

No. 21-\_\_\_\_\_

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**SUPREME COURT OF THE UNITED STATES**

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**JIMMIE BARGE,**

Petitioner,

vs.

**STATE OF FLORIDA,**

Respondent.

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**TABLE OF APPENDICES**

- APPENDIX: A    Opinion of the Federal Circuit Court of Appeals
- APPENDIX: B    Opinion of the Federal District Court
- APPENDIX: C    Order Declaring Fla. Stat. § 775.082(9) Unconstitutional
- APPENDIX: D    Petitioner's Criminal Punishment Code Scoresheet

# APPENDIX: A

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 21-11566-J  
\_\_\_\_\_

JIMMIE BARGE,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Florida  
\_\_\_\_\_

ORDER:

Jimmie Barge moves for a certificate of appealability and leave to proceed *in forma pauperis*, in order to appeal the district court's denial of his 28 U.S.C. § 2254 habeas corpus petition. Barge's motion for a certificate of appealability is DENIED because he has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). His motion for leave to proceed *in forma pauperis* on appeal is DENIED AS MOOT.

  
UNITED STATES CIRCUIT JUDGE

# APPENDIX: B

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

JIMMIE BARGE,  
Petitioner,

vs.

Case No.: 3:20cv405/LAC/EMT

SECRETARY DEP'T OF CORR.,  
Respondent.

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**ORDER**

The chief magistrate judge issued a Report and Recommendation on February 4, 2021 (ECF No. 16). The parties were furnished a copy of the Report and Recommendation and afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a *de novo* determination of the timely filed objections.

Having considered the Report and Recommendation and the objections thereto, I have determined the Report and Recommendation should be adopted.

Accordingly, it is **ORDERED**:

1. The chief magistrate judge's Report and Recommendation (ECF No. 16) is adopted and incorporated by reference in this order.

2. The petition for writ of habeas corpus (ECF No. 1) is **DENIED**.
3. A certificate of appealability is **DENIED**.

**DONE AND ORDERED** this 12<sup>th</sup> day of April, 2021.

s/L. A. Collier  
**LACEY A. COLLIER**  
**SENIOR UNITED STATES DISTRICT JUDGE**

# APPENDIX: C

STATE OF FLORIDA  
VS.

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT IN AND  
FOR ORANGE COUNTY, FLORIDA

CASE NUMBER: 1999-CF-010077-A-O  
DIVISION: Young, Tom  
COURTROOM: 12-A

RICKY TYRONE NEAL, Defendant

DOB: 12/6/1957

**ORDER**

This cause coming on this day for Hearing, with Asst State Attorney, R SEGOBIN, present and you, the defendant, RICKY TYRONE NEAL being now Present and represented by ADAM REISS, WILLIAM PONALL Present AND WILLIAM PONALL, you have:

Count: 001	ROBBERY ARMED WITH A WEAPON	812.13(2)(B)	First Degree - Felony
Count: 002	KID. W/INT. TO INFLICT HARM/TERROR W/WEAP.	787.01(1)(A)(3)	Life
Count: 003	SECOND DEGREE MURDER	782.04(2)	First Degree - Felony
Count: 004	CR-AGGRAVATED BATTERY (GREAT BODILY HARM)	784.045(1)(A)(1)	First Degree - Felony
Count: 005	CARJACKING	812.133(2)(B)	First Degree - Felony
Count: 006	CR-FLEEING OR ATTEMPTING TO ELUDE	316.1935(2)	Third Degree - Felony
Count: 007	CR-DRIVING WHILE LIC. SUSPENDED (2 PRIOR CONV)	322.34(2)(C)	Third Degree - Felony
Count: 008	CR-RESISTING OFFICER WITH VIOLENCE	843.01	Third Degree - Felony
Count: 009	VIOLATION OF DOMESTICK INJUNCTION/D.V. ACT	741.31(4)(A)	First Degree - Misd

**COURT ORDERS:**

Court Minutes  
Per the Court:

-DEFENSE MOTION TO DECLARE FLA  
STATUTE 775.082(9) UNCONSTITUTIONAL - IS  
GRANTED AS STATED

DONE, ORDERED and FILED in Open Court on December 8, 2020

Honorable Judge: Tom Young

Tom Young

RICKY TYRONE NEAL /OCJ 99-32048 M-3F .  
P.O. BOX 4970

Deputy Clerk in Attendance: Mieshia L  
Office of Tiffany M. Russell, Orange County Clerk of the Circuit and County Courts

