

10 Years Isn't Always 10 Years

MANY CRIMINAL CASES INCLUDE SUSPENDED SENTENCES



[Andy Shupe](#)

John Threet, Washington County prosecutor, speaks Oct. 2 to a panel of potential jurors as Hiram Graham, right, listens alongside his attorney, Ronald L. Davis Jr., before Graham's trial on attempted capital murder and second-degree battery charges.

By [Chris Freiberg](#)

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FAYETTEVILLE — Nearly every criminal case in Washington and Benton counties involves a suspended sentence of some kind.

For example, a defendant accepts a plea agreement to settle a theft of property case, a Class C felony punishable by between three and 10 years in prison.

LEGAL LINGO

Suspended Sentence

When a judge delays all or part of a defendant's sentence. Defendants can avoid returning to jail to serve out a suspended sentence by not getting into trouble with the law while on probation.

Source: Staff Report

The exact plea agreement will vary depending on the nature of the crime and defendant's criminal history, but a typical resolution will result in the defendant receiving a sentence of the maximum 10 years in prison with five years suspended.

That means the person convicted must serve five years in state prison, likely less with time off for good behavior and parole. But whether he serves the other five years of that sentence is up to him.

“Suspended time allows that, if you remain on good behavior and fulfill the conditions of release, you don’t have to go back to prison,” said John Threet, Washington County prosecutor.

A suspended sentence differs from parole in that a parolee may be released early and remain on court-ordered supervision, but he has completed his sentence. Someone facing a suspended sentence still faces the possibility of returning to prison, but does not have to report to a probation officer.

In the event of a new offense, someone looking at suspended time is arrested, charged with violating the conditions of release and ultimately must go before a judge who decides if the new crime warrants revoking all or part of a suspended sentence.

Prosecutors like suspended sentences because they believe they act as a deterrent to convicts reoffending. The hope is the prospect of going back to prison will be enough to keep most people from getting into trouble again.

“It allows something to be held over their heads as an incentive,” Threet said.

Brian Gallini, an associate professor of law at the University of Arkansas, said suspended time is helpful to avoid prison overcrowding. He said it promotes the idea of a “middle ground” that a criminal conviction does not have to result in prison time.

The amount of suspended time can vary widely depending on the crime committed.

David Paschal, a former Elkins High School teacher convicted earlier this year of having sex with an 18-year-old student in violation of state law, was sentenced to 40 years in prison following a trial, but had 10 years suspended. Paschal had no prior criminal history.

Michael Brandon Johnson, a Rogers man who pleaded guilty last month to multiple felony drug counts involving forged prescriptions, received a sentence of 60 years in prison with 30 years suspended. That means if he gets in trouble again in the 30 years after he’s released from jail, a judge can send him back to jail for up to 30 years. He was charged as a habitual offender.

“Based on the seriousness of the crime, the sentence will be higher,” Threet said. “If we assume there’s a greater chance they’ll reoffend, we give them more of an incentive. It’s something to make sure the criminal justice system has more teeth.”

Gallini agrees suspended sentences are useful for keeping people out of trouble.

“A blue-collar criminal knows that just a slight violation can lead to the revocation of all their time,” he said.

Prosecutors will rarely recommend sentences of only suspended time, but that’s usually only for nonviolent cases in which full restitution has been made and there is no prior criminal history to consider, Threet said.

Defense attorneys said defendants would prefer to avoid suspended sentences, just because it means they could face additional time for decades after an initial conviction.

“Usually they don’t want any suspended time,” said Denny Hyslip, chief public defender for the 4th Judicial District, comprised of Washington and Madison counties. “They just want to get it over with and be done.”