" will be treated as orders unless the judge clearly indicates a different purpose.
- B. Transmittal forms from other magistrates and from superior court clerks will be viewed as recommendations only, to be given due weight, but subject to a different form of release or a different amount of bond if the receiving magistrate's information about the defendant with regard to the release criteria set out in Section V. A. above clearly indicates a form of a release or amount of bond that differs from the transmittal form.

- C. Any magistrate in transmitting warrants out-of-county for service will avoid making any recommendation as to conditions of release unless:
1. The magistrate expects the defendant to be arrested in a county where he is not known, or
 2. The magistrate's prior knowledge of the defendant's record and standing as to the release criteria is sufficient to justify a recommendation, or
 3. Experience with the release practices of a particular county has been found to be unsatisfactory if recommendations or orders are not made.

XI. COMMITMENTS FOR THE INTOXICATED

- A. A defendant being held for public intoxication must be released as soon as the defendant is able to meet the magistrate's conditions of pretrial release.
- B. An officer, without order of a judicial official, may direct or transport a person found intoxicated in a public place to a jail, if he is apparently in need of food, clothing, or shelter and there is no other readily available facility. He may be detained there until he becomes sober, or a maximum of twenty-four (24) hours. A magistrate or other judicial official is not required to participate in this process. NCGS 122C-303.

XII. DETENTION OF IMPAIRED DRIVERS

- A. A defendant subject to detention under the provisions of NCGS 15A-534.2 has the right to pretrial release when the judicial official (magistrate) determines either that:
 1. The defendant's physical and mental faculties are no longer impaired to the extent that he presents a danger of physical injury to himself or others or of damage to property if he is released; or
 2. A sober, responsible adult is willing and able to assume responsibility for the defendant until his physical and mental faculties are no longer impaired. If the defendant is released to the custody of another, the judicial official may impose any other condition of pretrial release authorized by NCGS 15A-534, including a requirement that the defendant execute a secured appearance bond.
- B. If a defendant is found to be impaired and is not released into the custody of a responsible adult, the defendant may be denied pretrial release under this section until defendant is no longer impaired or for a period of no longer than 24 hours, whichever occurs first. If the defendant is detained for 24 hours, a judicial official must immediately determine the appropriate conditions of pretrial release under NCGS 15A-534. However, in making the determination as to whether a defendant remains impaired, the judicial official may request that the defendant submit to periodic chemical analyses or tests to determine the defendant's alcohol concentration. Unless there is evidence that the defendant is still impaired from a combination of alcohol and/or some other impairing substance, a judicial official must determine that a defendant with an alcohol concentration less than 0.04 is no longer impaired and a judicial official must immediately determine the appropriate conditions of bond at that time.

XIII. PRETRIAL RELEASE FOR CRIMES OF DOMESTIC VIOLENCE

- A. NCGS 15A-534.1 provides that only a judge may set the defendant's release conditions of pretrial release for the first 48 hours in cases of crimes of domestic violence. Crimes of domestic violence are defined as:
1. Assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7B, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or a person with whom the defendant is or has been in a dating relationship as defined in NCGS 50B-1(b)(6).
 2. Domestic criminal trespass.
 3. Violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes of North Carolina.
- B. In domestic cases in which no judge has set release conditions in 48 hours, the magistrate shall determine conditions of release and utilize form AOC-CR-630 (Conditions of Release for Person Charged with a Crime of Domestic Violence), as set out in the following sections.
- C. In all cases of domestic violence as defined in Paragraph A of this Section XIII, the following provisions shall apply in addition to the provisions of NCGS 15A-534:
1. Upon a determination by the judicial official that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond is required by NCGS 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judicial official may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.
 2. A judicial official may impose the following conditions on pretrial release:
 - (a) That the defendant stay away from the home, school, business, or place of employment of the alleged victim;
 - (b) That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
 - (c) That the defendant not communicate with the alleged victim by any means, directly or indirectly;
 - (d) That the defendant refrain from removing, damaging or injuring specifically identified property;
 - (e) That the defendant may not visit his or her child or children except at times and places provided by the terms of any existing order entered by a judge;

- (f) That the defendant may not purchase or possess a firearm or other dangerous weapon pending the final disposition of the case.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- D. Should the defendant be an inebriate, mentally ill or imminently dangerous to himself or others, the provisions of Article 5A of Chapter 122, "Involuntary Commitment," shall apply.

