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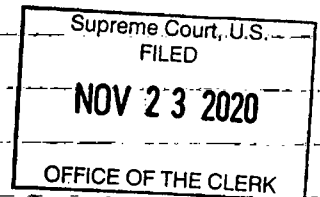
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Docket Number **20-6910**

ORIGINAL

In The Supreme Court of The United States

El-Asad J. Asnadi,
Petitioner,



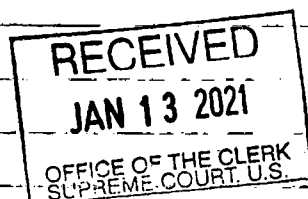
v.

State of Florida,
Respondent.

On Petition For Writ of Certiorari to the
Second District Court of Appeal, State of Florida

Petition For Writ of Certiorari

El-Asad J. Asnadi DCH#D2413A
Pro Se
Graceville Correctional Facility
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Graceville, Florida 32440



Question Presented For Review:

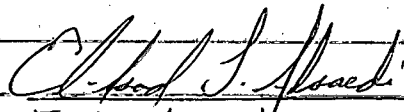
Whether the Petitioner's Sentence is in violation
of the Constitutional provisions expressed in
Apprendi v. New Jersey, 147 L Ed 2d 435 and
Blakely v. Washington, 159 L Ed 2d 403?

Parties of the Proceeding Sought
to be Reviewed:

1. Ashley Moody (Attorney General for the State of Florida)
2. Donna M. Koch (Assistant Attorney General)
3. El-Asad J. Alsaedi

Corporate Disclosure Statement

The Petitioner, El-Asad J. Alsaedi, certifies that
no publicly traded company or corporation has an
interest in the outcome of this case.


El-Asad J. Alsaedi

Proceedings initiated by the Petitioner:

1. Motion to Correct Illegal Sentence:

A. In the Circuit Court of the Twelfth Judicial Circuit

In and For Sarasota County, Florida

P.O. Box 48927

Sarasota, Florida 34230;

B. State of Florida, v. El-Asad J. Alsaedi,
Plaintiff, Defendant.

Case Number: 2012-CF-000007;

C. Order denying motion to correct illegal sentence
was issued on November 15th, 2019;

D. Order denying motion for rehearing on December 16th,
2019.

2. Appeal regarding the above mentioned motion to correct illegal sentence:

A. The Second District Court of Appeal

P.O. Box 327

Lakeland, Florida 33802-0327

B. El-Asad J. Alsaedi, v. State of Florida,
Appellant, Appellee.

Case Number: 2020-223

C. Opinion issued on July 1st, 2020

Table of Contents

	Page
Question Presented For Review	i
Parties of the Proceeding Sought to be Reviewed	ii
Corporate Disclosure	ii
Proceedings initiated by the Petitioner	iii
Table of Cited Authorities	vi
Citations to the Orders and Opinions of the Case	ix
Basis For Jurisdiction	x
Constitutional Provisions in Question	xii
Statement of the Case and Facts	1
Argument For allowance of the Writ	8
I. Rule 3.808(a), Fla. R. Crim. P.	9
II. The Criminal Punishment Code	12
A. The CPC Scoresheet	13
B. Revised Sentencing Scoresheets	14

III. Sentencing Pursuant to the CPC 15.

IV. Applying the CPC to the Petitioner 21.

V. Conclusion 28.

Declaration 29.

Table of Cited Authorities

Case Law

Hall v. State, 823 So. 2d 757 (Fla. 2002) 22

Johnson v. State, 973 So. 2d 1192 (Fla. 2d DCA 2008) 23

Martinez v. State, 211 So. 3d 989 (Fla. 2017) 10

Piott v. State, 189 So. 3d 989 (Fla. 2014) 11

State v. Bensly, 580 So. 2d 139 (Fla. 1991) 22

Constitutional Provisions

Apprendi v. New Jersey, 147 L. Ed. 2d 435 (2000) 8, 20

Blakely v. Washington, 159 L. Ed. 2d 403 (2004) 8, 9, 20

Statutes

775.082, Fla. Stat. (2012) 15

775.082(3), Fla. Stat. (2012) 15

775.082(3)(a)3, Fla. Stat. (2012) 15, 16

775.082(3)(b)1, Fla. Stat. (2012) 15, 16

810.002(2)(a) and (b), Fla. Stat. (2012) 23

	Page
921.002, Fla. Stat. (2012)	12
921.002(g), Fla. Stat. (2012)	16, 28
921.0022(3)(a), Fla. Stat. (2012)	24
921.0024, Fla. Stat. (2012)	22
921.0024(1)(a), Fla. Stat. (2012)	13
921.0024(2), Fla. Stat. (2012)	17, 28
921.0024(7), Fla. Stat. (2012)	12, 24
921.0025, Fla. Stat. (2012)	13, 14, 17, 18, 24, 28

