

Third District Court of Appeal

State of Florida

Opinion filed September 25, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-2383
Lower Tribunal No. 10-18889

Gilberto Alvarez,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Lisa S. Walsh,
Judge.

Daniel Tibbitt, for appellant.

Ashley Moody, Attorney General, and Natalia Costea, Assistant Attorney
General, for appellee.

Before LOGUE, SCALES and GORDO, JJ.

PER CURIAM.

Affirmed. See Long v. State, 183 So. 3d 342, 346 (Fla. 2016) (In order for evidence to be newly discovered, “the evidence must not have been known by the trial court, the party, or counsel at the time of the plea, and it must appear that the defendant or defense counsel could not have known of it by the use of diligence.”); see also Agan v. State, 560 So. 2d 222, 222–23 (Fla. 1990) (citing Demps v. State, 515 So. 2d 196, 198 (Fla. 1987)) (finding that a defendant’s failure to request records within the two-year post-conviction time limit does not exempt the time requirement for purposes of post-conviction relief).