

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 56,964-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Appellee

versus

TRAVIS S. JUNE

Appellant

* * * * *

Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 398,675

Honorable Ramona L. Emanuel, Judge

* * * * *

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Before COX, MARCOTTE, and ELLENDER, JJ.

MARCOTTE, J.

This criminal appeal arises from the First Judicial District Court, Parish of Caddo, the Honorable Ramona Emanuel presiding. Defendant Travis S. June was convicted of attempted molestation of a juvenile under the age of 13 and sentenced to 40 years at hard labor. For the following reasons, we affirm June's conviction, vacate his sentence, and remand for resentencing.

FACTS AND PROCEDURAL HISTORY

On May 5, 2025, June was charged by amended bill of information with molestation of a juvenile under the age of 13, in violation of La. R.S. 14:81.2(A)(1) and (D)(1).¹ The victim, Z.P., was 10 years old when the offense occurred on October 11, 2023; the amended bill listed her date of birth as January 16, 2013. June pled not guilty. The state filed a "412.2 Notice," in which it said that it would present evidence of three incidents where June allegedly sexually assaulted one juvenile and two women. June filed a motion *in limine* in response arguing that he was not arrested for the three prior offenses, the probative value of that evidence outweighed its prejudicial effect, and the state did not prove that the offenses constituted proof of habit or routine. The trial court denied June's motion.

A jury trial was held where the following evidence was adduced. Z.P. identified June in open court and testified that he lived with her, her mother, and her siblings when the offense occurred. She stated that in November 2023, she told her grandmother that June was "coming in my room. He was messing with my feet." Z.P. stated that she saw June had his pants down.

¹ June was originally charged with molestation of a juvenile under La. R.S. 14:81.2(A)(1).

She testified that he was also “messaging with his private part.” She testified that June offered her \$5 not to tell anyone what he was doing. Z.P. said that she waited to tell her grandmother what happened because she was scared. She testified that she was interviewed by Jordan Hughes (“Hughes”) at the Gingerbread House Child Advocacy Center and that she told the truth in her interview.

Z.P.’s grandmother, K.E., testified that she and Z.P. were close. On November 11, 2023, K.E. reported to police that the day before, Z.P. asked her if she could spend the night with her. While at her grandmother’s house, Z.P. disclosed to her that June came into her bedroom, rubbed her feet, and then offered her money not to tell her mom. Z.P. also told K.E. that June “was rubbing on himself.” K.E. said that it was common for Z.P. to tell her things before telling her mom. K.E. stated that June was Z.P.’s stepfather. K.E. did not witness June behaving in such a manner toward Z.P.

Shreveport Police Department (“SPD”) Officer Terence Washington (“Ofc. Washington”) testified that he worked as a patrol officer on November 11, 2023, and received a call regarding a suspicious person. Ofc. Washington found June near the caller’s residence; he identified defendant in open court. He said that K.E. and Z.P. arrived at their location shortly thereafter. K.E. reported to him that June had molested Z.P. Z.P. told Ofc. Washington that June had rubbed her feet and her vagina, and that he had exposed his penis to her. Ofc. Washington described Z.P. as emotional and crying. He said that he *Mirandized* June, who then told him that someone from Z.P.’s family was trying to kill him because of the “situation.” Ofc. Washington referred the case to SPD Sex Crimes Detective Rodney Stewart (“Det. Stewart”).

Hughes testified that she interviewed Z.P. at the Gingerbread House on November 11, 2023. The recording of Z.P.'s Gingerbread House interview was admitted and played for the jury. In the interview, Z.P. gave her age as 10 years old and called June her stepdad. She said that he was "messaging with my feet while I sleep." She said he would pull his pants down and touch her feet while touching his private parts. She made a shaking motion with her hand and described June touching himself as "kind of like when boys pee." Z.P. said that June offered her \$5 not to tell anyone, which she refused. Hughes said that Z.P. did not state in her interview that June touched her "private parts," only her feet. Hughes confirmed that Z.P. said in her interview that June had his pants down while he was touching her.

Det. Stewart testified that he worked in the SPD Sex Crimes Unit on November 11, 2023, and he responded to a call from a patrol officer regarding a juvenile victim. At the scene, an officer informed Det. Stewart that Z.P. had disclosed that her mother's boyfriend came into her room, touched her feet, and exposed his penis to her. Det. Stewart identified June in open court as the person Z.P. said committed the offense. Det. Stewart confirmed Hughes' testimony about what Z.P. said in her Gingerbread House interview. Det. Stewart said that June was over the age of 17 when he committed the offenses.