Florida Rules of Criminal Procedure

Rule 3.701, Fla. R. Crim. P. (2012)	14
Rule 3.701(b)(6), Fla. R. Crim. P. (2012)	19
Rule 3.701(d)(8), Fla. R. Crim. P. (2012)	18
Rule 3.701(d)(11), Fla. R. Crim. P. (2012)	18
Rule 3.702, Fla. R. Crim. P. (2012)	15
Rule 3.702, Fla. R. Crim. P. (2012)	26

	Page
Rule 3.702(d)(18), Fla. R. Crim. P. (2012)	18
Rule 3.703, Fla. R. Crim. P. (2012)	15
Rule 3.703(d)(30), Fla. R. Crim. P. (2012)	19
Rule 3.704(a), Fla. R. Crim. P. (2012)	13
Rule 3.800(a), Fla. R. Crim. P. (2012)	10
Rule 3.988, Fla. R. Crim. P. (2012)	15, 18, 24, 25
Rule 3.992, Fla. R. Crim. P. (2012)	13, 22

Citations to the Orders and Opinions in the Case

State v. Aisaedi, 2012-CF-000007 (Fla. Cir. Ct. Nov. 15th, 2019)

State v. Aisaedi, 2012-CF-000007 (Fla. Cir. Ct. Dec. 16th, 2019)

Aisaedi v. State, 2020 Fla. App. LEXIS 9408 (Fla. 2d DCA 2008)

Basis For Jurisdiction

The Second District Court of Appeal, for the State of Florida, issued an opinion silently affirming the denial of the Petitioner's motion to correct illegal sentence on July 1st, 2020. The Judgment sought to be reviewed is based on s. 921.0025, Fla. Stat. (2012). It provides:

"Rules 3.701, 3.702, 3.703, and 3.988, Florida Rules of Criminal Procedure, as revised by the Supreme Court, and any other rule pertaining to the preparation and submission of Felony Sentencing scoresheets, are adopted and implemented in accordance with this chapter for application to the Criminal Punishment Code."

Moreover, this court issued an order on March 19th, 2020, extending the time to file a Petition for Writ of Certiorari to 150 days. The Petitioner is also an inmate detained in an institution. Therefore, being the State Court

of last resort issued its opinion on July 1st, 2020, and the Petitioner having 150 days to petition this Court for a Writ of Certiorari, this petition must be placed in the Petitioner's detaining institution's internal mailing system on or by November 28th, 2020. This petition is timely filed.

Constitutional Provisions in Question

1. "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt."

Apprendi v. New Jersey, 147 L. Ed 2d 435, at 455 (2000).

2. "Our precedents make clear, however, that the 'statutory maximum' for Apprendi purposes is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant. In other words, the relevant 'statutory maximum' is not the maximum sentence a judge may impose after finding additional facts, but the maximum he may impose without any additional findings. When a judge inflicts punishment that the jury's verdict alone

does not allow, the Jury has not found all the facts

'which the law makes essential to the punishment,' and

the Judge exceeds his proper authority."

Blakely v. Washington, 159 L Ed 2d 403, 413-14 (2002).

Statement of the Case and Facts

The Judgment sought to be reviewed is an opinion issued by the Second District Court of Appeal in Lakeland, Florida.

See Appendix "A." (The Opinion). It affirms the trial court's Order denying the Petitioner's motion to correct illegal sentence. See Appendix "B." (Order denying amended motion to correct illegal sentence). The Foundation to the Petitioner's claim of his sentence being illegal is it violates the holdings of *Apprendi v. New Jersey* and *Blakely v. Washington*, hereinafter *Apprendi* and *Blakely*.

