

Probation Violations

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UNC School of Government

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Probation Violations in North Carolina

James M. Markham



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Violation Hearings

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Initiating a Violation

- Probation Violation Report (DCC-10)
- Probationer is entitled to 24 hours notice of alleged violations
- All violations must be filed before case expires
- No special rules for “addendum” violations

- 17 -

State of North Carolina > File No. County of Hearing 11CRS050808
 > File No. County of Origin 11030808

FILED

UNION County UNION Seat of Court In the General Court of Justice
 2014-07-11:12 District X Superior

STATE VERSUS UNION CO., C.S. # 11-00000 VIOLATION REPORT

HANCOCK, BRIAN EDMANUEL 410 WESTERN UNION SCHOOL RD. NC 281739211

AKA: HANCOCK, BRIAN EDMANUEL G.S. 15A-1345

BLACK MALE DOB: 10/31/1983

ADMINISTRATIVE REVIEW

The violations listed on this Violation Report were reviewed with
 ROCKINGHAM, THOMAS W Chief Probation Officer on 03/27/2013

OATH AND SIGNATURE OF OFFICER

I have read the Violation Report, and state that the contents are true to my
 own knowledge except those which are stated upon information and belief, and as
 to them I believe that they are true.

Brian Edmanuel ELBERT W. CORNELL PROB 3-27-13
 signature Name (Type or Print) Title Date

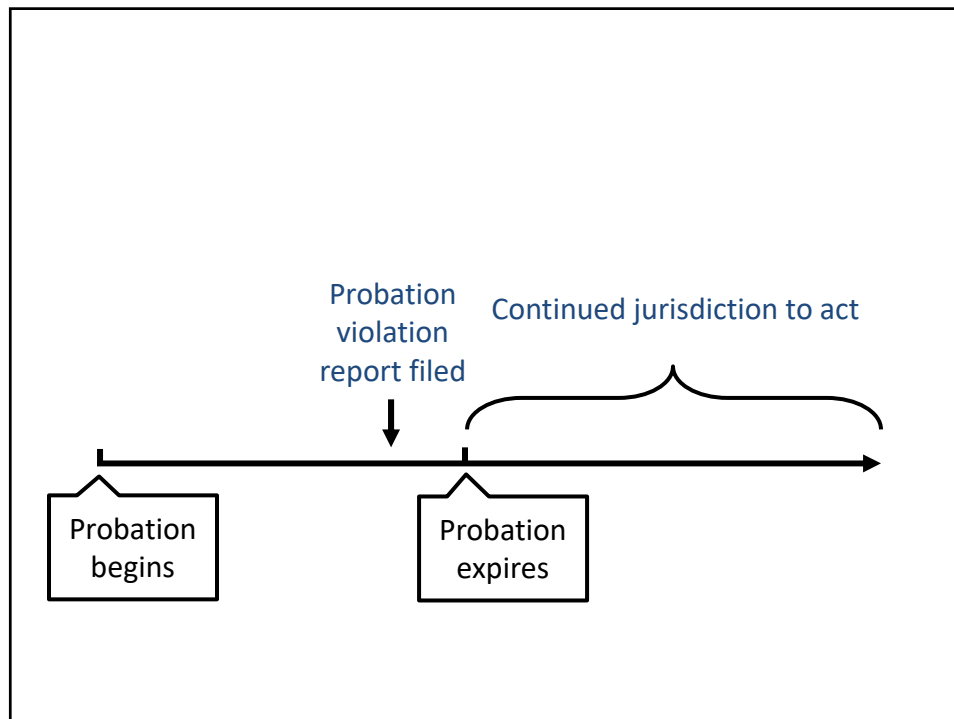
SWORN AND SUBSCRIBED TO Brian Edmanuel
 on 3-27-13 Date Signature of Person Authorized to Administer Oaths:
 X Joseph Clerk/Assistant Clerk Superior Court Clerk
 Date Notary Public Notary Public
 Date Commission Expires Date Commission Expires

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Jurisdiction

- The court may act... “[a]t any time prior to the expiration or termination of the probation period.” G.S. 15A-1344(d).
- Court may also act after expiration if violation report filed before probation ends. G.S. 15A-1344(f).

