

NEWS RELEASE

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Felony probation violations: Report for January 28-31, 2013

CHARLOTTE, N.C. – The following is a summary of the felony probation violation cases scheduled during the week of January 28, 2013. The cases were heard by The Honorable William R. Bell, The Honorable Linwood O. Foust, The Honorable Richard D. Boner, The Honorable Mark E. Klass and The Honorable J. Thomas Davis, Superior Court Judges, in courtrooms 5310 and 5170.

One-hundred-eighty-one (181) defendants came before the court.

20	were scheduled for a probable cause hearing after a recent arrest for a probation violation
66	had their hearing date continued after a motion by the State or defendant
76	admitted violating probation
1	denied violating probation and had a hearing and was found in violation by the judge
1	denied violating probation and had a hearing and was not found to be in violation by the judge
17	were on for a review set by a previous judge, had an order for arrest issued for failing to appear, or fall within another miscellaneous category
24	had their probation terminated by the judge
13	were sentenced to a 90-day period of confinement (but revocation was not permitted pursuant to N.C.G.S. 15A-1344(d2))
16	were revoked from probation by the judge (If probation is revoked, the defendant is sent to prison to serve the previously suspended prison sentence)
21	were not revoked from probation by the judge; instead, they were continued on supervised probation under the same or additional conditions
4	were found in violation by the judge, had deferred prosecution revoked and were sentenced to a probationary sentence as required by statute

Notes about Probation Violations:

Generally, felony probation violation cases are scheduled every other week in courtroom 5170; the cases are heard Monday through Thursday. Each Friday of these weeks the courtroom is used for felony guilty pleas or to hear motions for appropriate relief as allowed pursuant to N.C.G.S. 15A-1411 through -1422.

In response to a felony probation violation, a defendant may admit or deny the violation(s). If the defendant admits the violation(s) and the violation(s) are for anything other than committing a new offense or absconding

supervision the judge cannot revoke probation and activate the suspended sentence; he/she may only sentence the defendant to a 90-day period of confinement pursuant to N.C.G.S. 15A-1344(d2). However, if the defendant has already been sentenced to two such periods of confinement or if the defendant admits to being an absconder or to committing a new offense, the presiding judge can revoke the defendant's probation. In lieu of periods of confinement or revocation, the judge may choose to continue the defendant on supervised probation under the same or additional terms, or to terminate (end) the supervision. If a defendant denies the violation(s), a hearing is held in which the probation officer usually testifies. If the defendant is found by the judge to be in willful violation of his/her terms of probation, the judge will take one of the same actions described above that he/she would be permitted to take if the defendant had admitted to the violation(s).

The DA's Office does not have the power to dismiss, or negotiate the outcome of, a probation violation. A previous sentencing judge has issued an Order placing the defendant on probation and all violations of that term of probation are alleged by the probation officer and brought before a judge to determine whether a violation exists and, if so, what action should be taken against the defendant for the violation.

In addition to the probation violation hearings, on Monday of every week, hearings are held to determine whether probable cause exists to detain defendants that have been recently arrested for a probation violation. If probable cause is found, a violation hearing is set for the next available date. If, in lieu of waiting for a violation hearing date, the defendant chooses to immediately admit violation and request activation of his/her sentence, and if such request is lawful, he/she may do so.

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