On September 10th, 2012, the Petitioner was charged, by way of second amended information, with: Count One - Armed Burglary with a Firearm and/or Assault and/or Battery (a First-degree Felony punishable by life); Count Two - Robbery with a Firearm (a First-degree Felony punishable by life); Count Three - Armed Kidnapping (a life Felony); Counts Four and Five - False Imprisonment (both are third degree Felonies); and Counts Six and Seven - Aggravated

Assault (both are third-degree Felonies). See Appendix "B," attachment 1 (second amended information). He proceeded to a trial by Jury and was found guilty on the 13th of September, 2012. Sentencing also took place on this same day. As to counts one through three, the Petitioner was sentenced to 40 years with a 10 year minimum mandatory. In regards to counts four through seven, he was sentenced to 185.4 months with a three year minimum mandatory. All sentences were imposed concurrently. See Appendix "B," attachment 2.

On the 6th of November, 2019, the Petitioner filed an "Amended Motion to Correct Illegal Sentence." See Appendix "D" (Amended motion to correct illegal sentence). In his motion, he asserts his score under rule 3.955(i), Fla. R. Crim. P., is 344 points. See Appendix "D," page 10. He also informs the Court his score places him

Within a recommended range of 12-17 years, and a permitted range of 9-22 years. See Appendix "D," page

10. The motion is concluded expressing his concurrent 40 year sentences exceed his recommended sentencing range by nearly 136%, causing it to be illegal because it violates the rulings of Apprendi and Blakely. See Appendix "D," page 11.

Shortly thereafter, the trial court issued an order denying. See Appendix "B" (Order denying defendant's motion to correct illegal sentence). The order states the Petitioner claims his sentence is illegal because it is a departure sentence unaccompanied by written reasons. See Appendix "B," page 1. It also provides that the sentencing guidelines are inapplicable to the Petitioner's case, and that the Criminal Punishment Code governs all felonies committed on or after October 1st, 1998. See Appendix "B,"

page 1. Being the CPC governs the Petitioner's case, the trial court also expressed the Petitioner may be sentenced up to the statutory maximum. See Appendix "B," page 1.

The order ended, stating the Petitioner's claim is not cognizable under the rule used to present it to the trial court. See Appendix "B," page 2.

In response to the order denying, the Petitioner filed a motion for rehearing. See Appendix "E," (Motion for rehearing). The motion for rehearing asserts the trial court misapprehended relevant facts and law. See Appendix "E," page 2. It begins by correcting the trial court as to what the Petitioner actually claims. He informs the trial court his claim is an Apprendi/Blakely violation.

Not a violation regarding a departure sentence unaccompanied by written reasons. See Appendix "E," page 2. The Petitioner moves on, expressing the sentencing guidelines

are a component to the CPL and applicable to his case.

See Appendix "E," pages 2-3. Additionally, he addresses

the trial court's assertion regarding his sentence not

being a departure under the Punishment Code. In

agreement, he states it is not a departure under the

code, but under the Sentencing guidelines it is. Once

again, according to the laws of Florida, the Sentencing

guidelines are a part of the CPL, and therefore, a

part of the Sentencing process. See Appendix "E,"

pages 6-7. In conclusion, he argued his method of

presenting his claim is correct. See Appendix "E," page 8.

The trial court denied the Petitioner's motion for rehearing. See Appendix "C" (Order Denying Motion for

Rehearing to Correct Illegal Sentence). It stated no

issues of fact or law was overlooked. See Appendix "C".

The Petitioner then filed a timely notice of appeal to the

Second District Court of Appeal in Lakeland, Florida. See Appendix "F," page 1.

In Florida, briefs for issues on appeal from a summary denial are not required. They are optional. In this case, the petitioner chose to file an initial brief.

The preliminary statement of the initial brief expresses there are no case laws interpreting the application of s. 921.0025, Florida Statutes. See Appendix "G," page v. (Appellant's initial brief). The argument then starts with history of the Punishment Code, and the creation of s. 921.0025. See Appendix "G," pages 7-10. The petitioner also provides that when the legislature chooses to adopt a rule, it takes on the force and effect of a statute.

