

Florida Statutes -- Post-Conviction & Sentencing

Generated March 30, 2026 | law.unykorn.org

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F.S. § 924.051 -- Criminal Appeals; Judgments and Orders Appealable

(1)(a) Appeals by Defendant

A defendant may appeal from:

1. A final judgment of conviction
2. An order withholding adjudication
3. An illegal sentence
4. A sentence imposed outside guidelines range
5. An order denying a post-conviction motion under Rule 3.850
6. An order revoking probation

Application

- * Direct appeal of conviction -- deadline is 30 days from sentencing (was this met?)
 - * If direct appeal deadline was missed -> Rule 3.850 postconviction relief is the primary vehicle
 - * Appeal of sentence: If 20 years exceeds guidelines range -> appealable as departure sentence
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F.S. § 924.065 -- Appeals by State

The state may appeal from:

- (a) An order dismissing an indictment/information
- (b) An order granting new trial
- (c) An order arresting judgment
- (d) A sentence below lowest permissible sentence
- (e) An order granting SYG immunity under § 776.032

Relevance

- * If we get SYG immunity -> State can appeal (be prepared)
 - * If we get case dismissed -> State can appeal
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F.S. § 921.002 -- Criminal Punishment Code

(1) The state's criminal punishment policy is to:

- (a) Prioritize punishment
- (b) Provide a system for consistent sentencing
- (c) Not apply to: capital felonies or life felonies

Sentencing Scoresheet

- * Points system: primary offense level + prior record + victim injury + legal status
 - **Lowest Permissible Sentence** = (total points - 28) × 0.75 = months in prison
 - * If total ? 44 points -> noncarceral sentence permitted
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* **Must obtain Marquis's sentencing scoresheet** to verify calculation

F.S. § 921.0026 -- Mitigating Circumstances for Downward Departure

Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to:

- (1) *The defendant was a victim of circumstances unlikely to recur.*
 - (2) *The defendant acted under extreme duress or under substantial domination of another person.*
 - (3) *Before the defendant knew discovery of the crime was imminent, the defendant fully compensated the victim.*
 - (7) *The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant showed remorse.*
 - (10) *The defendant cooperated with the state.*
 - (13) *Legitimate uncoerced plea bargain.*
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F.S. § 947.002 -- Conditional Release / Gain Time

Gain Time Credits

- * **Basic gain time**: Up to 10 days/month for satisfactory behavior
- * **Incentive gain time**: Additional days for program completion
- * **85% Rule (§ 944.275(4)(b)(3))**: For offenses committed after 10/1/1995, defendant must serve at least **85%** of the sentence before release
- * For a 20-year sentence: minimum 17 years served before release eligibility

Conditional Release

- * Supervised release for the remainder of the sentence after release
 - * Conditions similar to probation
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F.S. § 944.275 -- Gain-Time Eligibility

(4)(b)(3) -- The 85% Rule

*Any inmate who is convicted of a crime committed on or after October 1, 1995, and who has been sentenced to a term of incarceration in a state correctional institution, must serve no less than **85 percent of the term** imposed.*

Application

- * If convicted 2023/2024/2025 -> 85% rule applies
 - * 20 years × 85% = **17 years minimum** before release
 - * With gain time: could reduce to release after ~17 years
 - * This makes appellate relief CRITICAL -- even with gain time, Marquis faces 17+ years
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F.S. § 775.021 -- Rules of Construction

(4) Separate Offenses

- Offenses are separate if each offense requires proof of an element the other does not.*
- * Relevant if multiple charges were filed -- was Marquis charged with multiple counts?
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* Double jeopardy protection if same act charged in multiple ways without separate elements

F.S. § 948.01 -- Probation and Community Control

Relevance

- * If sentence is reduced/vacated on appeal -> probation may be available
 - * If resentenced below lowest permissible sentence -> probation possible
 - * Community control (house arrest) is an intermediate sanction
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Understanding the sentence structure is essential for determining the most effective relief path.