

Supreme Court of Florida

ORIGINAL

No. 76,676

IN RE: AMENDMENTS TO THE FLORIDA
RULES OF CRIMINAL PROCEDURE -
RULES 3.140 AND 3.986

[May 28, 1992]

PER CURIAM.

The Sentencing Disposition Forms Committee, a special committee of the Criminal Section of the Florida Conference of Circuit Judges, was designated at the request of former Chief Justice Ehrlich to review all dispositional forms contained in the Florida Rules of Criminal Procedure and make recommended changes. The Forms Committee submitted proposed amendments to Florida Rules of Criminal Procedure 3.140 and 3.986 for our

consideration.¹ The proposed changes were submitted to the Florida Criminal Procedure Rules Committee for review and were published for comment in The Florida Bar News.

The Forms Committee recommends that rule 3.140(c) be amended to require that the defendant's race, gender, date of birth, and social security number be included on the information or indictment. After reviewing this proposal, the Criminal Procedure Rules Committee recommends that the rule be retained as it is currently written and suggests that the race, gender, date of birth, and social security number of the defendant should be located on the order of commitment.

The Rules Committee also expressed concerns with and recommended rejection of many of the proposed changes to rule 3.986. Therefore, the Rules Committee was asked to draft and submit its recommended amendments to rule 3.986. In accordance with this request, the Rules Committee has submitted amendments to the current judgment and sentence form as well as new form probation, community control and restitution orders.

We have considered the proposed changes submitted by the Sentencing Disposition Forms Committee, the newly submitted recommendations of the Rules Committee, as well as comments of interested parties. We adopt the appended amendments to rule 3.140(c) as submitted by the Forms Committee. However, we reject

¹ We have jurisdiction. Art. V, § 2(a), Fla. Const.

the Forms Committee's proposed changes to rule 3.986 and adopt the appended amendments to rule 3.986 as submitted by the Rules Committee.

Rule 3.140(c)(4) is added to require that the defendant's race, gender, date of birth, and social security number be included on the information or indictment. The amendment to rule 3.986(a) clarifies the requirement that forms used by trial courts should conform with those set forth in the rule and recognizes the potential for use of computer generated forms. It also applies the presumption of validity to probation, community control and restitution orders.

An amended judgment form is contained in subdivision (b). One of the amendments to the judgment form was made at the suggestion of the Florida Department of Law Enforcement to assist in implementing section 943.325, Florida Statutes (1991), which requires DNA testing and analysis to be performed on blood samples taken from all persons convicted of violations of chapters 794 and 800, Florida Statutes. A form for charges, costs, and fees has been added as subdivision (c). The sentencing form has been amended and is now found in subdivision (d). New form probation, community control and restitution orders are found in subdivisions, (e), (f), and (g), respectively.

All gender-specific designations have been deleted from the forms. Deletions are indicated by use of struck-through type. New language is indicated by underscoring. These

amendments shall become effective upon the release of this opinion.

It is so ordered.

SHAW, C.J. and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and HARDING, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding - Florida Rules of Criminal Procedure

Manuel Menendez, Jr., Chairperson, Criminal Procedure Committee of The Florida Bar, Tampa, Florida; John F. Harkness, Jr., Executive Director, The Florida Bar, Tallahassee, Florida; Claire K. Lutten, Chairperson, Clearwater, Florida and Amy Steele-Donner, Chairperson, Miami, Florida, a special subcommittee of the Florida Criminal Procedure Rules Committee; and Dedee S. Costello, Chairperson, Sentencing Disposition Forms Committee, a special committee of the Criminal Section of the Florida Conference of Circuit Judges, Panama City, Florida,

for Petitioner

Rodney E. Gaddy, General Counsel, Florida Department of Law Enforcement, Tallahassee, Florida,

Responding

APPENDIX

RULE 3.140 INDICTMENTS; INFORMATIONS

(a) Methods of Prosecution.

(1) *Capital Crimes.* An offense which may be punished by death shall be prosecuted by indictment.

