

EXAMPLE EXERCISES

SECTION II

EXAMPLE MISDEMEANOR EXERCISES

*Each exercise presents a brief hypothetical case (misdemeanor class and prior criminal record). A list of questions follows. The answers to the questions and additional commentary are shown after entering an answer. Assume that all crimes were committed on or after **December 1, 2021**.*

EXAMPLE #1

OFFENSE: Carrying a concealed weapon

G.S. No.: 14-269

F/M: Misdemeanor

Class: 2

PRIOR RECORD

Prior Offense: Illegally parking in a handicapped parking space

Conviction Date: 2016 **F/M:** Infraction

Current Class: -

Prior Offense: Failure to stop at stop sign

Conviction Date: 2018 **F/M:** Infraction

Current Class: -

QUESTIONS

1. What is the offender's prior conviction level?
2. Can an active sentence be imposed?
3. Can an intermediate punishment be imposed?
4. If probation was revoked, what is the longest active sentence which the offender could be required to serve (assume the suspended sentence was 30 days)?
5. What is the maximum time the offender could serve in jail if the court found the offender in violation of probation and held the offender in contempt of court?

EXAMPLE #2

OFFENSE: Assault on a female

G.S. No.: 14-33

F/M: Misdemeanor

Class: A1

PRIOR RECORD

Prior Offense: Larceny (value of \$1,000 or less)

Conviction Date: 2013 **F/M:** Misdemeanor

Current Class: 1

Prior Offense: Larceny (value of \$1,000 or less)

Conviction Date: 2013 **F/M:** Misdemeanor

Current Class: 1

Prior Offense: Worthless check (value of \$2,000 or less)

Conviction Date: 2013 **F/M:** Misdemeanor

Current Class: 2

Prior Offense: Sale of a Schedule IV Controlled Substance

Conviction Date: 2015 **F/M:** Felony

Current Class: H

Prior Offense: Larceny (value more than \$1,000)

Conviction Date: 2017 **F/M:** Felony

Current Class: H

The offender was convicted of the three prior misdemeanor convictions during the same session of court.

QUESTIONS

1. What is the offender's prior conviction level?
2. What is the longest active sentence length which can be imposed?
3. Could the court suspend the sentence and impose an intermediate punishment?
4. Could the court suspend the sentence and impose a community punishment?

EXAMPLE #3

OFFENSE: Larceny (value of \$1,000 or less)

G.S. No.: 14-72 **F/M:** Misdemeanor **Class:** 1

OFFENSE: Injuring/damaging personal property (value of \$200 or less)

G.S. No.: 14-160 **F/M:** Misdemeanor **Class:** 2

PRIOR RECORD

Prior Offense: Burglary (in Oklahoma)

Conviction Date: 2005 **F/M:** Felony **Current Class:** ?

Prior Offense: Breaking or entering buildings

Conviction Date: 2010 **F/M:** Misdemeanor **Current Class:** 1

Prior Offense: Larceny (value of \$1,000 or less)

Conviction Date: 2012 **F/M:** Misdemeanor **Current Class:** 1

Prior Offense: Larceny (value of \$1,000 or less)

Conviction Date: 2017 **F/M:** Misdemeanor **Current Class:** 1

Prior Offense: Larceny (value of \$1,000 or less)

Conviction Date: 2018 **F/M:** Misdemeanor **Current Class:** 1

QUESTIONS

1. What is the offender's prior conviction level?
2. Could an active sentence be imposed?
3. What is the longest active sentence length which can be imposed if the sentences are consolidated?
4. What is the longest active sentence length which can be imposed if the sentences are run consecutively?
5. Could the court suspend the sentence, impose a community punishment and impose five years of supervised probation?

EXAMPLE #4

OFFENSE: Sale of cigarettes to minors (3 counts)

G.S. No.: 14-313

F/M: Misdemeanor

Class: 2

PRIOR RECORD: No prior record.

