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September 29, 2003

Opinion No. 03-127

Violation of Lifetime Supervision Sentence

QUESTION

What is the proper court within which to bring an action for violation of a lifetime community supervision sentence pursuant to Tenn. Code Ann. §39-13-524?

OPINION

The proper court for prosecution of a knowing violation of a condition of community supervision is the court with criminal jurisdiction in the county where the violation occurred.

ANALYSIS

All persons who, on or after July 1, 1996, commit or attempt to commit the crime of aggravated rape as defined by Tenn. Code Ann. §39-13-502, rape as defined by Tenn. Code Ann. §39-13-503, aggravated sexual battery as defined by Tenn. Code Ann. §39-13-504, or rape of a child as defined by Tenn. Code Ann. §39-13-522, in addition to the punishment authorized by the specific statute prohibiting the conduct, receive a sentence of community supervision for life. Tenn. Code Ann. §39-13-524(a). A person on community supervision is under the jurisdiction, supervision and control of the Board of Probation and Parole in the same manner as a person under parole supervision. Tenn. Code Ann. 39-13-524(d)(1). The Board is authorized to establish such conditions of community supervision as are necessary to protect the public from the offender committing a new sex offense as well as promoting the rehabilitation of the person. *Id.* There is no provision for the revocation of lifetime community supervision but a defendant may petition for release from supervision after fifteen (15) years. Tenn. Code Ann. §39-13-525.

Knowing violation of a condition of community supervision is a Class A misdemeanor. The only exception is when the conduct constituting the violation is also a felony criminal offense. In that event, the violation is a Class E felony. Tenn. Code Ann. §39-13-526. A defendant is entitled to trial in the county where the offense was committed. Tenn. Const. Art. I, §9. Consequently, criminal prosecution for a knowing violation of a condition of community supervision must be brought in the county where the violation occurred.

Tenn. Code Ann. §40-1-109 vests the general sessions courts with original jurisdiction over misdemeanors brought by warrant or information provided the defendant expressly waives certain rights in writing including the right to a jury trial, and the district attorney general does not object. *See also* Tenn. R. Crim. P. 5(c). If these conditions are met, the general sessions court may hear the misdemeanor offense of knowing violation of a condition of community supervision. The jurisdiction of general sessions courts does not include the jurisdiction to render final judgment in felony cases. The felony offense of knowing violation of a condition of community supervision must be adjudicated in a court, circuit or criminal, with jurisdiction of felony criminal matters. Tenn. Code Ann. §40-1-108.

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