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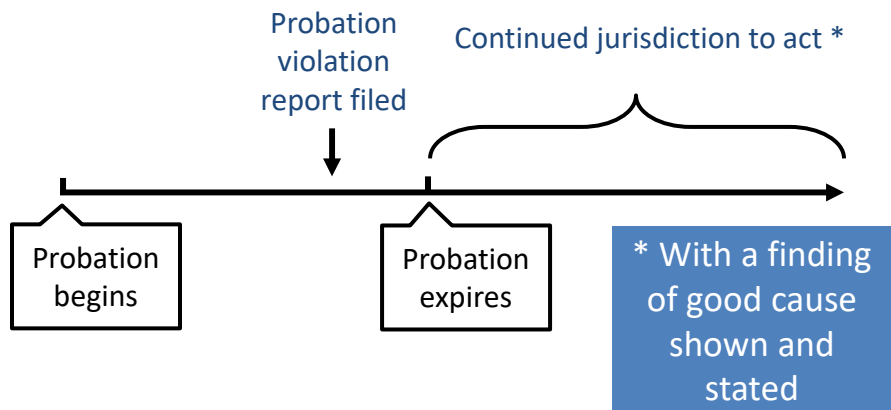
6

State v. Morgan (N.C., 2019)

- To preserve jurisdiction to act on a case after it has expired, the court must make a finding of **“good cause shown and stated”**

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State v. Morgan



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State v. Geter (Apr. 6, 2021)

- Near the expiration of the probation period, probation officer alleged “commit no criminal offense” violations
- 399 days after expiration, violation hearing held
- Trial court found good cause in that “it is clear to the Court that the State waited until the disposition of the underlying offenses alleged before proceeding with the probation violation.”

3. Any allegation of a violation stated in the Violation Report, Notice or otherwise which is not set forth in Finding No. 3 below is dismissed.

4. Other

07/15/2020: COURT FINDS AND CONCLUDES GOOD CAUSE EXISTS TO REVOKE DEFENDANT'S PROBATION DESPITE THE EXPIRATION OF HIS PROBATIONARY PERIOD; JUDGMENT REMANDED FROM COURT OF APPEALS FOR FURTHER FINDINGS; THIS JUDGMENT SHALL BE NUNC PRO TUNC TO 04/04/2019

The Court recommends:

1. Substance abuse treatment. 2. Psychiatric and/or psychological counseling. 3. Work release. 4. Other

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Arrest and Bail (p. 6-7)

- Probationers can be arrested for a violation
- Generally entitled to bail
- Exceptions for “dangerous” probationers:
 - With felony charges pending, or
 - Ever convicted of a sex crime
- No statutory authorization for anticipatory bonds
 - “Arrest on first positive drug screen. \$50,000 bond.”
 - “Hold without bond”
 - Court of Appeals has “urged caution” against that practice. State v. Hilbert, 145 N.C. App. 440 (2001)

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Preliminary Hearings

- Required under G.S. 15A-1345(c)
 - Within 7 working days of arrest
 - Felony preliminary hearings may be held in district court
 - Required only if probationer is detained
- If not held within 7 working days, probationer must be released pending final violation hearing

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Final Violation Hearings

- Proper venue:
 - Where probation imposed
 - Where violation occurred
 - Where probationer resides
- Court may return the case to district of origin or residence

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Final Violation Hearings

- Not a formal trial
- Probationer entitled to counsel
- Probationer may confront and cross-examine witnesses, unless the court finds good cause for not allowing confrontation
- Rules of evidence don't apply
 - Hearsay admissible
 - Exclusionary rule inapplicable
- Proof to judge's "reasonable satisfaction"

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Response Options

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Probation Response Options					
	Non-DWI Misdemeanor Placed On Probation				
REVOCATION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	than: • New criminal offense • Absconding • <i>ipso facto</i>	than: • New criminal offense • Absconding • <i>ipso facto</i>	N/A	than: • New criminal offense • Absconding • <i>ipso facto</i>	(no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	N/A	• No more than 6 quick dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation <i>ipso facto maximum imposed sentence</i>	For any violation <i>ipso facto maximum imposed sentence</i>	For any violation <i>ipso facto maximum imposed sentence</i>	For any violation <i>ipso facto maximum penalty allowed by law</i>	May be served in nonconsecutive intervals in the jail
CONTINUED G.S. 15A-1344(e)	Permissible in response to any violation <i>ipso facto</i>				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(d) G.S. 15A-1343(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or medical treatment.				The ordinary maximum period of probation in deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. (G.S. 15A-1343(g))
TERMINATE G.S. 15A-1343(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

1. For releases on/after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 15A-1343(e).

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Revocation (p. 16)

Serious Violations

- New criminal offense
- Absconding

Technical Violations

- Everything else

Eligible for revocation upon first violation

Three Strikes approach

Eligible for revocation after two prior . . .

