

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2001

GREGORY PONTON,

\*\*

Appellant,

\*\*

vs.

\*\* CASE NO. 3D01-2015

THE STATE OF FLORIDA,

\*\* LOWER

TRIBUNAL NO. 96-6548

Appellee.

\*\*

Opinion filed October 10, 2001.

An Appeal under Fla.R.App.P. 9.141(b)(2) from the Circuit  
Court for Dade County, Marc Schumacher, Judge.

Gregory Ponton, in proper person.

Robert A. Butterworth, Attorney General, for appellee.

Before SCHWARTZ, C.J., and COPE and SORONDO, JJ.

PER CURIAM.

The appellant seeks review of the adverse portion of the  
following order denying in part and granting in part his motion for  
post-conviction relief:

1. As to counts 2 - 16 of the information, the  
defendant was sentenced as a Habitual Violent  
Felony offender to three consecutive LIFE sentences  
with three consecutive 15 year minimum mandatory  
sentences, the maximum sentence provided by law.  
This Court did not utilize the guideline scoresheet  
in determining this sentence. Because the  
defendant has not been adversely affected by the  
1995 guidelines, he is not entitled to be re-

sentenced. *Rodriguez v. State*, 766 So. 2d 1147 (Fla. 3d DCA 2000); *Melgares v. State*, 762 So. 2d 921 (Fla. 3d DCA 1999). Therefore, the defendant's Motion to Correct Sentence in Counts 2 through 16 is hereby DENIED.

2. The defendants's Motion to Correct Sentence as to Count 1 of the Information, Armed Burglary with an Assault (a life felony), is hereby GRANTED. *Everett v. State*, 770 So. 2d 192 (Fla. 2d DCA 2000), *Peters v. State*, 769 So. 2d 490 (Fla. 4th DCA 2000).

The order is correct in all respects and is

Affirmed.