

SUPREME COURT OF FLORIDA

In re Standard Jury Instructions in Criminal Cases—Report 2017-03

238 So. 3d 182 (Fla. 2018) · No. SC17-1652 · Decided March 8, 2018

SUMMARY

The Supreme Court of Florida authorized amended standard criminal jury instructions 16.10, concerning possession of material including sexual conduct by a child with intent to promote, and 25.7, concerning possession of a controlled substance. The amendments simplify and clarify possession concepts, including knowledge, control, constructive possession, and joint possession. The amended instructions became effective when the opinion became final.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; C.J. Labarga; Justice Pariente; Justice Lewis; Justice Quince; Justice Canady; Justice Polston; Justice Lawson
JURISDICTION	Florida
DECIDED	March 8, 2018
DOCKET	SC17-1652
DISPOSITION	approved
PROCEDURAL POSTURE	Original proceeding on the report of the Supreme Court Committee on Standard Jury Instructions in Criminal Cases seeking authorization to publish and use amended criminal jury instructions 16.10 and 25.7.
PRECEDENTIAL VALUE	Published opinion authorizing standard criminal jury instructions; the Court expressly disclaimed deciding the instructions' substantive correctness or applicability.

TOPICS

[standard jury instructions](#)[jury instructions](#)[lesser included offense instructions](#)[criminal procedure](#)

PRACTICE AREAS

[criminal law](#)[criminal procedure](#)[jury instructions](#)

QUESTIONS PRESENTED

1. Whether the Supreme Court should authorize for publication and use the Committee's proposed amendments to standard criminal jury instructions 16.10 and 25.7.
2. Whether the proposed instructions should include a simplified explanation of possession addressing knowledge, intentional control, proximity, direct or indirect control, and joint possession.

HOLDINGS

1. The Supreme Court authorized the amended standard jury instructions 16.10 and 25.7 for publication and use as proposed and as set forth in the appendix.
2. Authorization to publish and use the amended instructions does not determine their substantive correctness or applicability and does not foreclose requests for additional or alternative instructions or challenges to their legal correctness.

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.” (238 So. 3d at 184)

FACTUAL BACKGROUND

The Supreme Court Committee on Standard Jury Instructions in Criminal Cases considered whether possession-related criminal jury instructions should be simplified. The Committee's subcommittee recommended revising the explanation of possession, and the Committee proposed amendments to instruction 16.10, concerning possession of material including sexual conduct by a child with intent to promote, and instruction 25.7, concerning possession of a controlled substance. The Court reviewed the proposals, one comment, and the Committee's response.

PROCEDURAL HISTORY

The Supreme Court referred the issue of simplifying possession instructions to the Committee. A subcommittee of prosecutors, defense attorneys, and judges unanimously recommended changes, and the Committee submitted proposed amendments to instructions 16.10 and 25.7. After considering the Committee's report, a public comment, and the Committee's response, the Supreme Court authorized the amended instructions for publication and use.

DISPOSITION

approved

CASES CITED

- Henderson v. State, 88 So. 3d 1060 (Fla. 1st DCA 2012)
- Meme v. State, 72 So. 3d 254 (Fla. 4th DCA 2011)
- Duncan v. State, 986 So. 2d 653 (Fla. 4th DCA 2008)

- Hamilton v. State, 732 So. 2d 493 (Fla. 2d DCA 1999)
- Sanders v. State, 563 So. 2d 781 (Fla. 1st DCA 1990)

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