



**Virginia Criminal
Sentencing Commission**

March 25, 2024

Case Update on Probation Violations



Commonwealth v. Delaune (SCV)

- Agreed with CAV that a “special condition” that was substantively the same as a technical violation was subject to the punishment limitations set by the GA.
- Limitations on judicial discretion to fashion rehabilitative measures will be construed strictly.
- Approved the rationale of *Diaz-Urrutia v. CW* holding that “another condition must be wholly independent of conduct defined as a TV and *Thomas v. CW*, holding that a special condition that was **more** restrictive than the TV language was not punishment restricted.

Hamilton v. CW (CAV)

- Code § 19.2-303.1 – “[the court] may fix the period of suspension for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned.”
- If a trial court does not explicitly fix a period of suspension for the defendant’s suspended sentence, then the period of suspension is the maximum period for which the defendant might originally have been sentenced to be imprisoned.
- Multiple sentences are presumptively consecutive.



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