QUESTIONS

1. What is the offender's prior conviction level?
2. Could an active sentence be imposed?
3. What is the longest suspended sentence which can be imposed if the sentences are consolidated?
4. What is the longest suspended sentence which can be imposed if the sentences are run consecutively?

EXAMPLE #5

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| OFFENSE: Theft of cable television service (2 counts) | | |
| G.S. No.: 14-118.5 | F/M: Misdemeanor | Class: 3 |
| PRIOR RECORD | | |
| Prior Offense: Impaired driving | | |
| Conviction Date: 2005 | F/M: Misdemeanor | Current Class: - |
| Prior Offense: Impaired driving | | |
| Conviction Date: 2008 | F/M: Misdemeanor | Current Class: - |
| Prior Offense: Worthless check (value more than \$2,000) | | |
| Conviction Date: 2014 | F/M: Felony | Current Class: I |
| Prior Offense: Impaired driving | | |
| Conviction Date: 2016 | F/M: Misdemeanor | Current Class: - |
| Prior Offense: Worthless check (value more than \$2,000) | | |
| Conviction Date: 2018 | F/M: Felony | Current Class: I |

QUESTIONS

1. What is the offender's prior conviction level?
2. What is the longest suspended sentence which can be imposed if the sentences are consolidated?
3. Can the court impose consecutive sentences for these offenses?
4. If the offender is sentenced to special probation (as part of an intermediate punishment), what is the longest period of confinement which may be imposed?

EXAMPLE #1: ANSWERS AND COMMENTARY

1. What is the offender's prior conviction level?

Answer: Level I

Commentary: Prior infractions do not count in determining the prior conviction level; therefore, this offender has no prior convictions and falls into Prior Conviction Level I.

2. Can an active sentence be imposed?

Answer: No. However, if the offender has spent time in confinement awaiting trial, the judge may impose an active punishment.

Commentary: The only authorized disposition is a community punishment "C". An active punishment could be imposed only if the offender spent time in confinement awaiting trial and the sentence is equal to or less than that time.

3. Can an intermediate punishment be imposed?

Answer: No

Commentary: The only authorized disposition is a community punishment "C".

4. If probation was revoked, what is the longest active sentence which the offender could be required to serve (assume the suspended sentence was 30 days)?

Answer: 30 days

Commentary: The suspended sentence was 30 days. Therefore, upon revocation of probation, the longest active sentence which could be imposed is 30 days.

5. What is the maximum time the offender could serve in jail if the court found the offender in violation of probation and held the offender in contempt of court for it?

Answer: 30 days

Commentary: The court may hold the offender in contempt of court for willfully failing to comply with a condition of probation and may confine the offender for up to 30 days.

EXAMPLE #2: ANSWERS AND COMMENTARY

1. What is the offender's prior conviction level?

Answer: Level II

Commentary: The offender has three prior convictions and falls into Prior Conviction Level II. Since the three misdemeanor convictions occurred during the same session of court, they count only as one prior conviction.

2. What is the longest active sentence length which can be imposed?

Answer: 75 days

Commentary: Since the disposition includes an "A", an active sentence can be imposed. Since the sentence range is from 1 to 75 days, the longest sentence length which can be imposed is 75 days.

3. Could the court suspend the sentence and impose an intermediate punishment?

Answer: Yes

Commentary: An intermediate punishment "I" is authorized for this misdemeanor class and this prior conviction level.

4. Could the court suspend the sentence and impose a community punishment?

Answer: Yes

Commentary: A community punishment "C" is authorized for this misdemeanor class and this prior conviction level.

EXAMPLE #3: ANSWERS AND COMMENTARY

1. What is the offender's prior conviction level?

Answer: Prior Record Level III

Commentary: The out-of-state conviction counts if the court finds that it is proved by a preponderance of the evidence. Since the offender has four additional in-state prior convictions, the offender falls in Prior Conviction Level III.

2. Could an active sentence be imposed?

Answer: Yes

Commentary: An active sentence is authorized for all misdemeanor classes if the offender falls into Prior Conviction Level III.