**COPIES TO:**

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\_\_\_ State Atty  
\_\_\_ Other

\_\_\_ Defense Atty  
\_\_\_ Defendant



5D20-2600

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# APPENDIX: D

RULE 3.992(a) CRIMINAL PUNISHMENT CODE SCORESHEET

The Criminal Punishment Code Scoresheet Preparation Manual is available at:  
http://www.dc.state.fl.us/pub/sen\_cpm/index.html

1. SENT. DATE 01/21/2015 9/30	2. PREP'S NAME ANDRES/LAS	3. COUNTY OF COURT ESCAMBIA	4. SENTENCING JUDGE NOBLES
5. NAME (LAST, FIRST, MID, SUF) BARGE, JIMMIE, JR	6. DOB 07/22/1967	8. RACE BLACK	10. PRI. OFF. DATE 07/01/2013
13. UNIFORM DOCKET #	7. DC # 211929	9. GENDER MALE	11. PRIMARY DOCKET # 1404167

I. PRIMARY OFFENSE: If Qual., check   A     S     C     R   (A=Att, S=Solic, C=Consp, R=Recls)  
FELONY F.S.# DESCRIPTION OFFENSE POINTS  
DEGREE LEVEL

1ST DEG 812.13(2) (B) ROBB. WPN-NOT DEADLY 08  
(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)  
Prior capital felony triples Primary Offense points - NO I. 74.0

II. ADDITIONAL OFFENSE(S): Supplemental page attached - NO

Docket#	FEL/MM	F.S.#	OFFENSE QUALIFY	COUNTS	POINTS	TOTAL
			DEGREE	LEVEL	A S C R	
(Level-Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)						
Prior capital felony triples Add. Off. points - NO Suppl. page points						0.0
						II. 0.0

III. VICTIM INJURY

	Number	Total		Number	Total
2nd Deg. Murder	240 X 0.0 =	0.0	Slight	4 X 0.0 =	0.0
Death	120 X 0.0 =	0.0	Sex Penet.	80 X 0.0 =	0.0
Severe	40 X 0.0 =	0.0	Sex Cont.	40 X 0.0 =	0.0
Moderate	18 X 0.0 =	0.0			
III. 0.0					

IV. PRIOR RECORD: Supplemental page attached - YES

FEL/MM	F.S.#	OFFENSE	QUAL	DESCRIPTION	NBR	PTS	TOTAL
3RD DEG	893.13(6) (A)	03	ASCR	COCAINE - POSSESSIO	001 X	1.6 =	1.6
MISDEME	784.03	M		SIMPLE BATTERY-MISD	006 X	0.2 =	1.2
2ND DEG	784.045(1) (B)	07		AGGRAV. BATTERY, VICT	002 X	14.0 =	28.0
MISDEME	812.014(3) (A)	M		PETIT-THEFT-MISD	004 X	0.2 =	0.8
2ND DEG	812.13(2) (C)	06		ROBB. NO GUN/DDLY.W	003 X	9.0 =	27.0
1ST DEG	812.13(2) (B)	08		ROBB. WPN-NOT DEADL	001 X	19.0 =	19.0
MISDEME	843.02	M		RESIST.LEO/NO VIOL.	003 X	0.2 =	0.6
(Lev-Pnts: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)							

Supplemental page points: 0.8

IV. 79.0

Page 1 Subtotal: 153.0

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

NAME (LAST, FIRST, MI)	DOCKET #
BARGE, JIMMIE,	1404167

Page 1 Subtotal: 153.0

V. 0.0

V. Legal Status violation = 4 Points

☐ Escape ☐ Failure to appear ☐ Fleeing ☐ Supersedeas bond  
☐ Incarceration ☐ Pretrial Intervention or diversion Program  
☐ Court Imposed or post prison release community supervision  
 resulting in a conviction