Misd: Quick dips

Felony/DWI: CRV

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Revocation (p. 16)

Serious Violations

- New criminal offense
- Absconding

Eligible for revocation
upon first violation

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New criminal offense (p. 19)

- “Commit no criminal offense in any jurisdiction”
 - **Conviction** for new offense, or
 - **Independent findings** of criminal offense at probation violation hearing
- No revocation solely for Class 3 misdemeanor

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4. Condition of Probation "Commit no criminal offense in any jurisdiction" in that
 THE DEFENDANT HAS THE FOLLOWING PENDING CHARGES:
 ON 10/10/12 THE DEFENDANT WAS CHARGED WITH DWLR AND FICT/AL TITLE/REG CARD/TAG IN 12CR 705617, EXPIRED/NO INSPECTION AN OPERATE VEH NO INS IN 12CR 705618 AND DRIVE/ALLOW MV NO REGISTRATION AND CANCL/REVOK/SUSP CERTIF/TAG IN 12CR 705619 AND ALL ABOVE CHARGES ARE IN SAMPSON COUNTY.
 ON 10/17/12 THE DEFENDANT WAS CHARGED WITH SHOPLIFTING CONCEALMENT GOODS IN 12CR 223602 IN WAKE COUNTY.
 ON 11/16/12 THE DEFENDANT WAS CHARGED WITH DWLR IN 12CR 709464 IN HARNETT COUNTY.
 ON 12/18/12 THE DEFENDANT WAS CHARGED WITH POSSESSION OF FIREARM BY FELON IN 12CR 057780 AND POSSESS MARIJUANA UP TO

1/2 OZ IN 12CR 057780 IN JOHNSTON COUNTY.
 IF THE DEFENDANT IS CONVICTED OF ANY OF THE CHARGES IT WILL BE A VIOLATION OF HIS CURRENT PROBATION.

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Absconding (p. 21)

“Not abscond by willfully avoiding supervision or by willfully making the defendant’s whereabouts unknown to the supervising probation officer, if the defendant is placed on supervised probation.”

G.S. 15A-1343(b)(3a)

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Absconding

- More than merely failing to report
- More than merely failing to remain within the jurisdiction
- Facts supporting absconding:
 - Long absence from residence
 - Repeated attempts by officer to contact
 - Probationer knows officer is looking for him or her and still doesn't respond

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Revocation (p. 16)

Serious Violations

- New criminal offense
- Absconding

Eligible for revocation
upon first violation

Technical Violations

- Everything else

Three Strikes approach

Eligible for revocation
after two prior . . .
Misd: Quick dips
Felony/DWI: CRV

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Revocation (p. 16)

Technical Violations

- Everything else

Three Strikes approach
 Eligible for revocation after two prior . . .
 Misd: Quick dips
 Felony/DWI: CRV

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed on Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV • Any violation in response to technical violations, other by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor, G.S. 15A-134(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-134(d)	For violations other than: • New criminal offense • Absconding • 90 days ¹	For violations other than: • New criminal offense • Absconding • 90 days ¹	N/A	For violations other than: • New criminal offense • Absconding • 90 days ¹	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another
QUICK DIP G.S. 15A-134(i)(3) G.S. 15A-134(d)	For any violation • 2 or 3 days	For any violation • 2 or 3 days	For any violation • 2 or 3 days	N/A	• No more than 6 quick-dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPILT) G.S. 15A-134(e)	For any violation (up to 18 the maximum imposed sentence)	For any violation (up to 18 the maximum imposed sentence)	For any violation (up to 18 the maximum imposed sentence)	For any violation (up to 18 the maximum imposed sentence)	• May be served in noncontinuous intervals in the jail
CONTEMPT G.S. 15A-134(e)	Permissible in response to any violation • 90 days ¹				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-134(d) G.S. 15A-134(j) G.S. 15A-134(k)	Ordinary: 1 to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3). To complete restitution or med/psych treatment				The ordinary maximum period of probation in deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-134(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk, G.S. 15A-134(j)
TERMINATE G.S. 15A-134(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

