Supreme Court of Florida

No. SC09-1053

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.992(A)—CRIMINAL PUNISHMENT CODE SCORESHEET.

[July 16, 2009]

PER CURIAM.

We have for consideration proposed amendments to Florida Rule of

Criminal Procedure 3.992(a), Criminal Punishment Code Scoresheet. We have

jurisdiction. See art. V, § 2(a), Fla. Const.

The Supreme Court Criminal Court Steering Committee (Steering

Committee) proposes amendments to rule 3.992(a) in light of recent legislation¹

If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third-degree felony but not a forcible felony as defined in s. 776.08, and excluding any third-degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written

^{1.} In chapter 2009-63, section 1, Laws of Florida, the Legislature amended section 775.082, Florida Statutes, to include a new subsection (10), which affects the sentence computation as follows:

and upon recommendations to the Florida Department of Corrections. After considering the Committee's proposals and reviewing the relevant legislation, we adopt the proposed amendments to rule 3.992(a), as reflected in the appendix to this opinion. New language is indicated by underscoring. The amendments shall become effective immediately upon release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.²

It is so ordered.

findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

Ch. 2009-63, § 1, Laws of Fla. The Legislature also created a new prison diversion program under section 921.00241, Florida Statutes, which may affect the sentence imposed. <u>See ch. 2009-63</u>, § 2, Laws of Fla. The Steering Committee's proposed amendments to the scoresheet are consistent with those legislative revisions.

2. An original and nine paper copies of all comments must be filed with the Court on or before September 14, 2009, with a certificate of service verifying that a copy has been served on the Committee Chair, Honorable O. H. Eaton, Jr., Circuit Judge, C/O Les Garringer, Office of the General Counsel, 500 S. Duval Street, Tallahassee, Florida 32399-1925, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until October 5, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order in In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, LABARGA, and PERRY, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

Original Proceeding – Florida Rules of Criminal Procedure Committee

Judge O. H. Eaton, Jr., Chair, Criminal Court Steering Committee, Eighteenth Judicial Circuit, Sanford, Florida,

for Petitioner

APPENDIX

I.

Rule 3.992(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, MI.I.)	6. DOB	8. RACE B W 9. GENDER		10. PRIMARY OFF. DATE 12. PLEA		
	7. DC #	9. GENDER $\square_{\mathrm{M}} \square_{\mathrm{F}}$		11. PRIMARY DOCKET # TRIAL		
PRIMARY OFFENSE: If Qualifier, ple	ease checkASCR	(A=Attempt, S=Solicitation, C=Co	onspiracy, R=Re	eclassification)		
FELONY F.S.# DEGREE	DESCRIPTION		-	ENSE POINTS VEL		
/				/		
(Level - Points: 1=4, 2=10, 3=16, 4=22	_	=116)				
Prior capital felony triples Primary Offense p	pints 🔲			l		
DOCKET# FEL/MM DEGREE	Supplemental page attached F.S.# OFFENSE LEVEL	QUALIFY COUNTS A S C R	POINT	TS TOTAL		
DESCRIPTION						
// DESCRIPTION/	/		X	_ =		
	/		X	_ =		
// DESCRIPTION	/		x	_ =		
	.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28	3, 8=37, 9=46, 10=58)				
Prior capital felony triples Additional O	fense points 🛛		Supple	emental page points II.		
III. VICTIM INJURY: 2nd Degree Murder 240		Slight 4 x	Number =	Total		
Death 120 Severe 40		Sex Penetration 80 x Sex Contact 40 x	=			
Moderate 18	3 x =			III.		
	FENSE QUALIFY: DESCRIP	FION		BER POINTS TOTAL X =		
				X =		
////////				X =		
//				X = X =		
////	0000 <u></u>			X =		
//				X =		

/		_			X =	
///		0 0 0 7 44 0 40	0 00 40 00		X =	
(Level = Points: $M=0.2$, $1=0$	0.5, 2=0.8, 3=1.6, 4=2.4, 5=3	.6, 6=9, 7=14, 8=19,	9=23, 10=29)	Supplement	al page points	
				Supplement		
					IV	
				I	Page 1 Subtotal:	
Effective Date: For offenses committee	d under the Criminal Punishmen	t Code effective for offe	enses committee			
NAME (LAST, FIRST, MI)				DOCH	KET#	
				1	Page 1 Subtotal:	
V. Legal Status violation = 4 Po					-	
				intervention or divers		
Court imposed or post prison r	elease community supervisio	on resulting in a con-	VICTION		V	
VI. Community Sanction violation						
Probation Community Cont				uppopping violation	VI	
	ny violation other than new f	•				
before or at same time	as sentence for violation of p	probation OR				
	each successive vio ncern when the violation is n			sts, fines, or restitutio	n OR	
New felony c	conviction = 24 points x	each successive	e violation for a	violent felony offende	er of	
special conce	ern if new offense results in a	a conviction before o	or at the same t	me for violation of pro	obation	
VII. Firearm/Semi-Automatic or	Machine Gun = 18 or 25 Poir	nts			VII	
VIII. Prior Serious Felony - 30 Pc	pints				VIII	
				Subtotal Sent	ence Points	
IX. Enhancements (only if the p	rimary offense qualifies for e	nhancement)				
Law Enf. Protect.	Drug Trafficker	Motor Vehicle Theft		Criminal Gang Offense	Domestic Violence in the Presence of	
					Related Child (offenses committed on or after 3/12/07)	
x 1.5 x 2.0 x 2.5	x 1.5	x 1.5		x 1.5	x 1.5	
		Enh	anced Subtor	al Sentence Points	IX	
			TO	TAL SENTENCE P	OINTS	
	SEN	NTENCE COM	PUTATION			
					If the total sentence points are 22	
points or less, see Section 775.08	32(10), Florida Statues, to de	etermine if the court	must sentence	the offender to a non	-state prison sanction.	
If total sentence points are greate	r than 44:					
			x .75 =			
total sentence p	pints		lowest pe	ermissible prison sent	ence in months	
· · · · · · · · · · · · · · · · · · ·			-			
The maximum sentence is up to the	ne statutory maximum for the	e primary and any ac	ditional offense	es as provided in s. 7	75.082, F.S., unless the lowest	
permissible sentence under the C sentence points are greater than				imposed concurrently	or consecutively. If total	
semence points are greater than	or equal to 505, a life settlen	ice may be imposed.				
		-	maximum se	entence In vears	-	
maximum sentence In years TOTAL SENTENCE IMPOSED						
	тот	AL SENTENCE IN	IPOSED			
	τοτ.			Davs		
	τοτ.	AL SENTENCE IN Years	IPOSED Months	Days		

State Prison		Life			_				
County Jail		Time Serve	ed		_				
Community Control									
Probation	Modified						. <u></u>		
Please check if sentenced as 🗆 habitual offender, 🗆 habitual violent offender, 🗆 violent career criminal, 🗆 prison releasee reoffender,									ŧr,
or a 🗆 mandatory minimum applies.									
□ Mitigated Departure □ Plea Bargain <mark>□</mark> Prison Diversion Program									
Other Reason									
JUDGE'S SIGNATU	JRE								

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