

IN THE SUPREME COURT OF FLORIDA

**IN RE: STANDARD JURY
INSTRUCTIONS IN CRIMINAL CASES
INSTRUCTION 11.16(a)**

CASE NO.: SC12-2248

To the Chief Justice and Justices of the Supreme Court of Florida:

This petition, proposing an amended instruction to the Florida Standard Jury Instructions in Criminal Cases, is filed pursuant to Article V, section 2(a), Florida Constitution.

	<u>Instruction #</u>	<u>Topic</u>
Proposal 1	11.16(a)	Dangerous Sexual Felony Offender

The proposal is in Appendix A; the relevant statute is in Appendix B; the directive from the Court severing this proposal from SC12-1601 is in Appendix C.

Proposal 1 – 11.16(a)- Dangerous Sexual Felony Offender

A committee member (Judge Bulone) argued that the existing standard instruction is not consistent with the statute. The committee unanimously agreed. Specifically, the current instruction requires the defendant to have been convicted of the prior sexual offense before committing the current sexual offense. However, the relevant statute – Fla. Stat. 794.0115(4) – requires only that the current sexual offense be committed after the date of commission of the last prior conviction for an offense that is a prior conviction. Thus, a defendant could qualify as a Dangerous Sexual Felony Offender if he committed crime X and then committed crime Y and then was convicted of crime X and was then being sentenced for crime Y. The proposal fixes the problem by adding the words “and the date of the offense in the prior conviction was” to element 2b. The proposal was published on May 1, 2012 in the *Florida Bar News* and no comments were received.

Respectfully submitted this ____ day of
November, 2012.

The Honorable Jacqueline Hogan Scola
Eleventh Judicial Circuit
Chair, Supreme Court Committee on

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CERTIFICATE OF FONT SIZE

I hereby certify that this petition has been prepared using Times New Roman 14 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

HONORABLE JACQUELINE HOGAN SCOLA
Chair, Committee on Standard Jury
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