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Quick Dips

- 2-3 days of jail confinement
 - No more than 6 quick dips days per month
 - Used in no more than three separate calendar months of probation
 - Not permissible in DWI cases
- Quick Dips may be imposed by judge or by probation officer through “delegated authority”

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<p>17</p> <p>The probation officer, being duly sworn, states that the defendant was placed on probation pursuant to the following Judgment Suspending Sentence</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Date of Judgment</th> <th>Court</th> <th>County of Origin</th> <th>File No.</th> <th>Offense</th> <th>Counts</th> </tr> </thead> <tbody> <tr> <td>04/02/2015</td> <td>DIST</td> <td>IREDELL</td> <td>14055742</td> <td>POSSESS SCHEDULE II</td> <td>001</td> </tr> </tbody> </table> <p>Length of Sentence Min: 0YR 6MO 0DY Max: 0YR 17MO 0DY Length of Term of Probation: 0 YRS. 12 MOS. 0 DYS. Sentencing Judge: BROWN, DEBORAH</p>	Date of Judgment	Court	County of Origin	File No.	Offense	Counts	04/02/2015	DIST	IREDELL	14055742	POSSESS SCHEDULE II	001
Date of Judgment	Court	County of Origin	File No.	Offense	Counts							
04/02/2015	DIST	IREDELL	14055742	POSSESS SCHEDULE II	001							
<p>***THE DEFENDANT HAS PREVIOUSLY SERVED 0 PERIODS OF CONFINEMENT IN RESPONSE TO VIOLATIONS. ***</p> <p>***THE DEFENDANT HAS THE FOLLOWING 2 OR 3 DAY PERIODS OF CONFINEMENT. ****</p> <p>3 day(s) in March were ordered with delegated authority 3 day(s) in April were ordered with delegated authority</p>												
<p>THE DEFENDANT ABSCONDED SUPERVISION ON 12/14/15 BY MAKING HIS WHEREABOUTS UNKNOWN TO THIS OFFICER. ON OR ABOUT 12/14/15, THE OFFICER WAS ADVISED THAT THE OFFENDER DID NO LONGER RESIDE AT THE RESIDENCE GIVEN. THE DEFENDANT HAS HAS AVOIDED SUPERVISION AND MADE HIMSELF UNAVAILABLE FOR SUPERVISION; THEREFORE ABSCONDING SUPERVISION.</p> <p>2. Condition of Probation "Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it..." in that THE DEFENDANT TEST POSITIVE FOR MARIJUANA ON 8/18/2015.</p> <p>3. "Report as directed by the Court, Commission or the supervising officer to the officer at reasonable times and places..." in that THE DEFENDANT FAILED TO REPORT ON 11/4/2015 AT 11:00AM.</p>												

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV • Any violation after two prior QUICK DPS imposed in response to technical violations, either by judge or by	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • <u>§9a-104(a)</u>	For violations other than: • New criminal offense • Absconding • <u>§9a-104(a)</u>	N/A	For violations other than: • New criminal offense • Absconding • <u>§9a-104(a)</u>	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	2 or 3 days	2 or 3 days	2 or 3 days	N/A	days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation <u>§9a-104(a)</u> or <u>§9a-104(b)</u>	For any violation <u>§9a-104(a)</u> or <u>§9a-104(b)</u>	For any violation <u>§9a-104(a)</u> or <u>§9a-104(b)</u>	For any violation <u>§9a-104(a)</u> or <u>§9a-104(b)</u>	May be served in noncontinuous intervals in the jail
CONTINUIT G.S. 15A-1344(f)	Permissible in response to any violation <u>§9a-104(a)</u>				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(h) G.S. 15A-1343(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or medical treatment.				The ordinary maximum period of probation is deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. (G.S. 15A-1343(g))
TERMINATE G.S. 15A-1343(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

1. For releases on or after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 15A-1343(e).

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Confinement in Response to Violation (CRV) (p. 23)

- Permissible in response to violations other than “commit no criminal offense” and “absconding”
- Length:
 - Felony: 90 days
 - DWI: Up to 90 days

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Summary of Revocation Eligibility

- For **new crimes & absconding**
 - Any probationer may be revoked upon first violation
- For **technical violations**, eligible for revocation after:
 - **Felony:** Two prior CRVs (90 days)
 - **DWI:** Two prior CRVs (up to 90 days)
 - **Misdemeanors:** Two prior Quick Dips (2-3 days, imposed by judge or probation officer)

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Upon Revocation... (p. 18)

