

Judgment rendered January 8, 2009.
Application for rehearing may be filed
within the delay allowed by art. 922,
La. C. Cr. P.

No. 44,116-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Appellee

versus

GRALEY ROBERSON

Appellant

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Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 257,824

Honorable John R. Joyce, Judge

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BRUCE G. WHITTAKER

Counsel for
Appellant

PAUL J. CARMOUCHE
District Attorney

Counsel for
Appellee

JASON BROWN
Assistant District Attorney

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Before GASKINS, PEATROSS and MOORE, JJ.

PER CURIAM

On November 15, 2007, a jury convicted the defendant of possession of 400 grams or more of cocaine, a violation of La. R.S. 40:967(F)(1)(c). The defendant timely filed a motion for new trial on November 29, 2007. The state filed a habitual offender bill of information charging the defendant as a second felony offender. After reaching a plea agreement on the habitual offender bill, the defendant pled guilty and was sentenced on April 28, 2008 to 15 years at hard labor without benefit of probation, parole, or suspension of sentence in addition to a fine of \$250,000.

The record does not show that the trial court ruled on the motion for new trial. On December 1, 2008, this court ordered the state and defense to show cause in writing on or before January 5, 2009, why the defendant's sentence should not be vacated and the case remanded to the district court for further proceedings. The state responded, conceding the prematurity of this appeal caused by the trial court's failure to rule on the motion for new trial.

This matter is now assigned for summary disposition, without oral argument, under the authority of U.R.C.A. Rule 2-11.3. The sentence imposed is hereby set aside and vacated and the matter is remanded to the trial court for further proceedings. The appellant's right to appeal any adverse rulings or any sentence subsequently imposed is hereby reserved. *State v. Jackson*, 614 So. 2d 783 (La. App. 2d Cir. 1993).

SENTENCE VACATED; REMANDED FOR FURTHER
PROCEEDINGS.