

§ 15A-1452. Execution of sentence upon determination of appeal; compliance with directive of appellate court.

(a) If an appeal is withdrawn for a judgment that imposed an active sentence or imposed only monetary obligations without probation, the clerk of superior court must enter an order reflecting that fact and directing compliance with the judgment.

(a1) If an appeal is withdrawn for a judgment that imposed a suspended sentence, the clerk of superior court shall notify the district attorney who shall calendar a review hearing as required in subsection (d) of this section.

(b) If the appellate division affirms in whole or in part, a judgment that imposed an active sentence or imposed only monetary obligations without probation, the clerk of superior court must file the directive of the appellate division and order compliance with its terms.

(b1) If the appellate division affirms a judgment that imposed a suspended sentence, the clerk of superior court shall file the directive of the appellate division and bring the matter to the attention of the district attorney, who shall calendar a review hearing as provided in subsection (d) of this section.

(c) If the appellate division orders a new trial or directs other relief or proceedings, the clerk must file the directive of the appellate court and bring the directive to the attention of the district attorney or the court for compliance with the directive.

(d) When notified by the clerk as provided in this section, the district attorney shall calendar a hearing in superior court for review of the judgment imposed. The defendant shall be entitled to be present and represented by counsel to the same extent as in the original sentencing hearing.

- (1) At the review hearing, the court shall enter an order directing compliance with the judgment either as imposed or as modified as provided in this subsection. The defendant's period of probation shall commence as of the date of the court's order.
- (2) If the defendant's ability to comply with any date or period of time specified in the original judgment has become impractical or impossible due to the pendency of the appeal, the court may modify those dates in order to give effect to the original judgment as closely as possible.
- (3) The court shall not modify the judgment other than to adjust dates or periods for compliance as provided in subdivision (2) of this subsection, unless the court otherwise complies with the procedures for modification of probation in G.S. 15A-1344. (1977, c. 711, s. 1; 2019-243, s. 7(a).)