

EXHIBIT

"B"

IN THE CIRCUIT COURT FOR THE 17TH JUDICIAL CIRCUIT

IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Case #: 98-5739 CF10A

Plaintiff,

Judge: HOROWITZ for ROTHSCHILD

vs

ERNESTO BEHRENS,

Defendant.

RECEIVED
17TH JUDICIAL CIRCUIT COURT
BROWARD COUNTY, FL.
2000 NOV 28 AM 11:42
FELONY

**MOTION TO CORRECT PRIOR RECORD
AND OBJECTION TO UPWARD DEPARTURE SENTENCE**

COMES NOW Defendant and moves the Court correct the prior record of Defendant, including for purposes of upward departure, for this:

1. Defendant's prior criminal history includes his conviction and sentence in case #90-1320 CF10A, in the 17th Judicial Circuit in and for Broward County, Florida.

This judgment and sentence were imposed 14 May 1992 pursuant to a plea bargain.

2. Defendant agreed to plead 'guilty in his own best interest' to, the highest offense to which he agreed to plead being a 'second-degree felony' as set forth in the 'Acknowledgment of Plea and Waiver of Rights' form, the Honorable Judge John Frusciante, Circuit Judge, presiding. *See copy attached hereto.*

3. That it appears to Defendant this Court has construed the plea in said case to be for a felony punishable by life. However, as the plea form clearly reflects the maximum penalty for the highest offense to which Defendant pled was 15 years, not life.

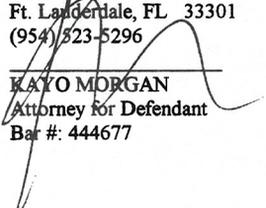
4. That it appears to Defendant this Court has departed from the applicable guidelines on the erroneous premise that the plea in said case was for a felony punishable by life.

5. The Court therefore needs to correct its sentencing order to accurately reflect the level of prior offenses to which Defendant in fact negotiated his plea bargain in the said earlier case, and sentence Defendant sub judice in accord with the applicable guidelines without departure.

WHEREFORE, Defendant so moves the Court.

I HEREBY CERTIFY a copy has been provided to the Office of the State Attorney, 201 SE 6th Street, Ft. Lauderdale, FL, this 28 November 2000.

KAYO MORGAN
Attorney at Law
432 NE 3rd Avenue
Ft. Lauderdale, FL 33301
(954) 523-5296


KAYO MORGAN
Attorney for Defendant
Bar #: 444677