(2) *Other Crimes.* The prosecution of all other criminal offenses shall be as follows:

In circuit courts and county courts, prosecution shall be solely by indictment or information, except that prosecution in county courts for violations of municipal ordinances and metropolitan county ordinances may be by affidavit or docket entries and prosecutions for misdemeanors, municipal ordinances and county ordinances may be by Notice to Appear issued and served pursuant to Rule 3.125. A grand jury may indict for any offense. When a grand jury returns an indictment for an offense not triable in the circuit court, the circuit judge shall either issue a summons returnable in the county court, or shall bail the accused for trial in the county court, and such judge, or at his direction, the clerk of the circuit court shall certify the indictment and file same in the records of the county court.

(b) **Nature of Indictment or Information.** The indictment or information upon which the defendant is to be tried shall be a plain, concise and definite written statement of the essential facts constituting the offense charged.

(c) **Caption, Commencement, and Date, and Personal Statistics.**

(1) *Caption.* No formal caption is essential to the validity of an indictment or information upon which the defendant is to be tried. Upon objection made as to its absence a caption shall be prefixed in substantially the following manner:

In the (name of Court)

State of Florida versus (name of defendant)

Any defect, error or omission in a caption may be amended as of course, at any stage of the proceeding, whether before or after a plea to the merits, by court order.

(2) *Commencement.* All indictments or informations upon which the defendant is to be tried shall expressly state that the prosecution is brought in the name and by the authority of the State of Florida. Indictments shall state that the defendant is charged by the grand jury of the county. Informations shall state that the appropriate prosecuting attorney makes the charge.

(3) *Date.* Every indictment or information on which the defendant is to be tried shall bear the date (day, month, year) that it is filed in each court in which it is so filed.

(4) Every indictment or information shall include the defendant's race, gender, date of birth, and social security number when any of these facts are known. Failure to include these facts shall not invalidate an otherwise sufficient indictment.

(d) The Charge.

(1) *Allegation of Facts; Citation of Law Violated.* Each count of an indictment or information upon which the defendant is to be tried shall allege the essential facts constituting the offense charged. In addition, each count shall recite the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged to have violated. Error in or omission of the citation shall not be ground for dismissing the count or for a reversal of a conviction based thereon if the error or omission did not mislead the defendant to his prejudice.

(2) *Name of Accused.* The name of the accused person shall be stated, if known, and if not known, he may be described by any name of description by which he can be identified with reasonable certainty. If the grand jury, prosecuting attorney or affiant making the charge does not know either the name of the accused or any name or description by which he can be identified with reasonable certainty, the indictment or information as the case may be, shall so allege and the accused may be charged by a fictitious name.

(3) *Time and Place.* Each count of an indictment or information upon which the defendant is to be tried shall contain allegations stating as definitely as possible the time and place of the commission of the offense charged in the act or transaction or on two or more acts or transactions connected together, provided the court in which the indictment or information is filed has jurisdiction to try all of the offenses charged.

(4) *Allegation of Intent to Defraud.* When an intent to defraud is required as an element of the offense to be charged, it shall be sufficient to allege an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded.

(e) *Incorporation by References.* Allegations made in one count shall not be incorporated by reference in another count.

(f) *Endorsement and Signature; Indictment.* An indictment shall be signed by the foreman or the acting foreman of the grand

jury returning it. The state attorney or acting state attorney or an assistant state attorney shall make and sign a statement on the indictment to the effect that he has advised the grand jury returning the indictment as authorized and required by law. No objection to the indictment on the ground that the statement has not been made shall be entertained after the defendant pleads to the merits.

(g) Signature, Oath, and Certification; Information. An information charging the commission of a felony shall be signed by the state attorney, or a designated assistant state attorney, under oath stating his good faith in instituting the prosecution and certifying that he has received testimony under oath from the material witness or witnesses for the offense. An information charging the commission of a misdemeanor shall be signed by the state attorney, or a designated assistant state attorney, under oath stating his good faith in instituting the prosecution. No objection to an information on the ground that it was not signed or verified, as herein provided, shall be entertained after the defendant pleads to the merits.

(h) Conclusion. An indictment or information on which the defendant is to be tried need contain no formal conclusion.

(i) Surplusage. An unnecessary allegation may be disregarded as surplusage and, upon motion of the defendant, may be stricken from the pleading by the court.

(j) Amendment of Information. An information upon which the defendant is to be tried which charges an offense may be amended on the motion of the prosecuting attorney or defendant at any time prior to trial because of formal defects.

