Supreme Court of Florida

No. SC11-1381

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

[September 28, 2011]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to Florida Rule of Criminal Procedure 3.992(a). 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 legislation and on recommendation of the Florida Department of Corrections (DOC). That legislation, chapter 2011-33, sections 2 and 3, Laws of Florida, increases the total sentence points from fifty-two or less to sixty or less, for which the court may place a defendant into a treatment-based drug court program. After considering the Steering 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, and deleted language is indicated by struck-through type. 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.¹

It is so ordered.

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

Judge Kevin M. Emas, Chair, Criminal Courts Steering Committee, Third District Court of Appeal, Miami, Florida, and Bart Schneider, Senior Attorney, Office of State Courts Administrator, Tallahassee, Florida,

for Petitioner

^{1.} An original and nine paper copies of all comments must be filed with the Court on or before November 28, 2011, with a certificate of service verifying that a copy has been served on the Committee Chair, Honorable Kevin Emas, c/o Bart Schneider, 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 December 19, 2011, to file a response to any comments filed with the Court. Electronic copies of all comments and responses must also 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).

APPENDIX

 $\label{eq:Rule 3.992} \textbf{Rule 3.992(a)} \quad \textbf{Criminal Punishment Code Scoresheet} \\ \text{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. COU	3. COUNTY			4. SENTENCING JUDGE		
5. NAME (LAST, FIRST, MI.I.)		6.	DOB	8. RACI		OTHER	10. PRIMA	RY OFF. DATE	12. PLEA	
		7.	DC#	9. GENI			11. PRIMA	RY DOCKET #	TRIAL	
I.	PRIMARY OFFENSE: If Qualifie	er, please checkA	sc_	R (A=Attempt, S=Sc	olicitation, (C=Conspirac	y, R=Reclass	sification)		
	LONY F.S.# GREE	DESCRIPTION					FENSE EVEL	POINTS	3	
					/			/		
•	vel - Points: 1=4, 2=10, 3=16, 4=22,		8=74, 9=92, 10=	=116)						
Prio	r capital felony triples Primary Offense po	oints 🗀					I.		_	
II.	ADDITIONAL OFFENSE(S): S DOCKET# FEL/MM DEGREE	Supplemental pag F.S.#	e attached OFFENSE LEVEL	QUALIFY CO A S C R	UNTS	POIN	NTS	TOTAL		
	// DESCRIPTION					х	=			
						X		-		
	DESCRIPTION	/				^	=			
						х	=			
	DESCRIPTION							=		
						х	=			
	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 Prior capital felony triples Additional Offense points					Supplemental page points				
III.	VICTIM INJURY: Number Total				Number Total					
	2nd Degree Murder 240 Death 120	x =	= =	Slight Sex Penetration	4 x 80 x		=			
	Severe 40 x Moderate 18 x		·	Sex Contact	Contact 40 x		= III.			
IV.	PRIOR RECORD: Supplement	tal page attached]							
	FEL/MM F.S.# OFFENSE QUALIFY: DESCR DEGREE LEVEL A S C R			ION	NUMBER POINTS TOTAL X =					
							_ X	=	_	
	/	0000					_ X			
	/						_ X	=	_	
							X	=	_	
			•						_	
								=	_	
	(Level = Points: M=0.2, 1=0.5, 2=0		-3.6 6=9 7=1 <i>4</i>	8=19 9=23 10-29			. X	=	_	
	(LOVOI - 1 OIIIIG. IVI-U.Z, 1=0.0, Z=0	0.0, 0-1.0, 4=2.4, 0=	-0.0, 0-0, 1=14	, 0-10, 9-20, 10=29	,	Suppleme	ental page p	oints		
						•	IV.			
								ubtotal:		
							ı aye ı o	ubiolai		

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committee on or after October 1, 1998 and subsequent revisions. NAME (LAST, FIRST, MI) **DOCKET#** Page 1 Subtotal: V. Legal Status violation = 4 Points ☐ Escape ☐ Fleeing ☐ Failure to appear ☐ Supersedeas bond ☐ Incarceration ☐ Pretrial intervention or diversion program ☐ Court imposed or post prison release community supervision resulting in a conviction VI. Community Sanction violation before the court for sentencing ☐ Probation ☐ Community Control ☐ Pretrial Intervention or diversion VI. 6 points for any violation other than new felony conviction x ___ __ each successive violation OR New felony conviction = 12 points x _____ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR 12 points x each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR New felony conviction = 24 points x _____ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation VII. _____ VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points VIII. Prior Serious Felony - 30 Points VIII. Subtotal Sentence Points IX. Enhancements (only if the primary offense qualifies for enhancement) Law Enf. Protect. 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 1.5 _x 1.5 ___ x 2.0 ___ x 2.5 x 1.5 __ x 1.5 **Enhanced Subtotal Sentence Points** IX. **TOTAL SENTENCE POINTS** SENTENCE COMPUTATION If the total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statues, to determine if the court must sentence the offender to a non-state prison sanction. If total sentence points are greater than 44: __ minus 28 = _____ x .75 =__ total sentence points lowest permissible prison sentence in months If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statutes 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program. The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed. maximum sentence In years **TOTAL SENTENCE IMPOSED** Years Months Days □ State Prison П Life

RULE 3.992(b) Supplemental Criminal Punishment Code Scoresheet [No Changes]