Det. Stewart provided testimony about three prior reports of sex crimes made against June:

1. A 2016 report listed the offense as indecent behavior with a juvenile and said that a juvenile victim complained that June exposed his penis and placed it on her foot.

2. A 2017 report listed the offense as aggravated rape and said that an adult woman stated that June held a gun to her head and forced her to perform oral sex on him.

3. A 2019 report listed the offense as aggravated rape and said that an adult woman stated that June raped her in a vehicle.

Det. Stewart stated that June was not arrested for those offenses because of a lack of communication with the victims and contact with June. June moved for a mistrial arguing that the other crimes evidence was highly prejudicial. June referenced two objections made during a bench conference, in which he argued that the evidence Det. Stewart gave was hearsay and prejudicial, and it violated his right to confront his accusers. June said that the testimony the detective gave about why he was not arrested for the prior offenses was speculative. He argued that there was no way to repair the damage done because Det. Stewart gave “specific details” about each offense, which he was not allowed to do.

The state argued that, under La. C.E. art. 412.2, other crimes, wrongs, or acts involving sexual assault and a lustful disposition toward children is admissible. The state said that Det. Stewart was a member of the Sex Crimes Unit, and he read the reports of the prior offenses and had firsthand knowledge of what happened. The state argued that Det. Stewart also stated that June was never arrested for the prior offenses. The trial court noted that June did not seek supervisory review of the denial of his motion *in limine* and denied the motion for a mistrial.

After the motion was denied, June went on to argue that the court had not performed a balancing test of probative value versus prejudicial effect under La. C.E. art. 403. June noted that he was not informed by the state that it was going to bring in hearsay evidence; he contended that Det.

Stewart did not investigate the prior offenses or write the corresponding reports. The state countered that it informed June that it intended to use the reports of his prior offenses at trial and provided copies of the reports to defense counsel. The state also said that June put his argument about La. C.E. art. 403 in his motion *in limine*.

Det. Stewart testified that he did not communicate with the persons who made the prior allegations. He said that he was not aware of any tattoos that June had on his person, and he did not collect any physical evidence, such as bed sheets, June's pants, or DNA. Det. Stewart said that June told him that "no one wanted to see the victim's mother and him together, and he stated that there was some ongoing beef between the victim's father and himself." He stated that he did not follow up on threats made against June. Det. Stewart said that there were two other children living in the house with June and Z.P., but neither disclosed anything about June.

The state rested. June elected not to testify in his own defense, and the defense rested. Counsel made closing arguments, and the jury charge was read. The charge stated that a responsive verdict for molestation of a juvenile under the age of 13 was "guilty of attempted molestation of a juvenile under the age of 13." The jury returned a verdict of guilty of attempted molestation of a juvenile.

Following a bench conference, the state said that the jury's verdict form included a "clerical error" because the form did not include the responsive verdict "attempted molestation of a juvenile under the age of 13," but rather said "attempted molestation of a juvenile," which was not a responsive verdict to the charged offense. June objected under La. C. Cr. P. art. 813 about improper verdict procedure and said that double jeopardy

attached. The court overruled June's objection and rejected the original verdict form, "as to form only," under La. C. Cr. P. art. 813. The jury was provided with a corrected form and returned a unanimous verdict of guilty of attempted molestation of a juvenile under the age of 13.

June filed motions for a new trial and post-verdict judgment of acquittal and a sentencing memorandum. June made the same arguments regarding his other crimes evidence and the court's rejection of the initial verdict. On May 15, 2025, June was sentenced. First, June acknowledged that he received his sex offender registry paperwork, which appears in the record. The trial court denied June's motions. June objected and waived the sentencing delays.

The court sentenced June to 40 years at hard labor with credit for time served. He was ordered to register as a sex offender. The court noted the victim's age at the time of the offense and said that he was not allowed to have any contact with the victim. The court stated that he had a right to appeal his conviction and sentence and to pursue post-conviction relief, but the court did not provide a time frame for seeking relief. The trial court did not mention whether June was required to serve his sentence without benefits. June objected to the sentence and filed a motion to reconsider sentence, which was denied. June now appeals.