(k) Form of Certain Allegations. Allegations concerning the following items may be alleged as indicated below:

(1) *Description of Written Instruments.* Instruments consisting wholly or in part of writing or figures, pictures, or designs may be described by any term by which they are usually known or may be identified, without setting forth a copy or facsimile thereof.

(2) *Words; Pictures.* Necessary averments relative to spoken or written words or pictures may be made by the general purport of such words or pictures without setting forth a copy or facsimile thereof.

(3) *Judgments; Determinations; Proceedings.* A judgment, determination or proceeding of any court or official, civil or military, may be alleged generally in such a manner as to identify such judgment, determination or proceeding, without alleging facts conferring jurisdiction on such court or official.

(4) *Exceptions; Excuses; Provisos.* Statutory exceptions, excuses or provisos relative to offenses created or defined by statute need not be negatived by allegation.

(5) *Alternative or Disjunctive Allegations.* For an offense which may be committed by doing of one or more of several acts, or by one or more of several means, or with one or more of several intents or results, it is permissible to allege in the disjunctive or alternative such two or more acts, means, intents or results.

(6) *Offenses Divided into Degrees.* For an offense divided into degrees it is sufficient to charge the commission of the offense without specifying the degree.

(7) *Felonies.* It shall not be necessary to allege that the offense charged is a felony or was done feloniously.

(l) *Custody of Indictment or Information.* Unless the defendant named therein has been previously released on a citation, order to appear, personal recognizance or bail, or has been summoned to appear, or unless otherwise ordered by the court having jurisdiction, all indictments or informations and the records thereof shall be in the custody of the clerk of the court to which they are presented and shall not be inspected by any person other than the judge, clerk, attorney general and prosecuting attorney until the defendant is in custody or until one year has elapsed between the return of an indictment or the filing of an information, after which time they shall be opened for public inspection.

(m) *Defendant's Right to Copy of Indictment, Information.* Each person who has been indicted or informed against for an offense shall, upon application to the clerk, be furnished a copy of the indictment or information and the endorsements thereon, at least twenty-four hours before he is required to plead to such indictment or information if a copy has not been so furnished to him. A failure to furnish such copy shall not affect the validity of any subsequent proceeding against the defendant if he pleads to the indictment or information.

(n) *Statement of Particulars.* The court, upon motion, shall order the prosecuting attorney to furnish a statement of particulars, when the indictment or information upon which the defendant is to be tried fails to inform the defendant of the particulars of the offense sufficiently to enable him to prepare his defense. Such statement of particulars shall specify as definitely as possible the place, date, and all other material facts of the crime charged that are specifically requested and are known to the prosecuting attorney, including the names of persons intended to be defrauded. Reasonable doubts concerning the construction of this rule shall be resolved in favor of the defendant.

(o) **Defects and Variances.** No indictment or information, or any count thereof, shall be dismissed or judgment arrested, or new trial granted on account of any defect in the form of the indictment or information or of misjoinder of offenses or for any cause whatsoever, unless the court shall be of the opinion that the indictment or information is so vague, indistinct and indefinite as to mislead the accused and embarrass him in the preparation of his defense or expose him after conviction or acquittal to substantial danger of a new prosecution for the same offense.

RULE 3.986. Forms Related to Judgment and Sentence.

(a) Sufficiency of Forms. ~~The following uniform judgment and sentence shall be sufficient. The forms as set forth below, or computer generated formats that duplicate these forms, shall be used by all courts. Variations from these forms does not void the judgment, sentence, order, and/or fingerprints that are otherwise sufficient.~~

(b) Form for Judgment.

~~PROBATION VIOLATOR~~
(Check if Applicable)

~~IN THE CIRCUIT COURT,
JUDICIAL CIRCUIT, IN AND FOR
..... COUNTY, FLORIDA
DIVISION
CASE NUMBER~~

~~Probation Violator
Community Control Violator
Retrial
Resentence~~

In the Circuit Court,
 Judicial Circuit, in and for
 County, Florida
Division
Case Number

~~STATE OF FLORIDA~~ State of Florida

vs.