- The judge may reduce the sentence within the same range in the same grid cell
- Judge may allow consecutive suspended sentences to run concurrently

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	N/A	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	N/A	• No more than 6 quick dip days per month • Used in no more than three
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum penalty allowed by law)</i>	May be served in noncontinuous intervals in the jail
G.S. 15A-1344(e)	<i>Up to 30 days</i>				reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(b) G.S. 15A-1342(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or med/psych treatment				The ordinary maximum period of probation in deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. G.S. 15A-1343(g)
TERMINATE G.S. 15A-1342(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

1. For violations on/after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 20-179(c)

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	N/A	For violations other than: • New criminal offense • Absconding • <i>90 days</i> ¹	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	For any violation <i>2 or 3 days</i>	N/A	• No more than 6 quick dip days per month • Used in no more than three
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum imposed sentence)</i>	For any violation <i>(up to the maximum penalty allowed by law)</i>	May be served in noncontinuous intervals in the jail
G.S. 15A-1344(e)	Permissible in response to any violation <i>Up to 30 days</i>				• Must be served beyond a reasonable doubt • Counts for credit against suspended sentence
G.S. 15A-1344(b) G.S. 15A-1342(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or med/psych treatment				of probation in deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. G.S. 15A-1343(g)
TERMINATE G.S. 15A-1342(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

1. For violations on/after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 20-179(c)

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Contempt

- Up to 30 days in jail
- Chapter 5A procedures apply
 - Proper notice
 - Proof beyond a reasonable doubt
- Counts for credit against suspended sentence if defendant is later revoked

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed on Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV • DIPS imposed in response to technical violations, other by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor, G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • 90 days ¹	For violations other than: • New criminal offense • Absconding • 90 days ¹	N/A	For violations other than: • New criminal offense • Absconding • 90 days ¹	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(3) G.S. 15A-1344(d)	For any violation • 2 or 3 days ¹	For any violation • 2 or 3 days ¹	For any violation • 2 or 3 days ¹	N/A	• No more than 6 quick dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPUT) G.S. 15A-1344(e)	For any violation • Up to 18 the maximum imposed sentence	For any violation • Up to 18 the maximum imposed sentence	For any violation • Up to 18 the maximum imposed sentence	For any violation • Up to 18 the maximum imposed sentence	May be served in noncontinuous intervals in the jail
CONTEMPT G.S. 15A-1344(e)	Permissible in response to any violation • Up to 30 days				• Must be proved beyond a reasonable doubt • Counts for credit against
EXTENSION G.S. 15A-1344(f) G.S. 15A-1343(a) G.S. 15A-1343(b)	Ordinary (Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown). Special purpose (Up to 3 years beyond the original period if (1) Probationer consents, (2) During last 6 months of original period, and (3). To complete restitution or medical treatment)				The ordinary maximum period of probation in deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time ²	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk, G.S. 15A-1343(g)
TERMINATE G.S. 15A-1343(b)	At any time				
CONTINUE WITHOUT MODIFICATION	At any time				

1. For violations other than 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 20-199c.

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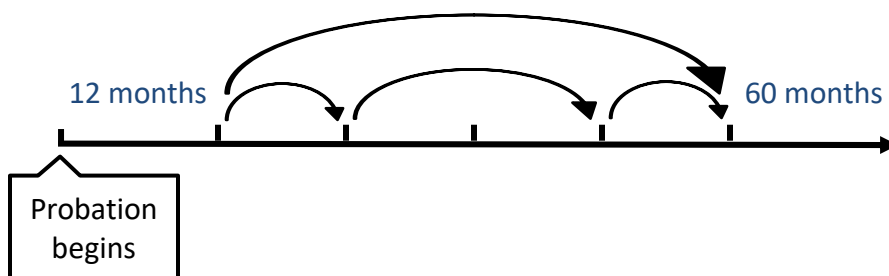
Extending Probation

- Two types: *ordinary* and *special purpose*

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Ordinary Extensions

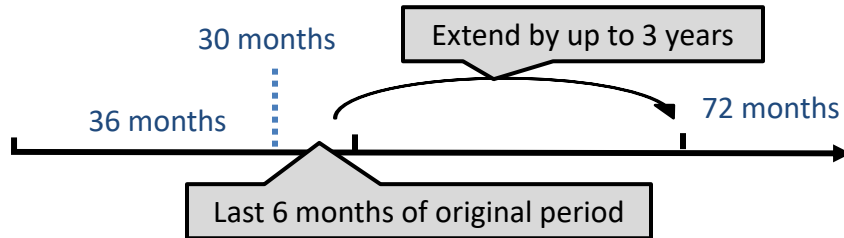
- At any time prior to expiration, for good cause shown, the court may extend probation to the 5-year maximum
 - No violation required
 - Could happen multiple times



