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IN THE CIRCUIT COURT FOR THE  
SIXTH JUDICIAL CIRCUIT, IN AND  
FOR PINELLAS COUNTY, FLORIDA.

CASE NO: CRC89-11425, 26, 27 CFANO-B

STATE OF FLORIDA,

Plaintiff,

VS

KEVIN HERRICK

Defendant. 362912

FILED  
CRIMINAL COURT RECORDS  
90 OCT 25 PM 1:14  
KARLEEN R. DEBLAKER  
CLERK OF CIRCUIT COURT

MOTION FOR NEW TRIAL

COMES NOW, the Defendant KEVIN HERRICK, by and through below signed counsel hereby moves this Court for a new trial and as grounds therefore would show:

1. That the verdict is contrary to the weight of the evidence in this case.

2. That the conduct of law enforcement in this case renders the prosecution fatally defective as a denial of due process.

WHEREFORE the Defendant, KEVIN HERRICK, respectfully requests that this Honorable Court grant unto him a new trial in this matter for the reasons set forth above.

Ed Leinster

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IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT, IN AND  
FOR PINELLAS COUNTY, FLORIDA

CASE NO: CRC89-11425CFANO

STATE OF FLORIDA,

Plaintiff,

vs

KEVIN HERRICK,

Defendant.

MOTION FOR NEW TRIAL

The Defendant in the above-styled cause hereby moves this Court for a new trial and more specifically would show:

1. That pursuant to Florida Rules of Criminal Procedure 3.580 and 3.600, the Defendant would urge this Court that the verdict is contrary to the law or the weight of the evidence.
2. That this Court sits as a "seventh juror" and has the inherent authority to override a jury verdict where the Court feels that the evidence against the Defendant was insufficient as a matter of law.
3. That the evidence against the Defendant was conflicting to the point that a reasonable juror would necessarily have had a reasonable doubt. The only witness to identify the Defendant as the assailant was the boyfriend of the victim whose identification of the Defendant was completely contrary to that of the victim herself. For instance, the victim described the Defendant as having bushy hair consistent with the real appearance of the Defendant.

(EXHIBIT E)

The boyfriend witness testified that at the time his hair was slicked back flat against his head. Because of the time involved from the assault until the Defendant's appearance on the scene, it would have been impossible for him to have changed his looks.

WHEREFORE the Defendant, KEVIN HERRICK, respectfully requests this Honorable Court grant unto him a new trial in this cause.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail delivery to the Office of the State Attorney, 5100 144th Avenue, Clearwater, Florida 34620 this the 8th day of January, 1991.



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EXHIBIT E