Defendant

JUDGMENT

The ~~D~~defendant, _____, being personally before this ~~C~~ourt represented by _____, his ~~the~~ attorney of record, and the state represented by _____, and having+

~~(Check Applicable Provision)~~

~~_____ Been tried and found guilty by jury/by court of the following crime(s)~~

~~_____ Entered a plea of guilty to the following crime(s)~~

~~_____ Entered a plea of nolo contendere to the following crime(s)~~

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER	OBTS NUMBER
<u>Count</u>	<u>Crime</u>	<u>Offense Statute Number(s)</u>	<u>Degree Of Crime</u>	<u>Case Number</u>	<u>OBTS Number</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

~~_____ and no cause having been being shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the defendant is hereby ADJUDICATED GUILTY of the above crime(s).~~

~~_____ and pursuant to section 943.325, Florida Statutes, having been convicted of attempts or offenses relating to sexual battery (ch. 794) or lewd and lascivious conduct (ch. 800) the defendant shall be required to submit blood specimens.~~

~~_____ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.~~

~~The Defendant is hereby ordered to pay the sum of ten dollars (\$10.00) pursuant to F.S. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of two dollars (\$2.00) as a court cost pursuant to F.S. 943.25(4).~~

~~(Check if Applicable)~~

~~_____ The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 943.25(8).
(This provision is optional; not applicable unless checked.)~~

~~_____ The Defendant is further ordered to pay a fine in the sum of \$..... pursuant to F.S. 775.0835, Florida Statutes.
(This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s).)~~

~~_____ The Court hereby imposes additional court costs in the sum of \$.....~~

~~Imposition of Sentence Stayed and Withheld
(Check if Applicable)~~

~~_____ The Court hereby stays and withholds the imposition of sentence as to count(s) and places the defendant on probation for a period of under the supervision of the Department of Corrections (conditions of probation set forth in separate order).~~

~~Sentence Deferred Until Later Date
(Check if Applicable)~~

~~_____ The Court hereby defers imposition of sentence until (date).....~~

~~The Defendant in Open Court was advised of his right to appeal from this judgment by filing notice of appeal with the Clerk of the Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.~~

State of Florida

v.

Defendant

Case Number

FINGERPRINTS OF DEFENDANT

R. Thumb R. Index R. Middle R. Ring R. Little

L. Thumb L. Index L. Middle L. Ring L. Little

Fingerprints taken by:

Name

Title

Name and Title

~~DONE AND ORDERED in Open Court at County, Florida, this day of, A.D. 19.....~~ I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the ~~Defendant,~~ and that they were placed thereon by ~~said the~~ Defendant in my presence in ~~open Court~~ this date.

DONE AND ORDERED in open court in
County, Florida, this day of , 19 .

JUDGE

Defendant
Case Number

(c) Form for Charges, Costs, and Fees.

In the Circuit Court,
 Judicial Circuit, in and for
 County, Florida
Division _____
Case Number _____

State of Florida

v.

Defendant

CHARGES/COSTS/FEES

The defendant is hereby ordered to pay the following sums if checked:

_____ \$20.00 pursuant to section 960.20, Florida Statutes (Crimes Compensation Trust Fund).

_____ \$3.00 as a court cost pursuant to section 943.25(3), Florida Statutes (Criminal Justice Trust Fund).

_____ \$2.00 as a court cost pursuant to section 943.25(13), Florida Statutes (Criminal Justice Education by Municipalities and Counties).

_____ A fine in the sum of \$ _____ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as part of a sentence to section 775.083, Florida Statutes, are to be recorded on the sentence page(s).)

_____ \$20.00 pursuant to section 939.015, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

_____ A 10% surcharge in the sum of \$ _____ pursuant to section 775.0836, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

_____ A sum of \$ _____ pursuant to section 27.3455, Florida Statutes (Local Government Criminal Justice

Trust Fund).

A sum of \$ _____ pursuant to section 939.01,
Florida Statutes (Prosecution/Investigative Costs).

A sum of \$ _____ pursuant to section 27.56, Florida
Statutes (Public Defender Fees).

Restitution in accordance with attached order.

Other _____

DONE AND ORDERED in open court in _____
County, Florida, this _____ day of _____, 19 _____.

Judge

(d) Form for Sentencing.

