

Supreme Court of Florida

No. SC07-1446

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.992—CRIMINAL PUNISHMENT CODE SCORESHEETS.

[January 10, 2008]

PER CURIAM.

The Supreme Court Criminal Court Steering Committee (Committee) has filed a petition proposing amendments to Florida Rule of Criminal Procedure 3.992. We have jurisdiction. See art. V, § 2(a), Fla. Const.

The Court, on April 19, 2007, amended rules 3.704 and 3.992 to conform the rules to chapter 2007-2, section 5, Laws of Florida (amending § 921.0024(1)(b), Fla. Stat.). See *In re Amendments to Florida Rules of Criminal Procedure—Rule 3.704 & Rule 3.992*, 957 So. 2d 1160 (Fla. 2007).¹ The Committee has now

1. In chapter 2007-2, section 5, Laws of Florida, as part of the Anti-Murder Act, effective March 12, 2007, the Legislature amended section 921.0024(1)(b), Florida Statutes, to mandate the assessment of community sanction violation points for violations occurring on or after March 12, 2007, of probation and community control by a violent felony offender of special concern as defined in section 948.06, Florida Statutes.

proposed amendments to the Criminal Punishment Code Scoresheets, rules 3.992(a) and 3.992(b), to provide greater clarity in the use of the scoresheets.

After considering the Committee's proposals and reviewing the relevant legislation, we adopt the proposed amendments as modified.² The amendments shall become effective immediately upon release of this opinion.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

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

Original Proceeding – Florida Rules of Criminal Procedure

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

for petitioner

2. The modifications are nonsubstantive and technical in nature.

APPENDIX

RULE 3.992 CRIMINAL PUNISHMENT CODE SCORESHEETS

Rule 3.992(a) Criminal Punishment Code Scoresheet

1. DATE OF SENTENCE	2. PREPARER'S NAME <input type="checkbox"/> DC <input type="checkbox"/> SAO	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	12. PLEA <input type="checkbox"/>
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #	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
_____/	_____/	_____/	_____/	_____/
<small>(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116) (Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)</small>				
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 _____							
<small>(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116) (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)</small>							
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: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)~~ (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.

NAME (LAST, FIRST, MI)	DOCKET #
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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 V. _____

VI. Community Sanction violation before the court for sentencing
 Probation Community Control Pretrial Intervention or diversion VI. _____
 6 points x _____ each successive violation OR
 New felony conviction = 12 points x _____ each successive violation OR
 12 points x _____ each successive violation for a violent felony offender of special concern OR
 New felony conviction = 24 points x _____ each successive violation for a violent felony offender of special concern

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points VII. _____

VIII. Prior Serious Felony - 30 Points VIII. _____

Subtotal Sentence Points _____

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enforcement Protection	Drug Trafficking	Grand Theft Motor Vehicle	Street Gang	Domestic Violence <small>(offenses committed on or after 03/12/07)</small>
____ x 1.5 ____ x 2.0 ____ x 2.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 1.5

Enhanced Subtotal Sentence Points IX. _____

TOTAL SENTENCE POINTS _____

SENTENCE COMPUTATION

Total sentence points are less than or equal to 44, the lowest permissible sentence is any 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

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
<input type="checkbox"/> State Prison	_____	_____	_____
<input type="checkbox"/> County Jail	_____	_____	_____
<input type="checkbox"/> Community Control	_____	_____	_____
<input type="checkbox"/> Probation <input type="checkbox"/> Modified	_____	_____	_____

Please check if sentenced as habitual offender, habitual violent offender, violent career criminal, prison releasee reoffender, or a mandatory minimum applies.

Mitigated Departure Plea Bargain

Other Reason _____

JUDGE'S SIGNATURE	
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RULE 3.992(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	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 _____								
_____ / _____ / _____				<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	x	_____ =	_____
DESCRIPTION _____								

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116) (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	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 _____ =	_____

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116) (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.

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence.

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