

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

JEAN RENEL PAUL,

Appellant,

v.

Case No. 5D17-114

STATE OF FLORIDA,

Appellee.

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Opinion filed May 26, 2017

Appeal from the Circuit Court  
for Orange County,  
Thomas W. Turner, Judge.

James S. Purdy, Public Defender, and  
Sean Kevin Gravel, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Andrea K. Totten,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Jean Renel Paul appeals his judgment and sentence, contending that the trial court erred by applying an incorrect legal standard to his motion for new trial. We agree and remand for further consideration of Paul's new trial motion.

The proper standard of review to address a defendant's motion for new trial is whether the verdict is against the weight of the evidence. See Lee v. State, 117 So. 3d 848, 849 (Fla. 5th DCA 2013); Santiago v. State, 874 So. 2d 617, 625 (Fla. 5th DCA 2004). However, in this case, the trial court denied Paul's motion for a new trial using the sufficiency of the evidence standard. We therefore reverse and remand for the trial court to consider Paul's motion for new trial pursuant to the weight of the evidence standard. See Loudermilk v. State, 211 So. 3d 356, 356 (Fla. 5th DCA 2017).

REVERSED and REMANDED.

COHEN, C.J., ORFINGER and BERGER, JJ., concur.