Defendant _____ Case Number _____ OBTS Number _____

SENTENCE

(As to Count _____)

The Defendant, being personally before this Court, accompanied by ~~his~~ the defendant's attorney of record, _____, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why ~~he~~ the defendant should not be sentenced as provided by law, and no cause being shown,

(Check either ~~provision~~ one if applicable)

_____ and the Court having on (date) _____ deferred imposition of sentence until this date,

_____ and the court having previously entered a judgment in this case on (date) _____ now resentsences the defendant

_____ and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control ~~by separate order entered herein,~~

~~IT IS THE SENTENCE OF THE LAW that,~~ It Is The Sentence Of The Court That:

_____ The Defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes, plus \$ _____ as the 5% surcharge required by F.S. section 960.25, Florida Statutes.

_____ The Defendant is hereby committed to the custody of the Department of Corrections.

_____ The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida. ~~(Name of local corrections authority to be inserted at printing, if other than Sheriff)~~

_____ The defendant is sentenced as a youthful offender in

accordance with section 958.04, Florida Statutes.

To ~~be~~ imprisoned (check one; unmarked sections are inapplicable):

 For a term of natural life.

 For a term of _____.

 ~~For an indeterminate period of 6 months to years.~~ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence complete ~~either of these appropriate two paragraphs~~

 Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of probation supervision set forth in a separate order entered herein.

 However, after serving a period of _____ imprisonment in _____ the balance of ~~such~~ the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

SPECIAL PROVISIONS
(As to Count _____)

By appropriate notation, the following provisions apply to the sentence imposed ~~in this section~~:

Mandatory/Minimum Provisions:

Firearm ~~3-year mandatory minimum~~

 It is further ordered that the 3-year minimum imprisonment provisions of F.S. section 775.087(2).

Florida Statutes, areis hereby imposed for the sentence specified in this count, as the defendant possessed a firearm.

Drug Trafficking—mandatory minimum

It is further ordered that the _____
year mandatory minimum imprisonment provisions of F.S. section 893.135(1)(-)(-), Florida Statutes, areis hereby imposed for the sentence specified in this count.

Controlled Substance
Within 1,000 Feet of School

It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(e)1, Florida Statutes, is hereby imposed for the sentence specified in this count.

Retention of Jurisdiction—

~~The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of The requisite findings by the Court are set forth in a separate order or stated on the record in open court.~~

Habitual Felony Offender

The defendant is adjudged adicated a habitual felony offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Habitual Violent Felony Offender

The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

Law Enforcement Protection Act

— It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.

Capital Offense

— It is further ordered that the defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes.

Short-Barreled Rifle, Shotgun, Machine Gun

— It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.

Continuing Criminal Enterprise

— It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this court.

Other Provisions:

Retention of Jurisdiction

— The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit

— It is further ordered that the Defendant shall be allowed a total of _____ days as credit for ~~such time as he has been incarcerated prior to before~~ imposition of this sentence. ~~Such credit reflects the following periods of incarceration (optional):~~

Prison Credit

— It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/Concurrent as to Other Counts

It is further ordered that the sentence imposed for this count shall run (check one) _____ consecutive to _____ concurrent with ~~(check one)~~ the sentence set forth in count _____ ~~above of this case.~~

Defendant
Case Number

Consecutive/Concurrent (As to other convictions)

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) _____ consecutive to _____ concurrent with (check one) the following:

- _____ Any active sentence being served.
- _____ Specific Sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of _____ County, Florida, is hereby ordered and directed to deliver the Defendant to the Department of Corrections at the facility designated by the department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statute.

The Defendant in Open Court was advised of ~~his~~ the right to appeal from this Sentence by filing notice of appeal within ~~thirty~~ 30 days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking ~~said~~ the appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

_____.

DONE AND ORDERED in Open Court at _____
County, Florida, this _____ day of _____ A.D., 19 _____.

JUDGE Judge

(e) Form for Order of Probation.

In the _____ Court
of _____ County, Florida
Case Number _____

State of Florida

v.

Defendant

ORDER OF PROBATION

This cause coming on this day to be heard before me, and you, the defendant, _____, being now present before me, and you having

(check one)

___ entered a plea of guilty to

___ entered a plea of nolo contendere to

___ been found guilty by jury verdict of

___ been found guilty by the court trying the case without a jury of the offense(s) of _____

SECTION 1: Judgment Of Guilt

___ The Court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: Order Withholding Adjudication

___ Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on probation for a period of _____

criminal activity.

