

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
FOR VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NUMBER: 2024 108218 CFDL

vs.

JORGE JOEL RIVERA,
Defendant.

SENTENCING MEMORANDUM

COMES NOW, the Defendant, Jorge Rivera, by and through undersigned counsel and pursuant to Fla. Stat. 921.0026 hereby moves this Honorable Court to sentence the Defendant below the lowest permissible sentence on his Criminal Punishment Code Scoresheet, and as grounds would show:

Procedural History

1. On November 21, 2024, Mr. Rivera was charged by the State's Attorney's Office with seven criminal counts by way of Information. The charges in numeric order as listed in the Information are: Battery on a School Board Employee, Battery on Law Enforcement Officer, Disrupting a School Function, Grand Theft, Resisting an officer with Violence, Robbery with a Deadly Weapon and Depriving an Officer of Protection.
2. Mr. Rivera, through the undersigned attorney, filed Motions to Dismiss contesting the legal sufficiency of the following charges: Battery on a School Board Employee, Grand Theft, and Robbery with a Deadly Weapon. These motions were denied by the Court on July 28, 2025.
3. On July 30, 2025, Mr. Rivera rejected the State's offer and entered an Open Plea to the Court. As a result of the plea, and the State's refusal to drop any counts, Mr. Rivera entered

a plea of No Contest to all listed charges in the Information.

4. Under the Criminal Punishment Code Scoresheet, with all charges listed, the lowest permissible sentence is 48.15 months in the Department of Corrections.

Legal Reasons for the Departure

Mr. Rivera respectfully requests that the Court impose a sentence below the lowest permissible sentence on the scoresheet because there is competent substantial evidence of a mitigating factor under section 921.0026(2), Florida Statutes:

- The incident at issue was an isolated incident that was committed in an unsophisticated manner and for which he has shown remorse, 921.0026(2)(j).

There is a two-step process in analyzing a Motion for Downward Departure. Step one is to determine whether there is a valid legal ground and factual basis pursuant to which the Court could depart. Step two is to determine whether this is a case where the Court should depart.

In this case, there are valid legal grounds to downward depart where this was an isolated incident that was committed in an unsophisticated manner for which Mr. Rivera has shown remorse, to wit:

- a. Mr. Rivera is 47 years old and has never been convicted of a felony;
- b. Although numerous, the charged offenses arose from a single incident spanning a matter of seconds;
- c. The actions of Mr. Rivera were the result of an impulsive overreaction to what was transpiring to him and in front of him. There is no evidence of planning, preparation, or “distinctive and deliberate steps” taken by Mr. Rivera in this incident; and

d. Mr. Rivera was contrite and apologetic after the incident (as captured on body camera). In addition, the Defense intends to present testimony at the Sentencing Hearing from Mr. Rivera that he is remorseful for his actions.

“A court may impose a departure below the lowest permissible sentence based upon circumstances or factors that reasonably justify the mitigation of the sentence in accordance with s. 921.0026.” Fla. Stat. 921.002(3). “[T]he mitigation shall be upheld when at least one circumstance or factor justifies mitigation regardless of the presence of other circumstances or factors found not to justify mitigation.” Fla. Stat. 921.002(3). “The level of proof necessary to establish facts that support a departure from the lowest permissible sentence is a preponderance of the evidence.” Fla. Stat. 921.002(1)(f). “A crime lacks sophistication if the acts constituting the crime are ‘artless, simple and not refined.’ *State v. Hollinger*, 253 So.3d 1207 (Fla. 5th DCA 2018).

Mr. Rivera’s Background and Service to His Country

Mr. Rivera is a veteran of the United States Army. He served from November 2006 to August 2015. During his time in the military, Mr. Rivera did several tours in Iraq and a lengthy post in Guantanamo Bay, Cuba. During his service, Mr. Rivera was the recipient of 12 medals/awards. (*Please see Exhibit A*).