DISCUSSION

Sufficiency of the Evidence

June assigns four errors on appeal. We first must consider his claim that the evidence was sufficient to support his conviction of attempted molestation of a juvenile under the age of 13. When issues are raised on appeal both as to the sufficiency of the evidence and as to one or more trial

errors, the reviewing court should first determine the sufficiency of the evidence. *State v. McKnight*, 56,309 (La. App. 2 Cir. 7/16/25), 416 So. 3d 891, *writ denied*, 25-01042 (La. 2/10/26), 425 So. 3d 1205.

June contends that there was little evidence presented of how he exercised a position of control over Z.P. in committing the alleged offense; she did not describe threats, force, or intimidation, or submit to any directive from him. He argues that she was equivocal about whether June exposed himself, which is significant because the nature and extent of the lewd act bears on whether the elements of the offense, particularly the specific intent requirement, were met. June acknowledges that this court applies a highly deferential standard to sufficiency claims and that the evidence, if credited by the jury, could support the conviction. June states that he wants to preserve the issue and asks this court to evaluate whether the evidence was sufficient for each element of the offense.

The standard of appellate review for a sufficiency of the evidence claim is whether, after viewing the case in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); *State v. Tate*, 01-1658 (La. 5/20/03), 851 So. 2d 921, *cert. denied*, 541 U.S. 905, 124 S. Ct. 1604, 158 L. Ed. 2d 248 (2004); *State v. Waters*, 56,729 (La. App. 2 Cir. 2/25/26), 430 So. 3d 695. This standard, now legislatively embodied in La. C. Cr. P. art. 821, does not provide the appellate court with a vehicle to substitute its own appreciation of the evidence for that of the factfinder. *Waters, supra*. The appellate court does not assess the credibility of witnesses or reweigh the evidence. *State v. Smith*, 94-3116 (La. 10/16/95), 661 So. 2d 442;

Waters, supra. A reviewing court affords great deference to a trial court's decision to accept or reject the testimony of a witness in whole or in part.

Id.

It is the province of the factfinder to resolve conflicting inferences from the evidence. *Id.* In the absence of internal contradiction or irreconcilable conflict with physical evidence, the testimony of one witness, if believed by the trier of fact, is sufficient to support the requisite factual conclusion. *Id.* Such testimony alone is sufficient even where the state does not introduce medical, scientific, or physical evidence. *Id.* This is equally applicable to the testimony of sexual assault victims. *Id.*

Louisiana Revised Statute 14:81.2(A)(1) states:

Molestation of a juvenile is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

So to convict an accused of molestation of a juvenile, the state must prove beyond a reasonable doubt that the defendant: (1) was over the age of 17 and more than two years older than the victim; (2) committed a lewd or lascivious act upon the person or in the presence of any child under the age of 17; (3) had the specific intent to arouse or gratify the sexual desires of himself or the victim; and (4) committed the act by use of force, duress, psychological intimidation, or by the use of influence by virtue of a position of control or supervision over the juvenile.

A lewd or lascivious act, for the purposes of molestation of a juvenile, is one which tends to excite lust and to deprave morals with respect to sexual relations and which is obscene, indecent, and related to sexual impurity or incontinence carried on in a wanton manner. *State v. Eckles*, 56,621 (La. App. 2 Cir. 12/17/25), 426 So. 3d 788.

The evidence established beyond a reasonable doubt that June was guilty of attempted molestation of a juvenile under the age of 13. The evidence showed that June was over 17 and that Z.P. was 10 years old on the date of the offense. Z.P. stated during her Gingerbread House interview and testified in court that June touched his penis in front of her, while rubbing her feet. She described him touching himself as “kind of like when boys pee” and she made a shaking motion with her hand to further describe how June touched himself while fondling her feet.

Such actions were clearly lewd and lascivious acts. June undoubtedly had the specific intent to arouse himself or gratify his sexual desires when he took those actions, proven by his act of masturbating in front of the 10-year-old girl. Z.P. was under June’s control, as he was her stepfather and lived in her home at the time of the offense. Z.P.’s testimony was confirmed by her grandmother, her Gingerbread House interview, Det. Stewart, and Ofc. Washington.

The jury chose to credit the witnesses, who provided a consistent story of the events, and we will not disturb their verdict on appeal. Furthermore, the jury returned a responsive verdict, finding June guilty of the lesser offense of attempted molestation of a juvenile under the age of 13. This assignment of error lacks merit, and June’s conviction is affirmed.

