

SUPREME COURT OF FLORIDA

In re Standard Jury Instructions in Criminal Cases—Report No. 2012-05

131 So. 3d 755 (Fla. 2013) · No. SC12-2031 · Decided December 5, 2013

SUMMARY

The Florida Supreme Court authorizes the publication and use of several new and amended standard criminal jury instructions proposed by its Committee on Standard Jury Instructions in Criminal Cases. The Court declines to authorize instruction 11.1 concerning sexual battery of a victim under 12 and refers it back to the Committee for further consideration. The opinion also modifies the proposed language of instruction 8.7(d) concerning aggravated stalking.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Polston, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	December 5, 2013
DOCKET	SC12-2031
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Florida considered the Florida Supreme Court Committee on Standard Jury Instructions in Criminal Cases' report proposing new, amended, and renumbered criminal jury instructions.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion concerning authorization and revision of standard criminal jury instructions; the Court expressly stated that authorization does not determine the instructions' substantive legal correctness or applicability.

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Court should authorize the proposed new, amended, and renumbered criminal jury instructions for publication and use.
2. Whether proposed instruction 11.1 should be authorized despite unsupported statements concerning consent, chastity, and mistake of age and the duplicate classification of battery as both a category-one and category-two lesser-included offense.
3. Whether proposed instruction 8.7(d) accurately stated the statutory predicate offenses for aggravated stalking under section 784.048(7), Florida Statutes.

HOLDINGS

1. The Court authorized the new, amended, and renumbered criminal jury instructions identified in the opinion for publication and use, subject to the Court's modifications and its refusal to authorize instruction 11.1.
2. Instruction 11.1 was not authorized for publication and use and was referred back to the Committee for further consideration.
3. Instruction 8.7(d) was authorized for publication and use only after amendment of its first element to state that the defendant was sentenced for sexual battery, violating section 800.04, or violating section 847.0135(5), Florida Statutes.
4. Authorization for publication and use does not foreclose a request for an additional or alternative instruction or a challenge to the legal correctness or applicability of an authorized instruction.

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 an additional or alternative instruction nor contesting the legal correctness of the instructions.” (at 757)

“Given these two issues, we decline to authorize instruction 11.1 for publication and use and instead refer this instruction back to the Committee for further consideration.” (at 756)

FACTUAL BACKGROUND

The Committee proposed five new criminal jury instructions, amendments to numerous existing instructions, and the renumbering of two existing instructions. The Court identified unsupported proposed language and a duplicate lesser-included-offense classification in proposed instruction 11.1 concerning sexual battery of a victim younger than twelve. The Court also determined that proposed instruction 8.7(d), concerning aggravated stalking after a prior sex-offense sentence and no-contact order, did not accurately track the statutory language and required revision.

PROCEDURAL HISTORY

The Committee published its proposals for comment before filing its report, received two comments, and modified proposals in response to one comment. The Court also noted that the Committee withdrew proposed instruction 28.4 before the opinion. The Court authorized the proposed instructions for publication and use, subject to specified changes and the refusal to authorize instruction 11.1.

DISPOSITION

other

REMAND INSTRUCTIONS

Proposed instruction 11.1 was referred back to the Committee for further consideration. The authorized instructions were to become effective when the opinion became final.

CASES CITED

- McClain v. State, 383 So. 2d 1146 (Fla. 4th DCA 1980)
- Smithson v. State, 689 So. 2d 1226 (Fla. 5th DCA 1997)
- Gilbert v. State, 347 So. 2d 1087 (Fla. 3d DCA 1977)
- Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987)
- Seese v. State, 955 So. 2d 1145 (Fla. 4th DCA 2007)
- Wright v. State, 586 So. 2d 1024 (Fla. 1991)
- Dixon v. United States, 548 U.S. 1, 126 S. Ct. 2437, 165 L. Ed. 2d 299 (2006)
- Watkins v. State, 516 So. 2d 1043 (Fla. 1st DCA 1987)
- King v. State, 401 So. 2d 931 (Fla. 1st DCA 1981)
- Howard v. State, 457 So. 2d 1153 (Fla. 2d DCA 1984)