A brief explanation of each award is listed below:

1. **Iraq Campaign Medal with 3 Stars:** A service member’s participation in three distinct campaigns within Iraq during the designated periods of Operation Iraqi Freedom.
2. **Army Commendation Medal** (3 awards): Awarded for acts of heroism, meritorious achievement or service.
3. **Army Achievement Award** (2 awards): Awarded to service members who demonstrate

outstanding achievement or meritorious service.

4. Army Good Conduct Medal: Awarded to members who have honorably completed three continuous years of active-duty service.
5. National Defense Service Medal: Awarded to members who served honorably during specific period so armed conflict or national emergency.
6. Global War of Terrorism Expeditionary Medal: Members who served honorably in designated military operations in support of the Global War of Terrorism on or after 9/11.
7. Global War of Terrorism: established on March 12, 2013, to recognize members who supported designated military operations against terrorism.
8. Army Service Ribbon: awarded to members of the U.S. Army for successful completion of initial entry training.
9. Overseas Ribbon (3 awards): awarded to members who completed overseas tours of duty.
10. **Combat Action Patch:** Given to soldiers who personally engage or are engaged by the enemy during combat operations.
11. Driver and Mechanic Badge: Special skill badge awarded to drivers, mechanics and special equipment operators to denote the attainment of a high degree of skill in the operation and maintenance of motor vehicles.

In addition to the above-mentioned awards, Mr. Rivera obtained 6 certificates of achievement. (*Please see Exhibit B.*)

Mr. Rivera also participated in specialized physical training during his service. He completed a 160 hour 2nd Battalion Military Police Specialist Course as well as a 40-hour Combat Lifesaver Course. His extensive skills became necessary during his participation in operations overseas and during his post in Guantanamo Bay, Cuba.

Unfortunately, his success in the military came with a price. During his time serving his country, Mr. Rivera suffered a series of physical and mental injuries. Among many others, Mr. Rivera had to have a bullet removed from his body, he suffered injuries to his back due to his assigned physical duties and spent time in high stress traumatic environments. His experiences caused lasting and persistent physical pain as well as mental anguish. Mr. Rivera has battled and continues to battle post-traumatic stress disorder and is classified as a veteran who suffers from 100 % Service Connection Disabilities. *(Please see Exhibit C.)*

Character Letters from Co-workers, Family and Friends

Despite his physical and mental challenges, Mr. Rivera has had a significant impact of good in the lives of those around him. Please see the **24** letters written by the following people on Mr. Rivera's behalf: *(Please see Exhibit D.)*

Jennifer Jellison

Vicmary S. Juarbe

Maritza Desir

Felicia Higgins

Larissa Pessoa

Erik Morales

Jewel Cruz

Anntonia Miro

Ivonne Rivera Aponte

Juan Diego Colon Aponte

Clarence Prince

Natalia Meinhold

Lynne Damicone

Michael J. Correa

Robert Manieri

Marilynn Amada Abreu

Margaret Tufarelli

Jodi Acevedo

Carlos A. Cardona

Dagmarie Aponte

Flor Santos

Betsaida Diaz

Michelle D. Varela

Unknown Customer of Post Office

Circumstances leading up to the Incident

Mr. Rivera never intended to harm anyone on November 19, 2024. He arrived at the school that day to verbally address an issue involving his son.

Mr. Rivera's 11-year-old son (Armando) had been a victim of school bullying. The bullying was on-going, occurred on school grounds and was reported to school officials. Unfortunately, nothing was done to make the bullying stop.

On November 18, 2024, while Armando was walking in a hallway, a female student started yelling at him. Armando told her to leave him alone, but she continued to call him names. In response, Armando pushed the female student against a wall (*Please see Exhibit E*). Armando had

a shoe thrown at his head. It does not appear the female student was harmed. As a result of the altercation, 11-year-old Armando was arrested, handcuffed, placed in the backseat of a patrol car, and driven to the juvenile detention center. Nothing was done to the student that threw the shoe at Armando's head.

Understandably upset and frustrated that his child, who was the victim of bullying, was criminally arrested for standing up for himself, Mr. Rivera attempted to meet with the staff at the school to discuss the matter. Mr. Rivera was told the decision to arrest his 11-year-old son was solely with the Volusia County Sheriff's Office. Mr. Rivera then attempted to meet and discuss the issue with the arresting deputy, Deputy Curtain.

