

Recent Case Law Affecting Probation Violations

- State v. Smith*, 359 N.C. 618, 614 S.E.2d 279, 2005 N.C. LEXIS 635 (2005) – When a defendant appeals a conviction from District Court to Superior Court, that defendant remains subject to the original order of pretrial release. It is therefore “logically impossible” for the defendant to be on probation while the appeal is pending.
- State v. Strickland*, 609 S.E. 2d 253, 2005 N.C. App. LEXIS 522 (N.C. Ct.App. 2005) – A special condition of probation prohibiting a defendant from residing in a household with any minor child when the underlying offense involves sexual abuse of a minor is a valid condition. That condition applies to a situation in which a defendant resides with his or her own minor child, even if the underlying offense does not involve that child.
- State v. Howell*, 166 N.C.App. 751, 603 S.E.2d 901, 2004 N.C. App. LEXIS 2021 (2004) – When a defendant appeals a probationary sentence imposed by the Superior Court, the Court may set an appeal bond despite the fact that the probationary sentence is stayed.
- State v. Burns*, 615 S.E.2d 347, 2005 N.C.App. LEXIS 1273 (2005) – In the absence of a specific exclusion, the general probation provisions of Article 82 of Chapter 15A apply to probation under N.C. G.S. §90-96. As a consequence, the trial court must find that the State made reasonable efforts to notify defendant and conduct a revocation hearing before the probationary period has expired, even in cases involving probation under 90-96.
- State v. Hooper*, 358 N.C. 122, 591 S.E.2d 514, 2004 N.C. LEXIS 12 (2004) – When the District Court revokes a defendant’s probation, the defendant’s appeal is to the Superior Court. The NC Supreme Court spanked the State for arguing to the Court of Appeals that defendant’s appeal of the probation revocation should have been to the Superior Court, and then arguing to the Supreme Court that the appeal should have been to the Court of Appeals.
- State v. Canady*, 153 N.C.App. 455, 570 S.E.2d 262, 2002 N.C.App. LEXIS 1170 (2002) – Although a defendant’s period of probation may begin to run at the expiration of an active sentence, N.C. Gen. Stat. §15A-1342(a) requires that it run concurrently with any other probationary sentences.
- State v. Seek*, 152 N.C.App. 237, 566 S.E.2d 750, 2002 N.C.App. LEXIS 872 (2002) – Where a defendant receives only oral notice that the conditions of his probation have been modified, the Court cannot find that the defendant violated the modified conditions based on the State’s failure to comply with the written notice mandated by N.C. G.S. §15A-1343(c).
- State v. Lambert*, 146 N.C.App. 360, 553 S.E.2d 71, 2001 N.C.App. LEXIS 939 (2001) – Where a defendant’s term of probation is longer than the relevant statute prescribes, the imposition of a longer term of probation is invalid unless the Court finds pursuant to N.C. Gen. Stat. §15A-1343.2(d) that a longer period of probation is necessary.