XIV. TERMINATION

A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the District Court from which no appeal is taken or the entry of judgment in the Superior Court. The obligation of an obligor, however, is terminated at any earlier time if:

- A. A judge authorized to do so releases the obligor from his bond; or
- B. The principal is surrendered by a surety in accordance with NCGS 15A-540; or
- C. The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under NCGS 15A-544(b); or
- D. Prayer for judgment has been continued indefinitely in the district court.

XV. FURTHER STATEMENT OF GENERAL POLICIES

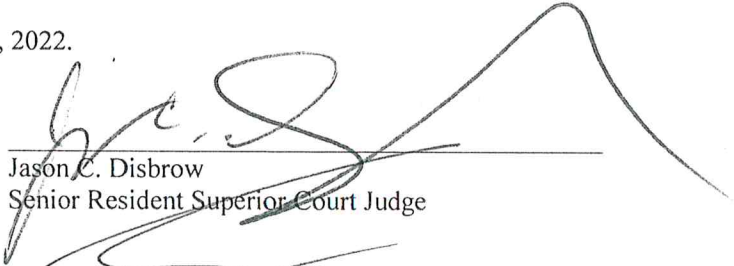
- A. Law enforcement officers are encouraged to use citations in those misdemeanor cases in which they feel confident that the defendant will appear in court on the day he is due to appear and does not pose a threat of injury or intimidation to a victim or witness in the matter.
- B. Clerks and magistrates are encouraged to use the criminal summons instead of warrants in non-support and other appropriate misdemeanor cases. NCGS 15A-303.
- C. An arresting officer has no authority to set the amount of the bond, but he should furnish any information he has available to him to assist the judicial official in determining the amount of the bond. In setting the amount of the bond, the clerk or magistrate acts as an independent judicial official who has the duty to the defendant to see that the bond is not excessive.
- D. When there are several charges against one defendant, one bond may be set for all charges.

XVI. RELEASE AFTER CONVICTION IN SUPERIOR COURT - NCGS 15A-536

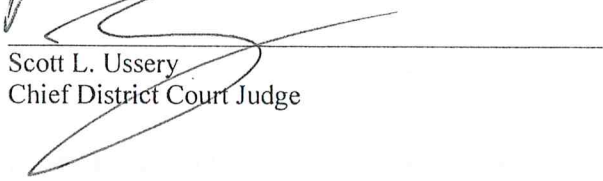
There is no constitutional right to release at this stage. A defendant whose guilt has been established and who is awaiting sentence or has filed an appeal may be released in the judge's discretion. *State v. Sparks*, 297 N.C. 314(1979).

- A. In addition to usual conditions, superior court judges may impose supervisory custody, or restrictions on travel, associations, conduct, or place of abode, or both. See IV and V above, and State v. Cooley, 50 N.C. App. 544(1981).
- B. The judge's release order must specify conditions, inform defendant of the penalty for violation, and advise him that violation will result in arrest.
- C. The release order may be modified or revoked by the judge who has ordered release, or, if that judge is out of district, by any other superior court judge. A defendant whose release is revoked is entitled to immediate hearing.
- D. The judge may consider any reliable evidence, including hearsay, under this section.
- E. This bond policy replaces and supersedes any previous bond policy entered in Judicial District 13B.

This the 31st day of January, 2022.



Jason C. Disbrow
Senior Resident Superior Court Judge



Scott L. Ussery
Chief District Court Judge

Drug Trafficking Sentencing (G.S. 90-95(h))

Offense Class and Minimum Fines for Drug Trafficking

DRUG	AMOUNT	CLASS	FINE (not less than)
Marijuana	In excess of 10 lbs. - 49lbs.	H	\$5,000
	50- 1,999 lbs.	G	\$25,000
	2,000 - 9,999	F	\$50,000
	10,000 or more	D	\$200,000
Methaqualone	1,000 - 4,999 dosage units	G	\$25,000
	5,000 - 9,999	F	\$50,000
	10,000 or more	D	\$200,000
Cocaine	28-199 grams	G	\$50,000
	200-399	F	\$100,000
	400 or more	D	\$250,000
Methamphetamine	28-199 grams	F	\$50,000
	200-399	E	\$100,000
	400 or more	C	\$250,000
Amphetamine	28-199 grams	H	\$5,000
	200-399	G	\$25,000
	400 or more	E	\$100,000
Opium, Opiate, Opioid, or Heroin*	4-13 grams	F	\$50,000
	14-27	E	\$100,000
	28 or more	C	\$500,000
LSD	100-499 units	G	\$25,000
	500-999	F	\$50,000
	1,000 or more	D	\$200,000
MDA/MDMA	100-499 units/28-199 grams	G	\$25,000
	500-999 units/200-399 grams	F	\$50,000
	1,000 units/400 grams or more	D	\$250,000
Substituted Cathinones*	28-199 grams	F	\$50,000
	200-399	E	\$100,000
	400 or more	C	\$250,000
Synthetic Cannabinoids	In excess of 50-249 dosage units**	H	\$5,000
	250-1,249	G	\$25,000
	1,250 - 3,749	F	\$50,000
	3,750 or more	D	\$200,000