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Special Purpose Extensions

- Extension by up to 3 years beyond the **original** period if:
 - Probationer consents
 - During last 6 months of **original** period, and
 - Extension is for restitution or medical or psychiatric treatment
- Only this type may go beyond the 5-year maximum



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Ordinary

Special purpose

MODIFICATIONS OF PROBATION

1. The defendant's term of probation is extended for a period of _____

a. for good cause shown, pursuant to G.S. 15A-1344(d). (NOTE: The total of the original period of probation plus all extensions under G.S. 15A-1344(d) may not exceed five years.)

b. with the defendant's consent, pursuant to G.S. 15A-1342(a) or G.S. 15A-1343.2(d). (NOTE: The extension must be for the purpose of allowing the defendant to complete a program of restitution or continue medical or psychiatric treatment ordered as a condition of probation. The extension may be ordered during the last six months of the original, unextended period of probation and may not exceed three years beyond the original period of probation.)

OTHER MODIFICATIONS OF PROBATION

ORDER OF COMMITMENT/APPEAL ENTRIES

SIGNATURE OF JUDGE

CERTIFICATION

SEAL

Signature Of Defendant **Signature Of Prosecutor** **Signature Of Witness**

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d2)	For violations other than: • New criminal offense • Absconding • @p@k@p@k	For violations other than: • New criminal offense • Absconding • @p@k@p@k	N/A	For violations other than: • New criminal offense • Absconding • @p@k@p@k	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d2)	For any violation 2 or 3 days	For any violation 2 or 3 days	For any violation 2 or 3 days	N/A	• No more than 6 quick dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation @p@k@p@k@p@k @p@k@p@k@p@k	For any violation @p@k@p@k@p@k @p@k@p@k@p@k	For any violation @p@k@p@k@p@k @p@k@p@k@p@k	For any violation @p@k@p@k@p@k @p@k@p@k@p@k	May be served in noncontinuous intervals in the jail
CONTINUIT G.S. 15A-1344(e)	Permissible in response to any violation @p@k@p@k@p@k				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(d) G.S. 15A-1343(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer comments (2) During last 6 months of original period, and (3) To complete restitution				The ordinary maximum period of probation is deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	• The judge may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. G.S. 15A-1343(d)
TERMINATE G.S. 15A-1343(b)	At any time				No statute defines an "unsuccessful" termination
CONTINUE WITHOUT MODIFICATION	At any time				

1. For releases on/after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 15A-1343(e).

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Modification

- Court may add/remove conditions at any time for good cause shown
 - No violation need have occurred
- After violation, the judge may add Intermediate conditions to a Community case

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCAION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • @p@#days	For violations other than: • New criminal offense • Absconding • @p@#days	N/A	For violations other than: • New criminal offense • Absconding • @p@#days	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	For any violation 2 or 3 days	For any violation 2 or 3 days	For any violation 2 or 3 days	N/A	• No more than 6 quick dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation @p@# in the maximum imposed sentence	For any violation @p@# in the maximum imposed sentence	For any violation @p@# in the maximum imposed sentence	For any violation @p@# in the maximum penalty allowed by law	May be served in noncontinuous intervals in the jail
CONTEMPT G.S. 15A-1344(e)	Permissible in response to any violation @p@# @#days				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(d) G.S. 15A-1343(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or medical treatment.				The ordinary maximum period of probation is deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time?	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk.
TERMINATE G.S. 15A-1342(b)	At any time				No statute defines an "unsuccessful" termination
REVISION WITHOUT MODIFICATION	At any time				

1. For releases on/after 10/1/2014, CRV may not be reduced by prior jail credit.
2. The judge shall authorize a probation officer to transfer a defendant to unsupervised probation upon completion of community service or payment of any fees, costs, and fines. G.S. 15A-1343(e).

