

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.

RULE 3.992(b) Supplemental Criminal Punishment Code Scoresheet

| | | |
|-------------------------|----------|------------------|
| NAME (LAST, FIRST, MI.) | DOCKET # | DATE OF SENTENCE |
|-------------------------|----------|------------------|

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.

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