See Appendix "G," page 10. He then expresses his interpretation of how the Criminal Punishment Code is to apply s. 921.0025. See Appendix "G," pages 12-22. Finally,

the brief is brought to a conclusion demonstrating the similarities between Blakely v. Washington and the Petitioner's case, and an assertion stating: any reasonable person would interpret the CPL in the same manner provided in the brief; and if the appellate court could interpret the Punishment Code in any other way, it would result in the code being ambiguous, and the Petitioner would still be entitled to relief.

¹See Appendix "G," pages 22-25.

On July 1st, 2020, the Second District Court of Appeal issued a silent opinion affirming, per curiam, the trial court's denial of relief. ¹See Appendix "A" (The Opinion). In addition, this Honorable Court issued an order in March of this year extending the time limit to file a petition for Writ of Certiorari to 150 days. Based on the appellate court's July 1st opinion, and this court's order, the Petitioner has until November 26th, 2020, to file a petition for Writ of Certiorari. This petition is timely filed.

Argument For allowance of the Writ

The sole issue presented in this petition is whether the Petitioner's sentence violates the rulings of this Court expressed in *Apprendi v. New Jersey*, 147 L Ed 2d 435 (2000) and *Blakely v. Washington*, 159 L Ed 2d 403 (2004). In *Apprendi*, this Court held: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt." *Apprendi*, 147 L Ed 2d 435, at 455. And in *Blakely*, this Court provided: "Our precedents make clear, however, that the 'statutory maximum' for *Apprendi* purposes is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant. . . . In other words, the relevant 'statutory maximum' is not the maximum

Sentence a Judge may impose after Finding additional Facts, but the maximum he may impose without any additional Findings. When a Judge inflicts punishment that the Jury's verdict alone does not allow, the Jury has not found all the Facts 'which the law makes essential to the punishment,' and the Judge exceeds his proper authority." *Blakely*, 159 L Ed 2d 403, at 413-14.

The Petitioner respectfully asserts his sentence does violate the above mentioned Constitutional provisions, and therefore, is illegal. In support thereof, the Petitioner states the following:

I. Rule 3.600(a), Fla. R. Crim. P.

Florida provides rule 3.600(a) as a means of presenting allegations regarding an illegal sentence to the trial courts. Motions under this rule may be submitted

at any time following the finality of the conviction and sentence. See Rule 3.800(a), Fla. R. Crim. P. (2019)

("A court may at any time correct an illegal sentence imposed by it...").

The rule does not define the term "illegal sentence," but the Florida Supreme Court has defined it as a sentence that no judge is permitted to impose. See

Martinez v. State, 211 So. 3d 989 (Fla. 2017) ("Noting that the term 'illegal sentence' is not defined in the rule, we have held that to be subject to correction under rule 3.800(a) a sentence must be 'one that no judge under the entire body of sentencing laws could possibly impose.'"). In

other words, sentences violating statutory or constitutional

"Although the rule is still the same today, the Petitioner makes reference to the 2019 version of Fla. R. Crim. P. because it was the governing version at the time he submitted his motion to correct illegal sentence.

limits are illegal. Id. (citing and quoting *Plott v. State*, 189 So. 3d 90, at 94 (Fla. 2014)) ("Instead, '[a] sentence that patently fails to comport with statutory or constitutional limitations is by definition illegal.'").

Based on the foregoing provisions, the Florida Supreme Court has found *Apprendi* and *Blakely* violations to be cognizable under 3.800(a). *Plott v. State*, 189 So. 3d 90, at 95 (Fla. 2014) ("In resolving this conflict, we held that upward departure sentences that are unconstitutionally enhanced in violation of *Apprendi* and *Blakely* patently fail to comport with constitutional limitations, and consequently, the sentences are illegal under rule 3.800(a)."). Therefore, contrary to the trial court's order denying (Appendix "B," page 2), the Petitioner did utilize the proper vehicle in presenting his allegation of an illegal sentence.

II. The Criminal Punishment Code.

The Criminal Punishment Code governs sentencing for all felonies, except capital felonies, committed on or after October 1st, 1998. See § 921.002, Fla. Stat. (2012). It is an act consisting of ten sections of the Florida statutes. See §§ 921.002-.0027, Fla. Stat. (2012). Closely observed, there are two major components: the CPC scoresheet; and the revised sentencing scoresheets. See § 921.0024(1), Fla. Stat. (2012) ("A sentencing scoresheet must be prepared for every defendant who is sentenced for a felony offense. A copy of the individual offender's [CPC] scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation and submission of felony sentencing scoresheets, must be attached to the copy of the uniform judgment and sentence

12.