Upon arriving at Deputy Curtain's office, Mr. Rivera repeatedly asked what was going to happen to the bully who threw a shoe at his son's head. The answer provided by Deputy Curtain was they could speak to the judge in the criminal proceeding. Armando (who was present during the meeting) became mentally and physically upset and began crying as he sat next to Mr. Rivera. Mr. Rivera wanted a further explanation as to why nothing was being done regarding the shoe being thrown and raised his voice at the Deputy. Upon hearing his raised voice, Deputy Curtain ended the meeting less than 4 minutes from when it started.

With no resolution, Mr. Rivera became agitated and verbally upset. As he was walking out, Mr. Rivera turned and pointed his finger at the Deputy. The Deputy took a step forward and attempted to grab Mr. Rivera's hand. At that moment, Mr. Rivera's wife interjected and got between Mr. Rivera and the Deputy. Mr. Rivera's wife and Deputy Curtain appear to be pushing each other, when Deputy Curtain removes her tazer. The tazer is pointed directly at Mr. Rivera when he reacts and strikes the Deputy one time. The Deputy falls to the floor and Mr. Rivera disarms her by taking the tazer from her hand.

The incident at issue was an isolated incident that was committed in an unsophisticated manner and for which he has shown remorse

The facts and circumstances in this case matter. Mr. Rivera had no intention of anything violent or aggressive happening at the school that day. He wanted his son to get justice for a situation where Mr. Rivera believed his son was a victim. He was frustrated and angry because he was failing to protect his son. When the situation escalated, he then did actions that he believed were in furtherance of protecting his wife and himself.

Moments prior to Mr. Rivera striking Deputy Curtain, the light from her tazer can be seen on his torso. Mr. Rivera's military experience clearly kicked in as he struck the deputy and disarmed her of the tazer. It's clear from the camera footage, his goal was not to inflict additional pain or injury to Deputy Curtain, but to take the tazer from her so she couldn't use it on him or his family.

Consequences for Mr. Rivera's Behavior

Since the incident, Mr. Rivera's life and the life of his family has drastically changed. Due to the media and social media coverage, Mr. Rivera and his family have been harassed and threatened by members of the public. He has severely struggled with his mental health and has suffered financial hardships. His employment at the United States Postal Service is potentially in jeopardy, and regardless of the sentence, he will become a 6-time convicted felon. Mr. Rivera understands the gravity of his actions and has pled to accept full responsibility for his behavior.

The facts of this encounter in conjunction with the training and experience of Mr. Rivera, his lack of criminal history, and his remorse for his behavior, makes this case appropriate for a substantial downward departure. The Defense is requesting a probationary sentence.

WHEREFORE, the Defendant, Jorge Rivera, respectfully requests this Honorable Court issue its Order granting this Motion and imposing a sentence below the CPC minimum.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of November 2025, I electronically sent the foregoing directly to kmeneilly@circuit7.org, ksmith@circuit7.org, and megarod@sao7.org.

Respectfully submitted by,

/s/ Deborah Barra
Deborah Barra, Esq.
Florida Bar Number: 722146
Joshi Law Firm
5750 Major Blvd., Suite 530
Orlando, Florida 32819
Office: (407) 661-1109
Email: Deborah@joshi.law
Attorney for Defendant

EXHIBIT A

**THIS DOCUMENT IS
CONFIDENTIAL PURSUANT
TO FLORIDA STATUTES OR
COURT ORDERS.**

**THE ORIGINAL IS LOCATED
IN THE COURT FILE AND CAN
BE VIEWED BY PERSONS
ALLOWED BY THE FLORIDA
STATUTES OR PERSONS
AUTHORIZED BY A COURT
ORDER.**

