

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

DERON SPEAR,  
Appellant,

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

v.

CASE NO. 1D01-2896

STATE OF FLORIDA,  
Appellee.

\_\_\_\_\_ /

Opinion filed December 11, 2003.

An appeal from an order of the Circuit Court for Leon County.  
Janet E. Ferris, Judge.

Steven L. Seliger, Esq. of Garcia and Seliger, Quincy, for Appellant.

Charlie Crist, Attorney General; Philip W. Edwards, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

Appellant, Deron Spear, raises two issues on appeal, only one of which requires reversal. Appellant contends that the trial court applied an incorrect standard in denying his motion for new trial, wherein he argued that the jury's verdict was against

the weight of the evidence. Because the trial court's findings indicate that the court may have applied the sufficiency of the evidence standard instead of the weight of the evidence standard, we reverse appellant's judgment and remand for the trial court to reconsider the motion. Upon remand, if the trial court concludes that the verdict is against the weight of the evidence, it should grant the motion for new trial. In the event the trial court concludes that the verdict is not against the weight of the evidence, it may again deny the motion and enter a new judgment and sentence accordingly. See Adams v. State, 417 So. 2d 826 (Fla. 1st DCA 1982); see also Geibel v. State, 817 So. 2d 1042 (Fla. 2d DCA 2002).

AFFIRMED in part; REVERSED in part and REMANDED.

BOOTH, BENTON and LEWIS, JJ., CONCUR.