Form provided to the Department of Corrections."); and
§ 921.0025, Fla. Stat. (2012), Adoption and implementation
of revised Sentencing Scoresheets.

A. The CPC Scoresheets

The CPC Worksheet is the Form provided in rule
3.992, Fla. R. Crim. P. (2012). See Rule 3.704(a), Fla. R. Crim. P.
(2012) ("[I] This rule is to be used in conjunction with the
Forms located at rule 3.992."); See also Appendix "B,"
attachment 3 (Petitioner's Criminal Punishment Code Scoresheet).

It is used to generate a criminal defendant's subtotal and
total sentence points. See § 921.0024(1)(a), Fla. Stat. (2012)

("The [CPC] Worksheet is used to compute the subtotal and
total sentence points as follows:"). The total sentence

points are then plugged into a mathematical formula that
provides a "lowest permissible prison sentence in months."

See Rule 3.992, Fla. R. Crim. P. (2012) (sentence computation).

Simply put, the CPL worksheet is used to calculate a defendant's lowest permissible sentence.

B. Revised Sentencing Scoresheets

The revised sentencing scoresheets were adopted for application to the Punishment Code. See s. 921.0025, Fla. Stat. (2012) ("Rules 3.701, 3.702, 3.703, and 3.988, Florida Rules of Criminal Procedure, as revised by the Supreme Court, and any other rule pertaining to the preparation and submission of Felony Sentencing scoresheets, are adopted and implemented in accordance with this chapter for application to the Criminal Punishment Code."). They are also better known as the Sentencing guidelines. Prior to the CPL, the sentencing guidelines governed the sentencing process for criminal offenses committed in the State of Florida. Rule 3.701, Fla. R. Crim. P., are the rules pertaining to the original Sentencing guidelines. Another form of the Sentencing

guidelines was created and implemented in 1994, and they are Rule 3.702, Fla. R. Crim. P. The 1994 version of the sentencing guidelines was later on amended, resulting in Rule 3.703, Fla. R. Crim. P. And finally, Rule 3.988 are the forms used in conjunction with rule 3.701 to calculate a defendant's recommended and permitted ranges.

¹See Rule 3.701(a), Fla. R. Crim. P. (2012) ("... This rule is to be used in conjunction with forms 3.988(a)-(i).").

III. Sentencing pursuant to the CPC.

To understand sentencing pursuant to the CPC, we must first observe s. 775.082, Fla. Stat. (2012). There are three subsections explaining statutory maximums relevant to the Petitioner's challenged sentences:

¹§ 775.082(3); § 775.082(3)(a)3; and § 775.082(3)(b)1.

¹Subsection 775.082(3) provides:

"A person who has been convicted of any other designated Felony may be punished as follows:"

§ 775.082(3)(a)3:

"Except as provided in subparagraph 4, for a life Felony committed on or after July 1st, 1995, by a term of imprisonment for a term of years not exceeding life imprisonment."

And § 775.082(3)(b)1:

"For a Felony of the First degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment."

Basically, First degree punishable by life Felonies and life Felonies may be sentenced up to life imprisonment.

Now that we have an understanding of the statutory maximums relevant to the challenged sentences, we return to the laws regarding the Punishment Code. Subsection 921.002(g) states a defendant may be sentenced up to

the Statutory maximum:

"The Trial Court Judge may impose a sentence up to and including the statutory maximum...."

§ 921.002(g), Fla. Stat. (2012).

Subsection 921.0024(2) also provides, in relevant part, nearly the same:

"The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 975.082...."

§ 921.0024(2), Fla. Stat. (2012).

And once again, s. 921.0025 adopts the sentencing guidelines

for application to the CPC:

"Rules 3.701, 3.702, 3.703, and 3.986, Florida Rules of Criminal Procedure, as revised by the Supreme Court, and any other rule pertaining to the preparation and submission of felony sentencing scoresheets, are adopted and implemented in accordance with this Chapter for application to the Criminal Punishment Code."