**IDENTIFICATION WILL BE
REQUIRED.**

**THIS DOCUMENT IS
CONFIDENTIAL PURSUANT
TO FLORIDA STATUTES OR
COURT ORDERS.**

**THE ORIGINAL IS LOCATED
IN THE COURT FILE AND CAN
BE VIEWED BY PERSONS
ALLOWED BY THE FLORIDA
STATUTES OR PERSONS
AUTHORIZED BY A COURT
ORDER.**

**IDENTIFICATION WILL BE
REQUIRED.**

**THIS DOCUMENT IS
CONFIDENTIAL PURSUANT
TO FLORIDA STATUTES OR
COURT ORDERS.**

**THE ORIGINAL IS LOCATED
IN THE COURT FILE AND CAN
BE VIEWED BY PERSONS
ALLOWED BY THE FLORIDA
STATUTES OR PERSONS
AUTHORIZED BY A COURT
ORDER.**

**IDENTIFICATION WILL BE
REQUIRED.**

EXHIBIT B

3RD BATTALION (HS), 5TH BRIGADE (MF),
94TH DIVISION (FS)



THIS CERTIFICATE IS AWARDED TO

SPC RIVERA, JORGE J.

FOR COMPLETING 40 CREDIT HOURS OF

Combat Lifesaver Course

CONDUCTED FROM 15 - 19 APRIL 2013
CLASS: 501



Fernando Velez
SSG VELEZ, FERNANDO
PRIMARY INSTRUCTOR

Carlos Olivero
SFC OLIVERO, CARLOS
COURSE MANAGER





828th Transportation Battalion



Certificate of Achievement

Is Awarded To

SPC JORGE J. RIVERARIVERA

In appreciation for your outstanding performance of duty during Golden Cargo 2012 while at Fort McClellan, Alabama. Your professionalism and commitment to doing the best job possible has done much to enhance the readiness standards of this command and reflects great credit upon yourself, the 828th Transportation Battalion and the United States Army Reserve.

Given this 17th day of July 2012

A handwritten signature in black ink, appearing to read 'L. A. Rosario', written over a horizontal line.

LUIS A. ROSARIO
COMMAND SERGEANT MAJOR

A handwritten signature in black ink, appearing to read 'Charles K. Joines', written over a horizontal line.

CHARLES K. JOINES
LTC, LG
Commanding

828th Transportation Battalion
Fort McClellan, Alabama

4th AAB "LONG KNIFE" HERO OF THE DAY

Rank/Name: SPC Jorge Rivera

MOS: Wheel Mechanic (91B)

Unit: CRT, B CO, 2-7 CAV

Hometown: Bayamon, Puerto Rico

Date: 28 October 2010



SPC Rivera, while serving as a wheel mechanic for B CO, 2-7 CAV, has been instrumental in the repair and recovery of the vehicles at JSS IMN, allowing TM Blackhawk to project its force across AO Blackhawk. With the assistance of his team, SPC Rivera has completed numerous complex and impressive tasks assigned to him. By his extensive knowledge of wheeled vehicles he identified the source of deficiencies on several vehicles and took the required action to return them to FMC status. One of his assigned tasks required SPC Rivera to disassemble and rebuild a working diesel engine with the parts of two dead-lined engines – which any seasoned gear-head will admit is a difficult task. SPC Rivera was also a key player in the recovery of a Blackhawk MRAP out in sector. As the M88 Operator for this specific recovery operation, he worked tirelessly to render aid to the disabled vehicle. Furthermore, upon recovery of the MRAP he then returned it to FMC status within hours. His outstanding technical proficiency were instrumental to the maintenance and recovery of Blackhawk Company's vehicles.. Not only is SPC Rivera an outstanding member of the Blackhawk team, but he is a great asset to the Ghost Battalion and the Long Knife Brigade. His willingness to succeed makes him an excellent choice for today's Long Knife Hero of the Day.