VI. Community Sanction violation before the court for sentencing VI. 0.0

☐ Probation ☐ Community Control ☐ Pretrial Intervention or diversion  
☐ 6 points for any violation other than new felony conviction x  
☐ each successive violation OR  
☐ New felony conviction = 12 points x ☐ each successive  
 violation if new offense results in conviction before or at the  
 same time as sentence for violation of probation OR  
☐ 12 Points x ☐ each successive violation for a violent  
 felony offender of special concern when the violation is not  
 based solely on failure to pay costs, restitution OR  
☐ New felony conviction = 24 points x ☐ each successive violation  
 for a violent felony offender of special concern if new  
 offense results in a conviction before or at the same for  
 violation of probation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 points VII. 0.0

VIII. Prior Serious Felony = 30 Points VIII. 0.0

Subtotal Sentence Points 153.0

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect	Drug Trafficker	Motor Vehicle Theft	Criminal Gang Offense	Domestic Violence in the Presence of Related Child (offenses committed on or after 03/12/2007)	Adult-on-Minor Sex Offense (offenses committed on or after 10/01/2014)
X 1.5/2.0/2.5	X 1.5	X 1.5	X 1.5	X 1.5	X 2.0

Enhanced Subtotal Sentence Points IX. 0.0

TOTAL SENTENCE POINTS 153.0

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

RULE 3.992(b) CRIMINAL PUNISHMENT CODE SUPPLEMENTAL SCORESHEET

NAME (LAST, FIRST, MIDDLE, SUFFIX)	DOCKET	UNIFORM CASE NUMBER	DATE OF SENT
BARGE, JIMMIE, , JR	1404167		01/21/2015 9/30

II. ADDITIONAL OFFENSE(S):

Docket#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
						II.	0.0

(Level-Points:M=0.2,1=0.7,2=1.2,3=2.4,4=3.6,5=5.4,6=18,7=28,8=37,9=46,10=58)

IV. PRIOR RECORD:

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUAL ASCR	DESCRIPTION	NBR	PTS	TOTAL
3RD DEG	812.014(2)(C)	1	02	GRAND THEFT, 300 L/5	001 X	0.8 =	0.8
						IV.	0.8

(Level-Points:M=0.2,1=0.5,2=0.8,3=1.6,4=2.4,5=3.6,6=9,7=14,8=19,9=23,10=29)

Reasons for Departure - Mitigating Circumstances

(reasons may be checked here or written on the scoresheet)

- ☐ Legitimate, uncoerced plea bargain
- ☐ The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- ☐ The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.
- ☐ The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, or for a physical disability, and the defendant is amenable to treatment.
- ☐ The need for payment of restitution to the victim outweighs the need for a prison sentence.
- ☐ The victim was an initiator, willing participant, aggressor, or provoker of the incident.
- ☐ The defendant acted under extreme duress or under the domination of another person.
- ☐ Before the identity of the defendant was determined, the victim was substantially compensated.
- ☐ The defendant cooperated with the State to resolve the current offense or any other offense.
- ☐ The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
- ☐ At the time of the offense the defendant was too young to appreciate the consequences of the offense.
- ☐ The defendant is to be sentenced as a youthful offender.
- ☐ The defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program.
- ☐ The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence, except for the provisions of s.921.0026(2)(m).

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

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### SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

153.0                      minus 28 =      125.0 X .75 =                      93.7  
total sentence points                      lowest permissible prison sentence in months

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statutes 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s.775.082, F.S., unless the lowest permissible sentence under the code, exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

~~30.0~~ Life  
maximum sentence  
in years

#### TOTAL SENTENCE IMPOSED

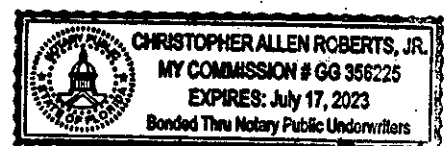
	Years	Months	Days
<input checked="" type="checkbox"/> State Prison	<input checked="" type="checkbox"/> Life		
<input type="checkbox"/> County Jail	<input type="checkbox"/> Time Served		
<input type="checkbox"/> Community Control			
<input type="checkbox"/> Probation	<input type="checkbox"/> Modified		

Please check if sentenced as ☐ habitual offender, ☐ habitual violent offender, ☐ violent career criminal, ☐ prison releasee reoffender, or a ☐ mandatory minimum applies.

☐ Mitigated Departure    ☐ Plea Bargain    ☐ Prison Diversion Program  
Other Reason \_\_\_\_\_

JUDGE'S SIGNATURE

*Christopher Allen Roberts, Jr.* 9/30/15



OK after 2  
10/12/21