§ 921.0025, Fla. Stat. (2012)

The rules codified in s. 921.0025 establish that the recommended sentencing ranges under rule 3.948 are deemed appropriate for a defendant's score. A permitted range is also provided to give a sentencing judge additional discretion. See Rule 3.701(d)(8), Fla. R. Crim. P. (2012) ("The recommended sentences provided in the guideline grids are assumed to be appropriate for the composite score of the offender. A range is provided to permit some discretion. The permitted ranges allow the sentencing judge some discretion. . .").

The rules also provide that departing from the sentencing ranges, above or below, should not occur unless it is justifiable. See Rule 3.701(d)(11), Fla. R. Crim. P. (2012)

("Departures from the recommended or permitted guideline sentence should be avoided unless there are circumstances or factors that reasonably justify aggravating or mitigating the sentence. . ."); See also Rules 3.702(d)(18)

and 3.703(d)(30), Fla. R. Crim. P. (2012) ("Departures From the recommended guidelines sentence as provided by the total sentence points should be avoided unless there are circumstances or factors that reasonably justify aggravating or mitigating the sentence..."). A sentence that deviates from the recommended range by more than 25% is considered to be a departure sentence. *Id.*

("... A state prison sentence that deviates from the recommended prison sentence by more than 25 percent ... must be accompanied by a written statement delineating the reasons for departure...").

Moreover, the rules also explain the level of proof necessary to substantiate the reasons for departure is a preponderance of the evidence. ⁴ See Rule 3.701(b)(6), Fla. R. Crim. P. (2012) ("... The level of proof necessary to establish facts supporting a departure from a sentence

under the guidelines is a preponderance of the evidence."'). Unfortunately, these rules have not been revisited for any amendments since the holdings expressed in *Apprendi* and *Blakely*. Due to this Court's rulings in *Apprendi* and *Blakely*, the level of proof needed to substantiate a departure sentence can no longer be a preponderance of the evidence, but must be proof beyond a reasonable doubt. See *Apprendi v. New Jersey*, 147 L. Ed. 2d 435, at 455 (2000) ("Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt."); and *Blakely v. Washington*, 159 L. Ed. 2d 403, at 413-14 (2004) ("Our precedents make clear, however, that the 'statutory maximum' for *Apprendi* purposes is the maximum sentence a judge may impose solely on the basis of the

Facts reflected in the jury verdict or admitted by the defendant. . . . In other words, the relevant 'statutory maximum' is not the maximum sentence a judge may impose after finding additional facts, but the maximum he may impose without any additional findings. When a judge inflicts punishment that the jury's verdict alone does not allow, the jury has not found all the facts 'which the law makes essential to the punishment, . . . , and the judge exceeds his proper authority.'"). And now that the level of proof is proof beyond a reasonable doubt, a criminal defendant must be formally charged with some sort of sentence enhancement.

IV. Applying the CPL to the Petitioner.

First, while asserting, demonstrating, and questioning whether the petitioner's sentence violates the holdings of

Apprendi and Blakely, he points out the fact that the CPL was partially applied to his case. When stating partially applied, the Petitioner means the scoresheet under rule 3.988 was not generated. The only scoresheet used in the Petitioner's case is the Punishment Code's scoresheet, as prescribed by s. 921.0024, Fla. Stat. (2012), and provided in rule 3.992, Fla. R. Crim. P. (2012). See Appendix "B," attachment 3 (Petitioner's Criminal Punishment Scoresheet). And although a sentencing guidelines scoresheet was not generated, the trial court, as well as the State, has constructive knowledge of the penalties prescribed by this scoresheet.

See *Hall v. State*, 823 So. 2d 757, at 764 (Fla. 2002)

("By virtue of the Florida Statutes and the laws of Florida, a defendant has constructive notice of the penalty for statutory crimes.") (citing and quoting *State v. Beasley*, 580 So. 2d 139, at 142 (Fla. 1991)) ("As to notice, publication in the laws

of Florida or the Florida Statutes gives all citizens constructive notice of the consequences of their actions.")).