* Effective December 1, 2018. S.L. 2018-44

** A "dosage unit" is 3 grams of synthetic cannabinoid or any mixture containing such substance.

DETERMINATION OF RISK FACTORS

NAME OF DEFENDANT: _____

(DO NOT USE THIS FORM FOR: Fugitive Warrants, Failure to Appear, Probation/Parole Violations, Non-support Civil Cases, or Out of County Warrants.)

REASONS FOR IMPOSING CONDITION OF SECURED BOND (NCGS 15A-534(b) and (c). (Circle appropriate comment, if necessary, and explain in Magistrate's Section.)

- (a) CIRCUMSTANCES OF ARREST - (apprehended) (avoided apprehension) (surety bond) (arrested at scene of crime) (voluntarily surrendered).
- (b) FAMILY TIES - Resides with (spouse/children) (parents) (relatives) (friends) (alone).
- (c) EMPLOYMENT - (unemployed) (self-employed) (employed less than six months) (more than six but less than twelve months) (more than twelve months) (part time) (migrant) (student) (military) (financial resources)
- (d) PHYSICAL/MENTAL CONDITION - (mental illness/retardation) (emotionally unstable) (substance abuse) (combative/belligerent) (current intoxication) (not applicable).
- (e) RESIDENCE IN COMMUNITY - (less than twelve months) (more than one year but less than five years) (more than five years) (non-resident) (transient).
- (f) MILITARY - (pending discharge) (pending military changes) (AWOL/deserter) (not stationed at a southeastern NC military base) (N/A)
- (g) OFFENSE - (domestic) (crime of violence) (seriousness of crime) (Class G or higher Felony) (danger to persons/property) (destruction of evidence) (subornation of perjury) (intimidation of witnesses) (repeat offender) (N/A)
- (h) RECORD OF CONVICTIONS - (prior criminal record) (severity of conviction(s)) (history of flight to avoid prosecution) (history of failure to appear at court proceedings).

(i) COMMENTS/RECOMMENDATIONS BY LAW ENFORCEMENT OFFICER -

DATE

TIME

(j) COMMENTS BY MAGISTRATE -

Magistrate's Signature

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

CONDITIONS OF RELEASE FOR PERSON CHARGED WITH A CRIME OF DOMESTIC VIOLENCE

#

G.S. 15A-534.1

NOTE: Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order.

FINDINGS

The undersigned judicial official finds that the defendant named above is charged with assault on, stalking, communicating a threat to, or committing a felony provided in former Article 7A or Articles 7B, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or (for offenses committed on or after December 1, 2015, only) a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes.

The undersigned judicial official has considered the defendant's criminal history as shown on a criminal history report provided by a law enforcement officer or a district attorney. has not considered the defendant's criminal history as shown on a criminal history report because no report could be obtained within a reasonable time.

ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS the following conditions of release IN ADDITION TO the conditions of release set out on the attached form AOC-CR-200:

- 1. The defendant shall stay away from the home, school, business or place of employment of the alleged victim.
2. The defendant shall refrain from assaulting, beating, molesting, or wounding the alleged victim.
3. The defendant shall refrain from removing, damaging or injuring the property listed below:
4. The defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.
5. (for offenses committed on or after December 1, 2012) The defendant shall abstain from alcohol, as verified by a continuous alcohol monitoring system. The monitoring provider shall report any violation of this condition to the district attorney.
6. Other restrictions:
a. The defendant shall have no contact with the alleged victim.
b. The defendant shall comply with any valid domestic violence protective order in effect.
c. The defendant shall not possess any firearms.
d. Other:

Date

Signature Of Judicial Official

- Magistrate
District Court Judge
Superior Court Judge

NOTE TO JUDICIAL OFFICIAL: The law enforcement officer or district attorney who provided the defendant's criminal history report shall dispose of the report in accordance with DCI regulations. The report shall NOT be placed in the case file.