

Topic:

CORRECTION LAW

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WHEN PROBATION IS REVOKED, CREDIT ON THE
ORIGINAL ACTIVE SENTENCE NEED NOT BE GIVEN
FOR TIME SPENT ON PROBATION

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Hall v. Bostic, 391 F. Supp. 1297 (W.D.N.C. 1974), annotated under G.S. 15-199 and 15-200, held that when probation is revoked, time served on probation must be credited against the term of imprisonment imposed in the original sentence, overturning language in the first paragraph of G.S. 15-200 which does not require that such credit be given. The State appealed.

On December 16, 1975, in Hall v. Bostic, No. 75-1119, the 4th Circuit (Russell, Field, Widener, JJ) reversed the district court, pointing out that North Carolina's statute is identical to that of many states and the federal law, that probation is not intended to be the equivalent of punishment, and that the period of probation is not to be counted as a part of the period of imprisonment. "A person does not serve a prison sentence while on probation or parole any more than he does while free on bail". This restores full validity to the language in G.S. 15-200 to the effect that, upon revocation, the court "... shall proceed to deal with the case as if there had been no probation or suspension of sentence".

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