Additionally, the Petitioner also asserts his CPC scoresheet is accurate, with the exception of a few minor errors. See Appendix "B," attachment 3 (Petitioner's Criminal Punishment Code Scoresheet). His primary offense should not be Armed Burglary of a dwelling with a Firearm and/or Assault and/or Battery because it is not a life felony. It is a first-degree felony punishable by life. See § 810.02(2)(a)

and (b), Fla. Stat. (2012); and *Johnson v. State*, 913 So. 2d 1192 (Fla. 2d DCA 2008) ("Mr. Johnson was charged by one information with committing two first-degree felony offenses: ... and Burglary of a conveyance with an assault or battery while armed with a firearm (Count Two) ... Both the robbery offense and the burglary offense are punishable by a sentence of life imprisonment."). It

also does not fall under an offense level of 10. It is categorized as an offense level 6. See §921.0022(3)(a), Fla. Stat. (2012). The primary offense should be Armed Kidnapping, a life Felony, categorized at an offense level of 10. Id. An example of a corrected version is provided in Appendix "H." Other than these errors, the Petitioner agrees to the calculation of his CPL scoresheet. His lowest permissible prison sentence in months is 185.4, and the maximum sentence in years is life.

Moving along, §921.0024(1) and s. 921.0025, Fla. Stat. (2012), express that a sentencing guidelines scoresheet under rule 3.988 should have been generated. All of the relevant information required to complete the sentencing guidelines scoresheet is provided on the correct version of the Petitioner's CPL scoresheet (Appendix "H"). With armed kidnapping being the offense

prescribing the most severe sentence, the point system located in rule 3.948(i) is to be applied to the scoresheet in rule 3.948(j). See Appendix "I" (Sentencing Guidelines).

The primary offense, armed kidnapping, is a life felony and carries 241 points. As additional offenses, the petitioner has two first-degree punishable by life felonies: armed robbery and armed burglary with an assault and/or battery. He also has four third-degree felonies: two counts of false imprisonment and two counts of aggravated assault. Two counts of first-degree punishable by life felonies is an additional 45 points, and four counts of third-degree felonies is another 22 points. The petitioner's prior record consist of one third degree felony and two misdemeanors, providing a total of 15 more points. Sections III B, III C, IV, and V are not applicable to the petitioner's circumstances, but

18 more points are to be factored into the total score based on the possession of a Firearm during the False Imprisonments. See Rule 3.702(d)(12), Fla. R. Crim. P. (2012) ("Eighteen sentence points are assessed if the offender is convicted of committing or attempting to commit any Felony other than those enumerated in subsection 775.087(2) while having in his or her possession a Firearm as defined in subsection 790.001(6).").

The Petitioner's total Sentencing points is 341 (Primary offense: 241 + additional offenses: 67 + prior record: 15 + Firearm: 18 = 341). Based on the total Sentencing points, rule 3.955(i) prescribes a recommended Sentencing range of 12-17 years. It also provides a permitted Sentencing range, which deviates from the recommended range by 25%, of 9-22 years.

Applying the sentencing guidelines to the CPL changes the Petitioner's prescribed recommended and permitted ranges. Under the CPL, his lowest permissible sentence is 185.4 months, and it raises the lower end of the guideline ranges. His recommended range becomes approximately $15\frac{1}{2}$ -17 years, and his permitted range becomes $15\frac{1}{2}$ -22 years.

The Petitioner's new permitted range, $15\frac{1}{2}$ -22 years, is, as in the words of the Apprendi Court, his "Prescribed Δ Statutory Maximum," or as in the words of the Blakely Court, his "Relevant Δ Statutory Maximum." In order for the Petitioner to receive a sentence greater than 22 years, he must be charged with a sentence enhancement, and the jury would have to make additional factual findings, or his prior record would have to substantiate the enhancement. This did not take place in this particular case, and by Florida failing to correct

the Petitioner's illegal sentence, they have completely ignored the plain language of S. 921.0025.

V. Conclusion.

In summary, Florida has not provided any harmony to § 921.002(g), § 921.0024(2), and the rules codified in S. 921.0025. It is the Petitioner's position that Florida has encountered a case of first impression, and has also indirectly decided an important federal question in a way that conflicts with constitutional provisions established by this Court. The Petitioner prays, and respectfully request, this Honorable Court grant Certiorari and review Florida's violation of Apprendi and Blakely.

15/El-Asad J. Alsaedi
El-Asad J. Alsaedi D24134
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