

SUPREME COURT OF FLORIDA

In re Standard Jury Instructions in Criminal Cases—Report 2011-01

73 So. 3d 136 (Fla. 2011) · No. SC11-462 · Decided September 8, 2011

SUMMARY

This document is a per curiam opinion of the Supreme Court of Florida authorizing amendments to standard criminal jury instructions concerning fleeing or eluding a law enforcement officer and aggravation of a felony. The amended instructions were authorized for publication and use, effective when the opinion became final.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Chief Justice Canady; Justice Pariente; Justice Lewis; Justice Quince; Justice Polston; Justice Labarga; Justice Perry
JURISDICTION	Florida
DECIDED	September 8, 2011
DOCKET	SC11-462
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court Committee on Standard Jury Instructions in Criminal Cases submitted a report proposing amendments to standard criminal jury instructions. The Supreme Court of Florida reviewed and authorized the amended instructions for publication and use, with a minor modification.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion authorizing amendments to standard criminal jury instructions; the court expressly disclaimed deciding the instructions' ultimate legal correctness.
PARTIES	Supreme Court Committee on Standard Jury Instructions in Criminal Cases

TOPICS

standard jury instructions

jury instructions

lesser included offense instructions

burden of proof instructions

criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should authorize the proposed amendments to the standard criminal jury instructions for publication and use.
2. Whether instruction 3.3(e), concerning aggravation of a felony by wearing a hood, mask, or other device to conceal identity, should be modified to require that the defendant personally wore the device.

HOLDINGS

1. The court authorized the amended criminal jury instructions concerning fleeing or eluding a law enforcement officer and aggravation of a felony for publication and use, as set forth in the appendix.
2. Instruction 3.3(e) was modified to provide that the defendant must have personally worn the hood, mask, or other device concealing the defendant's identity.

KEY QUOTATIONS

“In authorizing the publication and use of these instructions, we express no opinion on their correctness and remind all interested parties that this authorization forecloses neither requesting additional or alternative instructions nor contesting the legal correctness of the instructions.” (73 So. 3d at 137)

“Consistent with the Committee’s proposed amendments to instructions 3.3(a) and 3.3(b), the addition of the word clarifies that the aggravating offense must be personally committed by a defendant.” (73 So. 3d at 137)

FACTUAL BACKGROUND

The Committee submitted proposed amendments to standard criminal jury instructions 28.6 through 28.85 and 3.3(a) through 3.3(c), 3.3(e), and 3.3(f). The proposals addressed fleeing or eluding a law enforcement officer, aggravated fleeing or eluding, and aggravation of felonies based on weapons, aggravated battery, concealment of identity, or victim selection based on prejudice.

PROCEDURAL HISTORY

The Committee proposed amendments concerning fleeing or eluding a law enforcement officer and aggravation of a felony. The proposals were published in The Florida Bar News, no comments were received, and the Florida Supreme Court considered and authorized the amendments, modifying instruction 3.3(e) by adding the word “personally.”

DISPOSITION

approved

CASES CITED

- Wright v. State, 810 So. 2d 873 (Fla. 2002)

- State v. Rodriguez, 602 So. 2d 1270 (Fla. 1992)
- State v. Stalder, 630 So. 2d 1072 (Fla. 1994)
- Koch v. State, 39 So. 3d 464 (Fla. 2d DCA 2010)

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