

Federal Probationary Sentence, Supervised Release Sentence, and Suspended Sentence

Federal probationary sentencing is a complex matter that began in 1908; it has continued to evolve. It's extensively governed by many sections of the U.S. Code of Law and Policy Statements of the U.S. Sentencing Commission. It's intended to be a substitute for imprisonment. Federal supervised sentencing is an unrelated system that began in 1984 and is in addition to imprisonment. Federal suspended sentencing was abolished in 1984.

U.S. District Courts routinely impose probationary sentences following conviction for which imprisonment is authorized. They include detailed written conditions of probation, some mandatory, some standard, and some discretionary; some are prohibited by Code and case law.

United State Probation Office began in 1925. It assists and provides guidance for District Courts in probationary matters including presentence investigations and reports. In the District of South Carolina, it has 150 employees, primarily probation officers, six offices, supervises 3,000 probationers, and conducts 2,400 investigations each year.

The State reported to its readers that August 7 Senior District Judge Terry L. Wooten found former Commissioner of the SCDOT John Norton Hardee guilty of having feloniously deleted emails related to an investigation and imposed an 18-month probationary sentence on him including, among other things, 45 days home arrest. Standard conditions of probation include not to violate a State law. I've not seen any court document about that proceeding. The press quoted probation officer Duane Newson as saying that after the sentencing, he had a conversation with Hardee about the meaning of house arrest and, at that time, the sentence, with the conditions of probation, had not been entered in the system. 18 USC 3563(d), "The court shall direct that the probation officer provide the defendant with a Written statement that sets forth all the conditions to which the sentence is subject ... "

August 8 at 4:20 p.m., the Richland County Sheriff arrested Hardee in a warehouse (violation of house arrest) for soliciting a prostitute. At 7:47 p.m. he was jailed, posted a \$465 bond and was bailed out by Judge Patience Orbiel Van Ellis. Apparently, Hardee was in a medical institution from then until August 19 when he was jailed again, details unknown to me. Apparently, it involves a petition by Judge Wooten and a federal arrest warrant. August 21, U.S. Magistrate Shiva Hodges denied bail to Hardee.

Ordinarily, when the Probation Office learns that a probationer has been found guilty of violating a State law and the case disposed of, it notifies the sentencing court. Soliciting a prostitute is a Group C offense, and the Probation Office has discretion to not report a Group C offense to the court. If the court learns that a probationer has violated a condition of probation, it may conduct a Revocation of Probation Hearing in which the probationer has due process rights. If it revokes probation, the court may impose the same sentence of imprisonment that it could have imposed when it substituted the probationary sentence.

August 30, *The State* reported to its readers that the U.S. Attorney has recommended to Judge Wooten that he revoke the probationary sentence and resentence Hardee to be imprisoned for 10

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