

§ 15A-1347. Appeal from revocation of probation or imposition of special probation upon violation; consequences of waiver of hearing.

(a) Except as provided in subsection (b) of this section, when a district court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, the defendant may appeal to the superior court for a de novo revocation hearing. At the hearing the probationer has all rights and the court has all authority they have in a revocation hearing held before the superior court in the first instance. Appeals from lower courts to the superior courts from judgments revoking probation may be heard in term or out of term, in the county or out of the county by the resident superior court judge of the district or the superior court judge assigned to hold the courts of the district, or a judge of the superior court commissioned to hold court in the district, or a special superior court judge residing in the district. When the defendant appeals to the superior court because a district court has found he violated probation and has activated his sentence or imposed special probation, and the superior court, after a de novo revocation hearing, orders that the defendant continue on probation under the same or modified conditions, the superior court is considered the court that originally imposed probation with regard to future revocation proceedings and other purposes of this Article. When a superior court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, either in the first instance or upon a de novo hearing after appeal from a district court, the defendant may appeal under G.S. 7A-27.

(b) If a defendant waives a revocation hearing, the finding of a violation of probation, activation of sentence, or imposition of special probation may not be appealed to the superior court.

(c) If a defendant appeals an activation of a sentence as a result of a finding of a violation of probation by the district or superior court and is released pursuant to Article 26 of Chapter 15A of the General Statutes, probation supervision will continue under the same conditions until the expiration of the period of probation or disposition of the appeal, whichever comes first. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, s. 14; 2013-385, s. 2; 2015-247, s. 4; 2016-77, s. 7.)