

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA

VS.

Dept. No.: OSC.#7
CEN: 3146471
PFN: AWD 419
Docket No.: 116653B

DEPPER, Stuart Hilary

Defendant

REPORT AND PETITION OF PROBATION OFFICER CONCERNING
REVOCATION OF PROBATION UNDER P.C. 1203.2

TO THE ABOVE ENTITLED COURT:

The undersigned Petitioner, based on information and belief, represents:


That the above named defendant by an order of this Court, after a conviction of a felony to wit: violation of Section 25189.5(B) of the Health and Safety Code, was released upon probation on the 22nd day of May, 1996 for the period of 3 years that is until the 21st day of May 1999 upon the conditions attached hereto. Probation Order made in Dept. No. 5, Judge Lambden.

Petitioner alleges that the defendant has violated the terms and conditions of probation in that:


1. Defendant has failed to complete the environmental cleanup as ordered by the court.
2. Defendant has failed to pay lab fees of \$4,128 and \$7,849 respectively as ordered by the court.

WHEREFORE, petitioner prays that probation be summarily revoked and a hearing set in this matter.

I declare upon information and belief that the foregoing is true and correct. Executed at Oakland, California on February 24, 1999.


JOHN A. KURZENHAUSER
Deputy Probation Officer

Approved by:


TIM MCDANIEL
Unit Supervisor

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FINANCIAL: Source of Income/Amount: Clean Tech Machinery Company;
Amount: Unknown.

	<u>Ordered</u>	<u>Amount Paid</u>	<u>Balance Due</u>
Fine:	\$5000 (stayed)	0	0
Lab Fee:	\$11,977	0	\$11,977
Restitution Fine:	\$33,702 (reserved)	0	0

DATES OF REVOCATIONS THIS DOCKET (Inclusive): N/A

IN CUSTODY?:

(X) No () Yes Where: NA
Probation Hold Placed On: NA

CUSTODY TIME THIS OFFENSE: 193 actual days.

<u>Computation:</u>	<u>Arrested</u>	<u>Released</u>		<u>No. of Days</u>
	4/22/93	4/22/93	OR	1
	8/14/96	1/7/97	MOD	147
	(Cornell Corrections)			
	1/17/97	3/2/97		45

PROBATION ADJUSTMENT: Heretofore, we have felt that defendant's probation adjustment was very good. However, we have discovered the defendant has paid neither the lab fee of \$4,128 for the October 1990 search warrant samples were paid by the Alameda County Hazardous Materials Program Training and Response Trust Account. Neither has defendant paid the lab fee of \$7,849 for the October 1992 search warrant samples paid by the Alameda County Hazardous Materials Program Training and Response Trust Account.

Further, previous reports from Scott Seery, Senior Hazardous Materials Specialist with the Alameda County Health Agency, Division of Environmental Protection Department of Environmental Health have been that defendant has been in compliance with the cleanup. Our most recent conversation with Mr. Seery, February 16, 1999, reveals that, according to Mr. Seery, the Hazardous Materials Cleanup is "only half-way where we should be" inasmuch as the Deppers are "dragging this thing out." Mr. Seery feels that it will take at least an additional three years to complete the Hazardous Materials Cleanup as required by law.

This deputy, too, has noticed that Stuart Depper has been slow in forthcoming with details of the cleanup and seems more concerned with the amount of money it's costing him than the effect on the environment. We are reminded that sentencing Judge Lambden referred to this case as "a murderous assault on the earth." Mr. Depper seems unconcerned with that and more concerned with the money out of his own pocket.

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In view of all of the foregoing, we believe that harsher measures are necessary at this point to ensure further and more timely compliance by Mr. Depper. We would recommend a state prison sentence at this time, however, that would not complete the environmental cleanup which is first and foremost in importance at this time.

RECOMMENDATION: It is respectfully recommended that probation be revoked, restored and modified as follows:

That a state prison sentence be imposed with execution suspended, that probation be extended by not less than an additional three years, that Mr. Depper be immediately remanded to serve 90 additional days county jail and that progress reports be calendared every 60 days after his release from custody.

JAK/sam

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TERMS AND CONDITIONS

1. Serve the first year in Alameda County Jail commencing on July 25, 1996. Credit for time served until clean-up. If cleaned up, money applied to clean-up.
2. Pay a \$5,000 restitution fine to and through the probation officer in such monthly installments as directed by the probation officer.
3. Report forthwith to the Probation Officer and thereafter as directed by the Probation Officer and follow all directives of the Probation Officer.
4. Obey all laws of the community and be of good conduct.
5. Seek and maintain employment and report any change of residence or employment to the Probation Officer within seven days.
6. If arrested give your own true name, address, and date of birth to arresting officer and report in writing to the Probation Officer within seven days of such arrest.
7. Submit to search and seizure by any Probation Officer or any other law enforcement officer at any time of the day or night, with or without a search warrant: vehicle, residence, person or any other property under your control.
8. Obey all requirements of hazardous waste management or hazardous waste control act.