PM-MRAP

COB ADDER
TALLIL, IRAQ



CERTIFICATE of COMPLETION

Presented to

PV2 Jorge J. Rivera

On

June 23rd 2008

HAS SUCCESSFULLY COMPLETED THE 40 HOUR
MINE RESISTANT AMBUSH PROTECTED (MRAP) CAIMAN
FIELD LEVEL MAINTENANCE NEW EQUIPMENT TRAINING COURSE
CONDUCTED AT COB ADDER TALLIL, IRAQ



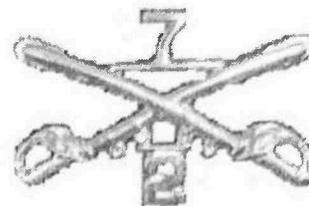
Joseph A. Johnston
Joseph A. Johnston
MRAP Senior
NET Instructor

Class 004

Billy J. Bolter
Billy J. Bolter
MRAP Site Lead
COB Adder



Order Of The Combat Spur



To Combat Veteran Cavalrymen Of All Wars and Troopers of Fighting Spirit, Greetings:

*Be it known that according to the ancient and honored custom among
Combat Cavalry Troopers*

SPC RIVERA, JORGE J.

is hereby awarded his Combat Spurs on the 1st day of June in the year 2009.

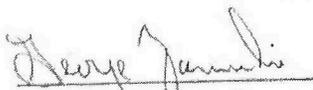
Having demonstrated that he possesses the Cavalryman's unique blend of courage under fire, heart, character, and the raw spirit of the charge, he is therefore entitled to the rights and privileges reserved for only Cavalrymen who have known the sting of battle while assigned to

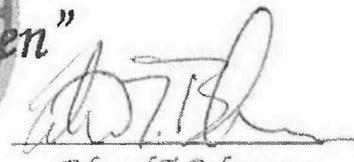
The Second Battalion, Seventh United States Cavalry

His successful completion of an incomprehensible number of combat missions assures his admission to the Noble Fraternity of Cavalry Troopers as well as entrance for all eternity to Fiddlers Green. He now joins the long line of Cavalry Troopers who have ridden before him into harms way under the red and white guidon.

In the name of St. George the Martyr, the Patron Saint of Cavalry and Armor, SPC Rivera is bade to wear these spurs with Honor — keeping true in thought and deed, serving with honor and courage; remaining forever vigilant with saber keen.

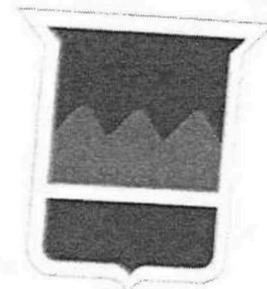
"First Team, Garry Owen"


George Zamudio
Command Sergeant Major
U.S. Cavalry


Edward T. Bohnemann
Lieutenant Colonel
U.S. Cavalry



2nd BATTALION (MILITARY POLICE)
80th REGIMENT
2ND BDE (MP), 102ND DIV (MS)



To all who shall see these presents, greetings.
Be it known that

SPECIALIST JORGE J. RIVERA-RIVERA

*having fulfilled the requirements of the school, has been declared a Graduate of the
Total Army School System
31E10 (Reclass) Internment/Resettlement Specialist Course
Completion of 160 Total Hours*

*In testimony whereof, we do confer this Diploma.
Given at Fort Knox, Kentucky this 16th day of November 2012.*

PROTECT THIS HOUSE!

OCT 21 - NOV 17, 2012

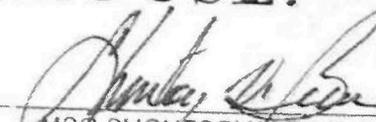

MSG SHONTORY V. BROWN
COURSE MANAGER

EXHIBIT C

EXHIBIT D

Date: 08/06/2025

To Whom It May Concern,

I am writing this letter on behalf of **Jorge Rivera**, a man I've come to know, deeply respect, and consider both a trusted friend and a valuable community member. I met Jorge several years ago through my regular visits to the USPS location where he works. I own two small businesses and also manage a third business part-time, and I am at the post office 4–5 days per week to ship packages. Through this regular interaction, I came to know Jorge not just as a postal worker, but as someone who consistently goes out of his way to help others, treat people with dignity, and protect those around him.