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Termination

- Ends probation early
- Permissible at any time if warranted by the defendant's conduct and "the ends of justice"
- "Terminate unsuccessfully"

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Probation Response Options					
	Felony	Non-DWI Misdemeanor Placed On Probation		DWI	Notes
		Before 12/1/15	On/After 12/1/15		
REVOCATION G.S. 15A-1345	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior QUICK DIPs imposed in response to technical violations, either by judge or by probation officer	Permissible in response to: • New criminal offense • Absconding • Any violation after two prior CRV	• No revocation solely for conviction of a Class 3 misdemeanor. G.S. 15A-1344(d)
CONFINEMENT IN RESPONSE TO VIOLATION (CRV) G.S. 15A-1344(d)	For violations other than: • New criminal offense • Absconding • split	For violations other than: • New criminal offense • Absconding • split	N/A	For violations other than: • New criminal offense • Absconding • split	• Must be served continuously (no "weekend CRV") • Will not be reduced by earned time/good time • CRV periods must run concurrently with one another • Max of two CRV in any case
QUICK DIP G.S. 15A-1343(a)(1)(3) G.S. 15A-1344(d)	For any violation 2 or 3 days	For any violation 2 or 3 days	For any violation 2 or 3 days	N/A	• No more than 6 quick dip days per month • Used in no more than three separate calendar months
SPECIAL PROBATION (SPLIT) G.S. 15A-1344(e)	For any violation <i>split in the manner imposed sentence</i>	For any violation <i>split in the manner imposed sentence</i>	For any violation <i>split in the manner imposed sentence</i>	For any violation <i>split in the manner jointly ordered by law</i>	May be served in noncontinuous intervals in the jail
CONTINUIT G.S. 15A-1344(e)	Permissible in response to any violation split 30 days				• Must be proved beyond a reasonable doubt • Counts for credit against suspended sentence
EXTENSION G.S. 15A-1344(d) G.S. 15A-1343(a) G.S. 15A-1343(d)	Ordinary: Up to 5-year maximum. Permissible at any time after notice and hearing and for good cause shown. Special purpose: By up to 3 years beyond the original period if: (1) Probationer consents; (2) During last 6 months of original period; and (3) To complete restitution or medical/treatment.				The ordinary maximum period of probation is deferred prosecution and conditional discharge cases is two years
MODIFICATION G.S. 15A-1344(d)	Permissible at any time after notice and hearing and for good cause shown				
TRANSFER TO UNSUPERVISED	At any time (except sex offenders)	At any time (except sex offenders)	At any time (except sex offenders)	At any time?	The court may authorize a probation officer to transfer a person to unsupervised probation after all money is paid to the clerk. G.S. 15A-1343(g)
TERMINATE	At any time				No statute defines an "end of probation."
CONTINUE WITHOUT MODIFICATION	At any time				

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A defendant was placed on probation for Communicating Threats in 2020. He has a 60-day suspended sentence. The defendant admits to two violations (there are no prior violations):

- Failure to report to the probation officer
- Positive drug screen

Which responses are permissible?

- ~~✗~~ Revocation?
- ~~✗~~ CRV?
- ✓ Quick dip?
- ✓ Split?





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A defendant was placed on probation for DWI in 2021. The officer alleges the following violation.

Of the conditions of probation imposed in that judgment, the defendant has willfully violated:

1. Condition of Probation "Commit no criminal offense in any Jurisdiction" in that
THE DEFENDANT HAS THE FOLLOWING PENDING CHARGES:
ON 10/13/21 THE DEFENDANT WAS CHARGED WITH POSSESSION OF FIREARM BY FELON IN 21CRS705617 IN SAMPSON COUNTY. IF THE DEFENDANT IS CONVICTED OF THIS CHARGE IT WILL BE A VIOLATION OF HIS CURRENT PROBATION.

Which responses are permissible?

-  Revocation?
-  CRV?
-  Quick dip?
-  Split?

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Appeals

- District court defendants have a statutory right to appeal **revocation** or imposition of a **split sentence** to superior court for de novo violation hearing
 - No appeal of CRV
 - No appeal of deferred prosecution revocation
- No de novo appeal to superior court if the defendant “waives” a revocation hearing

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Appeals

- Class H and I felonies pled in district court
 - By default, violation hearing is in superior court
 - With consent, may be held in district court
 - Appeal is de novo to superior court

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“Elect to Serve”

- No longer an option by statute (since 1997)

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Jail Credit Upon Revocation

- Pre-trial
- Pre-hearing
- Prior splits
- DART Cherry / Black Mountain
- Contempt
- CRV
- Quick dips

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