3. What is the longest active sentence length which can be imposed if the sentences are consolidated?

Answer: 120 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the class and prior conviction level of the most serious misdemeanor conviction (that carrying the highest misdemeanor class). The most serious offense is the Class 1 misdemeanor larceny and the sentence range is from 1 to 120 days. Therefore, assuming the sentences are consolidated, the longest active sentence which can be imposed is 120 days.

4. What is the longest active sentence length which can be imposed if the sentences are run consecutively?

Answer: 180 days

Commentary: When running sentences consecutively, the sentence is determined separately for each conviction. For the Class 1 misdemeanor, the sentence range is from 1 to 120 days; for the Class 2 misdemeanor, the sentence range is from 1 to 60 days. Therefore, assuming the sentences are run consecutively, the longest active sentence which can be imposed is 180 days (120 days for the Class 1 misdemeanor and 60 days for the Class 2 misdemeanor).

5. Could the court suspend the sentence, impose a community punishment and impose five years of supervised probation?

Answer: Yes, providing the court finds that a probation term greater than 18 months is necessary.

Commentary: A community disposition is always an authorized sentence from misdemeanors. Statutes specify that if a community punishment is imposed, the term of probation should not be less than 6 months nor greater than 18 months. However, a longer or shorter term can be imposed if the court finds that such a term is necessary.

EXAMPLE #4: ANSWERS AND COMMENTARY

1. What is the offender's prior conviction level?

Answer: Level I

Commentary: The offender has no prior convictions and falls into Prior Conviction Level I.

2. Could an active sentence be imposed?

Answer: No. However, if the offender has spent time in confinement awaiting trial, the judge may impose an active punishment.

Commentary: The only authorized disposition is a community punishment "C". An active punishment could be imposed only if the offender spent time in confinement awaiting trial and the sentence is equal to or less than that time.

3. What is the longest suspended sentence which can be imposed if the sentences are consolidated?

Answer: 30 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the class and prior conviction level of the most serious misdemeanor conviction (that carrying the highest misdemeanor class). All three convictions are Class 2 misdemeanors, and the sentence range is from 1 to 30 days. Therefore, assuming the sentences are consolidated, the longest suspended sentence which can be imposed is 30 days.

4. What is the longest suspended sentence which can be imposed if the sentences are run consecutively?

Answer: 60 days

Commentary: When running sentences consecutively, the sentence is determined separately for each conviction. For each of the three misdemeanors, the sentence range is from 1 to 30 days. However, if sentences are imposed consecutively, the cumulative length of imprisonment cannot exceed twice that authorized for the class and prior conviction level of the most serious conviction (two times 30 days). Therefore, the longest suspended sentence would be 60 days. The third misdemeanor conviction would have to be consolidated with the other convictions or run concurrently.

EXAMPLE #5: ANSWERS AND COMMENTARY

1. What is the offender's prior conviction level?

Answer: Level III

Commentary: The offender has five prior convictions and falls into Prior Conviction Level III.

2. What is the longest suspended sentence which can be imposed if the sentences are consolidated?

Answer: 20 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the class and prior conviction level of the most serious misdemeanor conviction (that carrying the highest misdemeanor class). Both convictions are for Class 3 misdemeanors, and the sentence range is from 1 to 20 days. Therefore, the longest active sentence which can be imposed is 20 days, assuming the sentences are consolidated.

3. Can the court impose consecutive sentences for these offenses?

Answer: No

Commentary: Consecutive sentences are not authorized if the only convictions are for Class 3 misdemeanors. Therefore, the longest active sentence which can be imposed is 20 days. The second misdemeanor conviction would have to be consolidated or run concurrently.

4. If the offender is sentenced to special probation (as part of an intermediate punishment), what is the longest period of confinement which may be imposed?

Answer: 5 days

Commentary: The confinement portion of special probation cannot exceed one-fourth the period of imprisonment which the court imposes. Since 20 days is the longest authorized active sentence, the period of confinement for special probation cannot exceed 5 days.