

NEWS RELEASE

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Felony Probation Violations: Report for November 13-15, 2012

CHARLOTTE, N.C. – The following is a summary of the felony probation violation cases scheduled during the week of November 13, 2012. (Note: Monday, November 12, was a state holiday and the courthouse was closed.) The cases were heard by The Honorable Timothy S. Kincaid, Superior Court judge, in Courtroom 5170 of the Mecklenburg County Courthouse.

One-hundred-twenty (120) defendants came before the court.

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

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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