- (7) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.
- (8) You will work diligently at a lawful occupation, advise your employer of your probation status, and support any dependents to the best of your ability, as directed by your officer.
- (9) You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site, or elsewhere, and you will comply with all instructions your officer may give you.
- (10) You will pay restitution, costs, and/or fees in accordance with the attached orders.
- (11) You will report in person within 72 hours of your release from confinement to the probation office in _____ County, Florida, unless otherwise instructed by your officer. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at _____.

SPECIAL CONDITIONS

_____ You must undergo a (drug/alcohol) evaluation and, if treatment is deemed necessary, you must successfully complete the treatment.

_____ You will submit to urinalysis, breathalyzer, or blood tests at any time requested by your officer, or the professional staff of any treatment center where you are receiving treatment, to determine possible use of alcohol, drugs, or controlled substances. You shall be required to pay for the tests unless payment is waived by your officer.

_____ You must undergo a mental health evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.

— You will not associate with _____ during the period of probation.

— You will not contact _____ during the period of probation.

— Other _____

(Use the space below for additional conditions as necessary.)

You are hereby placed on notice that the court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication of guilt was withheld, and impose any sentence that it might have imposed before placing you on probation or require you to serve the balance of the sentence.

It is further ordered that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. (This paragraph applies only if section 1 or section 2 is checked.)

It is further ordered that the clerk of this court file this order in the clerk's office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, this the _____ day of _____, 19_____.

Judge

I acknowledge receipt of a certified copy of this order.
The conditions have been explained to me and I agree to abide by
them.

Date _____ Probationer _____

Instructed by _____

Original: Clerk of the Court
Certified Copies: Probationer
Florida Department of Corrections,
Probation and Parole Services

(f) Form for Community Control.

In the _____ Court
of _____ County, Florida
Case Number _____

State of Florida

v.

Defendant

ORDER OF COMMUNITY CONTROL

This cause coming on this day to be heard before me, and you, the defendant, _____, being now present before me, and you having

(check one)

___ entered a plea of guilty to

___ entered a plea of nolo contendere to

___ been found guilty by jury verdict of

___ been found guilty by the court trying the case without a jury of the offense(s) of _____

SECTION 1: Judgment of Guilt

___ The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore it is ordered and adjudged that you be placed on community control for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: Order Withholding Adjudication

___ Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed

on Community Control for a period of _____ under
the supervision of the Department of Corrections, subject to
Florida law.

SECTION 3: Community Control During Portion Of Sentence

It is hereby ordered and adjudged that you be

_____ committed to the Department of Corrections

_____ confined in the County Jail

for a term of _____ with credit for
_____ jail time. After you have served
_____ of the term, you shall be placed on
community control for a period of _____ under the
supervision of the Department of Corrections, subject to Florida
law.

_____ confined in the County Jail

for a term of _____ with credit for
_____ jail time, as a special condition of
community control.

It is further ordered that you shall comply with the
following conditions of community control during the community
control period.

- (1) Not later than the fifth day of each month, you will
make a full and truthful report to your officer on the
form provided for that purpose.
- (2) You will pay the State of Florida the amount of
\$ _____ per month toward the cost of your
supervision, unless otherwise waived in compliance with
Florida Statutes.
- (3) You will not change your residence or employment or
leave the county of your residence without first
procuring the consent of your officer.
- (4) You will not possess, carry, or own any firearm. You
will not possess, carry, or own other weapons without
first procuring the consent of your officer.
- (5) You will live without violating the law. A conviction

in a court of law shall not be necessary for such a violation to constitute a violation of your community control.

- (6) You will not associate with any person engaged in any criminal activity.
- (7) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.
- (8) You will work diligently at a lawful occupation, advise your employer of your community control status, and support any dependents to the best of your ability as directed by your officer.
- (9) You will promptly and truthfully answer all inquiries directed to you by the court or your officer and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.
- (10) You will report to your officer at least 4 times a week, or, if unemployed full time, daily.
- (11) You will perform _____ hours of public service work as directed by your officer.
- (12) You will remain confined to your approved residence except for one half hour before and after your approved employment, public service work, or any other special activities approved by your officer.
- (13) You will pay restitution, costs, and/or fees in accordance with the attached orders.
- (14) You will report in person within 72 hours of your release from confinement to the probation office in _____ County, Florida, unless otherwise instructed by your officer. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at _____.

