

SUPREME COURT OF FLORIDA

In re Standard Jury Instructions in Criminal Cases—Report 2010-05

87 So. 3d 679 (Fla. 2012) · Decided February 9, 2012

SUMMARY

The Florida Supreme Court authorized the publication and use of amendments to several standard criminal jury instructions proposed in Report 2010-05. The opinion also approved modifications concerning juror questions and rules for deliberation, along with instructions addressing other-crimes evidence, trespass, organized fraud, contributing to child dependency, obscene materials, boating under the influence, and taking deer or wild turkey with a gun and light.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	February 9, 2012
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court Committee on Standard Jury Instructions in Criminal Cases submitted a report proposing amendments and new standard criminal jury instructions. The Supreme Court of Florida reviewed the report and authorized publication and use of specified instructions, modified certain proposals, and declined to authorize one proposed instruction.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding as to the Court's authorization, modifications, and limitation of the authorization, but not a determination that the authorized instructions are legally correct in every application.
PARTIES	Supreme Court Committee on Standard Jury Instructions in Criminal Cases

TOPICS

standard jury instructions

jury instructions

instructions objections

lesser included offense instructions

evidence

PRACTICE AREAS

criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether the Court should authorize publication and use of the Committee's proposed amendments and new standard criminal jury instructions.
2. Whether instruction 2.13 should be modified to advise jurors not to discuss an unasked question or hold its omission against either party.
3. Whether instruction 3.10 should be amended to address juror questions that were not asked of a witness.
4. Whether proposed instruction 28.41, concerning leaving the scene of a crash involving damage to an attended vehicle or property, should be authorized.

HOLDINGS

1. The Court authorized publication and use of instructions 3.8(a), 13.3, 16.4(a), 24.6, 28.14 through 28.17, and 29.14 as proposed by the Committee.
2. Instruction 2.13 was authorized with an additional sentence requiring jurors not to discuss a question that is not asked and not to hold that decision against either party.
3. Instruction 3.10, Rules for Deliberation, was amended on the Court's own motion to include a paragraph directing jurors not to discuss questions written by a juror but not asked by the court and not to hold the matter against either party.
4. The Court declined at that time to authorize proposed instruction 28.41, Leaving the Scene of a Crash Involving Damage to an Attended Vehicle or Property, and referred the proposal back to the Committee for further study.
5. Authorization for publication and use does not foreclose requests for additional or alternative instructions or challenges to the legal correctness of the instructions.

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.” (680)

“We further caution all interested parties that any comments associated with the instructions reflect only the opinion of the Committee and are not necessarily indicative of the views of this Court as to their correctness or applicability.” (680)

FACTUAL BACKGROUND

The Committee proposed amendments to existing standard criminal jury instructions based primarily on changes in statutory and decisional law. The proposals concerned juror questions, evidence of other crimes or acts, trespass, organized fraud, contributing to child dependency, obscene-material offenses, boating under the

influence, and taking deer or wild turkey with a gun and light. The Court reviewed the proposals and comments and adopted or modified them for publication and use.

PROCEDURAL HISTORY

On December 22, 2010, the Committee filed its report proposing amendments to the standard criminal jury instructions. The Court published the proposals for comment, received two comments concerning drug-trafficking and attempted-voluntary-manslaughter instructions, and severed those proposals into a separate pending case. The Court then authorized specified instructions, modified instructions 2.13 and 13.4, amended instruction 3.10 on its own motion, and referred proposed instruction 28.41 back to the Committee for further study.

DISPOSITION

approved

REMAND INSTRUCTIONS

Proposed instruction 28.41 was referred back to the Committee for further study.

CASES CITED

- State v. Hamilton, 660 So. 2d 1038 (Fla. 1995)
- State v. Harbaugh, 751 So. 2d 691 (Fla. 2000)
- State v. Harbaugh, 754 So. 2d 691 (Fla. 2000)