

Supreme Court of Florida

No. SC2023-0249

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.992.

June 29, 2023

PER CURIAM.

The Florida Bar's Criminal Procedure Rules Committee (Committee) filed a report proposing amendments to Florida Rule of Criminal Procedure 3.992 (Criminal Punishment Code Scoresheet).¹ The Committee and the Board of Governors of The Florida Bar approved the proposed amendments. The Committee published its proposal for comment prior to filing it with the Court and no comments were received. After the Committee filed its report, the Court published the proposal for comment, and no comments were received.

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.; Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(1).

Having considered the proposed amendments, the Court hereby amends Florida Rule of Criminal Procedure 3.992. The amendments include the following. In subdivision (a) under the last section heading “Total Sentence Imposed,” above the box for the judge’s signature, the form currently states “Other Reason” for a mitigated departure. We amend the rule by adding a check box before “Other Reason” and adding “(s):” after reason. In subdivision (b) under the section “Reasons For Departure – Mitigating Circumstances,” at the end of the list, an additional checkbox is added for “Other Reason(s)” and a blank line for the sentencing judge to note any non-enumerated reasons for a downward departure. These amendments align the rule with section 921.0026, Florida Statutes (2022), which notes that the mitigating factors to be considered by the sentencing court when considering a downward departure are not limited to those specifically enumerated in the statute.

Accordingly, we amend Florida Rule of Criminal Procedure 3.992 as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-

through type. The amendments to the rule shall become effective October 1, 2023, at 12:01 a.m.

It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

Original Proceeding – Florida Rules of Criminal Procedure

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

Cynthia Cohen, Chair, Criminal Procedure Rules Committee, West Palm Beach, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Michael Hodges, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

Rule 3.992. Criminal Punishment Code Scoresheet

(a) **Criminal Punishment Code Scoresheet.** The Criminal Punishment Code Scoresheet Preparation Manual is available at: http://www.dc.state.fl.us/pub/sen_cpcm/index.html

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE
5. NAME (LAST, FIRST, M.I.)	6. DOB	8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #
			12. PLEA <input type="checkbox"/> TRIAL <input type="checkbox"/>

I. **PRIMARY OFFENSE:** If Qualifier, please check A S C R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
_____ / _____	_____ / _____	_____ / _____	_____ / _____	_____ / _____
(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)				
Prior capital felony triples Primary Offense points <input type="checkbox"/>				I. _____

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)							
Prior capital felony triples Additional Offense points <input type="checkbox"/>							Supplemental page points _____
II. _____							

III. **VICTIM INJURY:**

	Number	=	Total		Number	=	Total
2nd Degree Murder	240 x _____	=	_____	Slight	4 x _____	=	_____
Death	120 x _____	=	_____	Sex Penetration	80 x _____	=	_____
Severe	40 x _____	=	_____	Sex Contact	40 x _____	=	_____
Moderate	18 x _____	=	_____				
III. _____							

IV. **PRIOR RECORD:** Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X _____	_____ = _____	_____
(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)							
Supplemental page points _____							IV. _____

Page 1 Subtotal: _____

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

TOTAL SENTENCE IMPOSED

		Years	Months	Days
<input type="checkbox"/> State Prison	<input type="checkbox"/> Life	_____	_____	_____
<input type="checkbox"/> County Jail	<input type="checkbox"/> Time Served	_____	_____	_____
<input type="checkbox"/> Community Control		_____	_____	_____
<input type="checkbox"/> Probation	<input type="checkbox"/> Modified	_____	_____	_____

Please check if sentenced as ~~H~~Habitual ~~e~~Offender, ~~H~~Habitual ~~v~~Violent ~~e~~Offender, ~~v~~Violent ~~e~~Career ~~e~~Criminal, ~~p~~Prison ~~r~~Releasee ~~r~~Reoffender, or a ~~m~~Mandatory ~~m~~Minimum ~~a~~Applies.

Mitigated Departure Plea Bargain Prison Diversion Program

Other Reason(s): _____

JUDGE'S SIGNATURE	
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Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

(b) Supplemental Criminal Punishment Code Scoresheet

NAME (LAST, FIRST, MI.)	DOCKET #	DATE OF SENTENCE
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II. ADDITIONAL OFFENSES(S):

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
_____/_____/_____	_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____/_____/_____	_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____/_____/_____	_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____/_____/_____	_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

II. _____

IV. PRIOR RECORD

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	OFFENSE/DATE/STATE	NUMBER	POINTS	TOTAL
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____
_____/_____	_____/_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____/_____/_____	_____ X _____	_____ = _____	_____

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

IV. _____

REASONS FOR DEPARTURE - MITIGATING CIRCUMSTANCES

(reasons may be checked here or written on the scoresheet)

- Legitimate, uncoerced plea bargain.
- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.
- The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, or for a physical disability, and the defendant is amenable to treatment.
- The need for payment of restitution to the victim outweighs the need for a prison sentence.
- The victim was an initiator, willing participant, aggressor, or provoker of the incident.
- The defendant acted under extreme duress or under the domination of another person.
- Before the identity of the defendant was determined, the victim was substantially compensated.
- The defendant cooperated with the State to resolve the current offense or any other offense.
- The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
- At the time of the offense the defendant was too young to appreciate the consequences of the offense.
- The defendant is to be sentenced as a youthful offender.
- The defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program.
- The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.
- Other Reason(s): _____

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence, except for the provisions of s. 921.0026(2)(m).

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