SPECIAL CONDITIONS

- _____ You must undergo a (drug/alcohol) evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.
- _____ You must undergo a mental health evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.
- _____ You will submit to urinalysis, breathalyzer, or blood tests at any time requested by your officer, or the professional staff of any treatment center where you are receiving treatment, to determine possible use of alcohol, drugs, or controlled substances. You shall be required to pay for the tests unless payment is waived by your officer.
- _____ You will not associate with _____ during the period of community control.
- _____ You will not contact _____ during the period of community control.
- _____ You will maintain an hourly accounting of all your activities on a daily log which you will submit to your officer on request.
- _____ You will participate in self-improvement programs as determined by the court or your officer.
- _____ You will submit to electronic monitoring of your whereabouts as required by the Florida Department of Corrections.
- _____ Other _____

(Use the space below for additional conditions as necessary.)

You are hereby placed on notice that the court may at any time rescind or modify any of the conditions of your community control, or may extend the period of community control as authorized by law, or may discharge you from further supervision or return you to a program of regular probation supervision. If you violate any of the conditions and sanctions of your community control, you may be arrested, and the court may adjudicate you guilty if adjudication of guilt was withheld, revoke your community control, and impose any sentence that it might have imposed before placing you on community control.

It is further ordered that when you have reported to your officer and have been instructed as to the conditions of community control, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. (This paragraph applies only if section 1 or section 2 is checked.)

It is further ordered that the clerk of this court file this order in the clerk's office, and forthwith provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, this the _____ day of _____, 19_____.

Judge

I acknowledge receipt of a certified copy of this order. The conditions have been explained to me and I agree to abide by them.

Date _____ Community controller _____

Instructed by _____

Original: Clerk of the Court
Certified Copies: Community Controlee
Florida Department of Corrections,
Probation and Parole Services

(g) Form for Restitution Order.

In the Circuit Court,
 Judicial Circuit in and for
 County, Florida
Division _____
Case Number _____

State of Florida

v.

Defendant

RESTITUTION ORDER

By appropriate notation, the following provisions apply to
the sentence imposed in this section:

____ Restitution is not ordered as it is not applicable.

____ Restitution is not ordered due to the financial
resources of the defendant.

____ Restitution is not ordered due to _____.

____ Due to the financial resources of the defendant,
restitution of a portion of the damages is ordered as
prescribed below.

____ Restitution is ordered as prescribed below.

____ Restitution is ordered for the following victim.
(Victim refers to the aggrieved party, aggrieved
party's estate, or aggrieved party's next of kin if the
aggrieved party is deceased as a result of the offense.
In lieu of the victim's address and phone number, the
address and phone number of the prosecuting attorney,
victim's attorney, or victim advocate may be used.)

Name of victim

Name of attorney or advocate
if applicable

Address _____

City, State, and Zip Code _____

Phone Number _____

_____ The sum of \$ _____ for medical and related services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a recognized method of healing.

_____ The sum of \$ _____ for necessary physical and occupational therapy and rehabilitation.

_____ The sum of \$ _____ to reimburse the victim for income lost as a result of the offense.

_____ The sum of \$ _____ for necessary funeral and related services if the offense resulted in bodily injury resulting in the death of the victim.

_____ The sum of \$ _____ for damages resulting from the offense.

_____ The sum of \$ _____ for _____

It is further ordered that the defendant fulfill restitution obligations in the following manner:

_____ Total monetary restitution is determined to be \$ _____ to be paid at a rate of \$ _____ per (check one) _____ month _____ week _____ other (specify) _____ and is to be paid through the (check one) _____ clerk of the circuit court, _____ to the victim's designee, or _____ through the Department of Corrections, with an additional 4% fee of \$ _____ for handling, processing, and forwarding the restitution to the victim(s).

DONE AND ORDERED at _____ County, Florida,
this _____ day of _____, 19 _____.

Judge

Original: Clerk of the Court
Certified Copy: Victim

Committee Note

1980 Amendment. The proposed changes to Rule 3.986 are housekeeping in nature. References to the Department of Offender Rehabilitation have been changed to Department of Corrections to reflect a legislative change. See §section 20.315, Florida Statutes (Supp. 1978). The reference to "hard labor" has been stricken as the courts have consistently held such a condition of sentence is not authorized by statute. See, e.g., McDonald v. State, 321 So.2d 453, 458 (Fla. 4th DCA 1975).