Jorge has taken care of me and my business needs with professionalism and genuine kindness since the day I met him. He treats every person who walks through the doors with respect, no matter how busy or challenging the day might be. Over time, our professional relationship evolved into a friendship, and I've had the opportunity to witness his true character—compassionate, loyal, and unwaveringly protective of the people he serves and works with.

One particular incident stands out that perfectly captures Jorge's integrity and sense of responsibility. During one of my visits, a customer began berating and belittling a fellow USPS employee. Jorge was briefly in the back room, and I stepped in to defend the employee, calmly asking the customer to be kind and respectful. The man became aggressive toward me—invading my personal space and yelling obscenities. Jorge heard the commotion, rushed out, and without hesitation placed himself between us. He protected both me and his coworker, and calmly de-escalated the situation, ultimately removing the man from the premises for the safety of everyone involved. His courage, clarity, and leadership were undeniable.

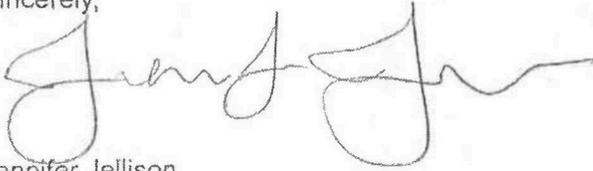
In one of my businesses, I work directly with U.S. military veterans struggling with PTSD, and through our personal conversations, Jorge has shared with me that he, too, lives with PTSD. I have seen how hard he works to manage it every day. His ability to remain calm under pressure, his commitment to his job, and his unwavering kindness are even more admirable knowing the challenges he silently bears.

Jorge is beloved by his coworkers and postal staff alike. He brings a calm, positive energy into every interaction and is always ready with a smile, a kind word, or a helping hand. My 7-year-old daughter often joins me when I drop off packages, and she loves the post office because she believes she's learning valuable skills of entrepreneurship, including "dropping the packages off herself." I stay right outside the glass doors, watching carefully, and every day that Jorge is there, he always goes out of his way to make her feel safe, seen, and proud of her little role. He greets her with a big smile, talks to her like a friend, and makes her feel important. That small act of kindness speaks volumes—because he does that for every customer, every day.

Above all, Jorge Rivera is a loyal, loving family man, and an asset to our community. He brings a rare mix of strength, humility, and service to his work and his relationships. I cannot emphasize enough the value he brings to those around him, and I ask you to take this into full consideration during your evaluation of his character.

If you need any further information or would like to speak with me directly, please don't hesitate to reach out.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Jellison". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Jennifer Jellison
Cannabidiol Life, The Gummy Group, & C&C Tee Shirts
Jenn@cannabidiollife.com
603-616-8839

Vicmary S. Juarbe
7726 Winegard Rd 2Nd Floor,
Suite 41, Orlando, FL 32809
Cell: 808-351-5526
Vicky.realtoronduty@gmail.com

Licensed Broker Associate
Real Estate Coach at Empire Network Realty
Iraq Combat Veteran's Wife

August 18, 2025

The Honorable Judge McNelly

Re: Character Reference for
Mr. Jorge Rivera

Dear Judge McNelly,

I trust this letter finds you and your family in good health and high spirits.

I am writing to you not only as a close friend of the Rivera family, but also as the wife of a Iraq combat veteran who understands firsthand the profound sacrifices our service members make for our nation. I have known veteran Jorge Rivera for many years, and I wish to share both my perspective and my sincere request for your compassion in this matter.

When our service members are on active duty, they are trained with unwavering dedication to protect themselves, their comrades, and our great American Nation and they serve with pride and honor. Yet, when they return home, many carry invisible wounds: trauma, emotional suffering, disabilities, and silent internal battles that most will never see. They bear changes in behavior and vivid memories of events that have forever marked their hearts.

I am, and will always be, deeply grateful to our veterans, for it is through their sacrifices that we enjoy safety and freedom in our country.

It is for this very reason that I come before you in writing today to respectfully ask that you grant

Mr. Rivera an opportunity and extend to him your special consideration. He is a devoted