

# FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

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Smith v. State, 968 So.2d 1054 (Fla. 5<sup>th</sup> DCA 2007):

Failure to register as a sex offender is a general intent crime, requiring knowledge of a duty to register.

Offense of failure to register as a sex offender does not require that defendant subjectively intended to violate the governing statute.

Pressley v. State, 968 So.2d 1039 (Fla. 5<sup>th</sup> DCA 2007):

13 year old victim's statements to her mother were not admissible under the excited utterance exception to the hearsay rule, in prosecution for lewd or lascivious molestation; approximately 45-60 minutes passed between the alleged molestation and when victim told her mother about the incident, and thus victim had time to reflect before making the statements.

Siplen v. State, 32 Fla. L. Weekly D2858 (Fla. 5<sup>th</sup> DCA 2007):

The court modified Appellant's probation to include electronic monitoring, a mandatory condition of probation. Because the modification did not occur within sixty days after Appellant's sentencing, the modification was erroneous.

Companiononi v. State, 31 Fla. L. Weekly D2831 (Fla. 3<sup>rd</sup> DCA 2007):

Amended rule of criminal procedure allowing for the scoring of victim injury points regardless of whether the injury was an element of the crime did not apply to sentencing on crimes committed prior to adoption of amendment. (July 1, 1987)

Upon reversal of sentence based on incorrect sentencing scoresheet calculation following defendant's negotiated plea to a reduced charge, appellate court would remand to the trial court for correction of defendant's scoresheet, and would further instruct the trial court to give the State the option of allowing defendant to move to vacate the judgment and sentence and reinstate the original charges, or vacating only that portion of the sentence imposed which was excessive in light of the corrected guidelines scoresheet.

