

Judgment rendered August 7, 2013.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C.Cr.P.

No. 48,416-KA

PER CURIAM

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Appellee

versus

ANTYWANE ERIC WILLIAMS

Appellant

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Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 192617

Honorable Jeffrey Stephen Cox, Judge

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TERESA CULPEPPER CARROLL
Louisiana Appellate Project

Counsel for
Appellant

J. SCHUYLER MARVIN
District Attorney

Counsel for
Appellee

JOHN MICHAEL LAWRENCE
EDWARD CHARLES JACOBS
Assistant District Attorneys

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Before BROWN, DREW, and LOLLEY, JJ.

PER CURIAM,

Antywayne Eric Williams was convicted on August 28, 2012, by the 26th Judicial District Court, Parish of Bossier, State of Louisiana, of one count of attempted aggravated rape in violation of La. R.S. 14:27 and La. R.S. 14:42 and one count of home invasion in violation of La. R.S. 14:62.8. On September 4, 2012, he filed two *pro se* motions for appeal, and on October 17, 2012, he filed a *pro se* motion for new trial. The trial court granted one of the defendant's motions for appeal on October 25, 2012, without having ruled on the motion for new trial and prior to sentencing Williams on November 9, 2012. Williams was sentenced on the attempted aggravated rape charge to 35 years' imprisonment at hard labor without benefit of probation, parole, or suspension of sentence. On the home invasion charge, he was sentenced to 10 years' imprisonment at hard labor, with the first five years to be served without benefits, and the sentence was imposed to run concurrently with the first sentence.

The appellate record indicates that the trial court failed to rule on Williams' motion for new trial before sentencing him, as required by La. C. Cr. P. art. 853. Failure to rule on a motion for new trial prior to sentencing constitutes an error patent and necessitates that the sentence be vacated. *State v. Roberson*, 44,116 (La. App. 2d Cir. 01/08/09), 6 So. 3d 190, 191; *State v. Jackson*, 614 So. 2d 783 (La. App. 2d Cir. 1993). Accordingly, we hereby vacate Williams' sentences and remand the matter for a ruling on the motion for new trial and resentencing. Once he is resentenced, Williams may file a new motion for appeal of those sentences.

**CONVICTION AFFIRMED; SENTENCES VACATED;
REMANDED WITH INSTRUCTIONS.**