

Supreme Court of Florida

No. SC12-2005

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

[October 11, 2012]

PER CURIAM.

We have for consideration a proposed amendment to Florida Rule of Criminal Procedure 3.992(b) (Supplemental Criminal Punishment Code Scoresheet). We have jurisdiction. See art. V, § 2(a), Fla. Const.

The Supreme Court Criminal Court Steering Committee (Steering Committee) proposes an amendment to rule 3.992(b) in light of chapter 2012-36, section 3, Laws of Florida, amending section 921.0026(2), Florida Statutes (2012) (effective October 1, 2012). Consistent with the new legislation, the amendment adds to the supplemental scoresheet the following additional mitigating circumstance as a reason for downward departure: “[t]he defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.”

Upon consideration of the Steering Committee's proposal and the relevant legislation, we amend rule 3.992(b), as reflected in the appendix to this opinion. New language is indicated by underscoring. The amendment shall become effective immediately upon release of this opinion. Because the amendment was not published for comment prior to its 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.

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

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

Original Proceedings – Florida Rules of Criminal Procedure

Honorable Kevin M. Emas, Chair, Criminal Courts Steering Committee, Third District Court of Appeal, Miami, Florida; 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 December 10, 2012, with a certificate of service verifying that a copy has been served on the Committee Chair, The 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 31, 2012, 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).

Appendix

RULE 3.992(b) Supplemental Criminal Punishment Code Scoresheet

NAME (LAST, FIRST, M.I.I.)	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 _____							
_____ / _____	_____ / _____	_____ / _____	_____	<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	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: 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.

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).

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