Rejected Verdict

Next, June questions whether the trial court committed prejudicial error in rejecting the jury's initial verdict of guilty of attempted molestation of a juvenile. June argues that the jury's first verdict was a legislatively authorized responsive verdict. He complains that the trial court directed the jury to sign a corrected verdict form, convicting him of the greater offense of attempted molestation of a juvenile under the age of 13, without further deliberation, in violation of La. C. Cr. P. arts. 813, 814, and 815 and the Double Jeopardy Clauses of the Fifth Amendment to the U.S. Constitution and Article I, § 15 of the Louisiana Constitution.

June argues that La. C. Cr. P. art. 814 provides responsive verdicts, and for those offenses not enumerated in that article, La. C. Cr. P. art. 815 states that the only responsive verdicts are guilty of the offense charged, not guilty, or the jury may return a verdict on any lesser included offense supported by the evidence. June argues that the right to return a verdict on a lesser included offense exists by operation of law and cannot be extinguished by the omission of that offense from the form.

June contends that molestation of a juvenile is a lesser included offense of molestation of a juvenile under the age of 13; every element of the general offense is contained within the enhanced offense. June states that the only distinguishing element between the two offenses is the victim's age. June argues that the Louisiana Supreme Court held that courts must respect the jury's decision to convict of a lesser responsive offense rather than the greater charged offense. He maintains that the supreme court said Article 814 was not designed to give trial courts and prosecutors the option

to strike a lesser offense as a responsive verdict to prevent the jury from returning a compromise verdict.

June argues that the court telling the jury that it did not need to deliberate after the court rejected its initial verdict but only needed to sign a corrected verdict form eliminated the jury's independent function and directed a conviction on the greater offense. June states that once a verdict is returned, double jeopardy attaches, so the subsequent conviction for the greater offense was constitutionally barred. June asks that his conviction be reversed and the initial verdict of guilty of attempted molestation of a juvenile be reinstated. In the alternative, June asks for a new trial.

If the court finds that the verdict is incorrect in form or is not responsive to the indictment, it shall refuse to receive it and shall remand the jury with the necessary oral instructions. In such a case the court shall read the verdict and record the reasons for refusal. La. C. Cr. P. art. 813.

A defendant's double jeopardy concerns arise "only after original jeopardy attaches and terminates." *United States v. Garcia*, 567 F.3d 721, 730 (5th Cir. 2009) (citing *Richardson v. United States*, 468 U.S. 317, 325, 104 S. Ct. 3081, 82 L. Ed. 2d 242 (1984)). The original verdict of attempted molestation of a juvenile was not recorded or accepted by the trial court. Therefore, double jeopardy did not attach.

The Louisiana Supreme Court stated in *State v. Chester*, 24-00207, p. 1 (La. 6/27/25), 413 So. 3d 384, 385-86:

Defendant was charged with violating La. R.S. 14:89.1(A)(2), aggravated crime against nature when the victim (defendant's 12-year-old daughter in this instance) is under the age of eighteen. However, the bill of information was incomplete in that it failed to list the victim's date of birth, nor did it reference which of two potential penalty provisions, La. R.S. 14:89.1(C)(1) or La. R.S. 14:89.1(C)(2), would apply. *See*

generally *Apprendi v. New Jersey*, 530 U.S. 466, 490, 120 S. Ct. 2348, 2362-63, 147 L. Ed. 2d 435 (2000) (quoting with approval *Jones v. United States*, 526 U.S. 227, 119 S. Ct. 1215, 143 L. Ed. 2d 311 (1999) (“[o]ther than the fact of a prior conviction, any fact that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury, and proven beyond a reasonable doubt.”)... Defendant was convicted after the jury was instructed under subsection (C)(2), and then sentenced accordingly. Under the circumstances, the court of appeal was correct to find the charging instrument defective, as a fact that significantly increased the maximum penalty for the crime—the victim’s age—was *not* charged in the bill of information. Such a defect runs afoul of the clear language of *Apprendi* requiring such facts be charged, and the court of appeal was correct to find reversible error (emphasis in original).

In contrast with *Chester, supra*, the state charged June by amended bill of information with molestation of a juvenile under the age of 13, in violation of La. R.S. 14:81.2(A)(1) and (D)(1). Section (D)(1) provides the sentencing enhancement for defendants who are found guilty of molestation of a juvenile under the age of 13. So, the state sufficiently informed June that he was being charged with committing molestation upon a juvenile victim under the age of 13, and he was informed of the enhanced sentencing provision. Furthermore, the trial court instructed the jury that to convict June of molestation of a juvenile who is under the age of 13, it must find the victim was under the age of 13. The court also informed the jury that a responsive verdict for the charged offense was attempted molestation of a juvenile under the age of 13.

So, June was properly charged and the jury appropriately instructed under *Apprendi, supra*, and *Chester, supra*. Importantly, Section (D)(1) provides a sentencing enhancement. It was necessary to include the enhanced penalty provision and victim’s age in the charging document and jury instructions and to prove her age beyond a reasonable doubt at trial in

conformity with *Apprendi, supra*, for the purposes of sentencing June under the enhanced provision. The victim and her grandmother testified at trial that Z.P. was 10 years old when the incident at issue occurred, proving beyond a reasonable doubt that Z.P. was under the age of 13 when June committed his crime. Accordingly, this assignment lacks merit.

Other Crimes Evidence

In his next assignment of error, June questions whether the trial court erred in admitting other crimes evidence, in violation of La. C.E. arts. 412.2 and 403 and the Confrontation Clause of the Sixth Amendment to the U.S. Constitution, and further erred in denying his motion for a mistrial.

June argues that the record reflects that the trial court did not conduct the balancing test found in La. C.E. art. 403, as required by La. C.E. art. 412.2. He points out that two of the three allegations involved adult women and not children, and none of them resulted in an arrest or prosecution. He states that the probative value of “violent rapes of adults” used to prove that he molested a 10-year-old child is “marginal at best” and that a proper Article 403 analysis would have recognized the disparity.

June again complains that Det. Stewart was not involved in the three prior investigations and that he testified based on other officers’ reports. He contends that the jury’s verdict shows that his was a close case because the jury returned a responsive verdict. He asks that his conviction be overturned and his case remanded for a new trial.

Louisiana Code of Evidence Article 412.2 states:

A. When an accused is charged with a crime involving sexually assaultive behavior, or with acts that constitute a sex offense involving a victim who was under the age of seventeen at the time of the offense, evidence of the accused’s commission of another crime, wrong, or act involving sexually assaultive

behavior or acts which indicate a lustful disposition toward children may be admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in Article 403.

B. In a case in which the state intends to offer evidence under the provisions of this Article, the prosecution shall, upon request of the accused, provide reasonable notice in advance of trial of the nature of any such evidence it intends to introduce at trial for such purposes.

C. This Article shall not be construed to limit the admission or consideration of evidence under any other rule.

Louisiana Code of Evidence Article 412.2 creates an exception to the rule set forth in La. C.E. art. 404(B)(1), which generally prohibits the introduction of evidence of “other crimes, wrongs, or acts” for the purpose of proving a person’s character or propensity to criminal activity. *State v. Brown*, 55,466, p. 16 (La. App. 2 Cir. 3/13/24), 381 So. 3d 1007, 1019, *writ denied*, 24-00452 (La. 11/20/24), 396 So. 3d 69.

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time. La. C.E. art. 403.

Questions of relevancy and admissibility are discretion calls for the trial judge, and determinations regarding relevancy and admissibility should not be overturned absent a clear abuse of discretion. *Brown, supra*; *State v. Braden*, 55,275 (La. App. 2 Cir. 9/27/23), 372 So. 3d 900, *writ denied*, 23-01428 (La. 4/9/24) 382 So. 3d 830.

The confrontation clause of the Sixth Amendment to the U.S. Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him[.]” The Sixth Amendment bars the “admission of testimonial statements of a witness

who did not appear at trial unless he was unavailable to testify, and the defendant had had a prior opportunity for cross-examination.” *Crawford v. Washington*, 541 U.S. 36, 53-54, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004).

In addition, the confrontation clause of the Louisiana Constitution directly affords the accused the right to “confront and cross-examine the witness against him.” La. Const. art. I, § 16; *State v. Casey*, 99-0023 (La. 1/26/00), 775 So. 2d 1022, *cert. denied*, 531 U.S. 840, 121 S. Ct. 104, 148 L. Ed. 2d 62 (2000).

The main purpose of the confrontation clauses is to secure for the defendant the opportunity to cross-examine witnesses against him. Cross-examination is the primary means by which to test the believability and truthfulness of testimony, and it provides an opportunity to impeach or discredit witnesses. *State v. Mitchell*, 16-0834 (La. App. 1 Cir. 9/21/17), 231 So. 3d 710, *writ denied*, 17-1890 (La. 8/31/18), 251 So. 3d 410.

Even if hearsay evidence is erroneously admitted at trial, confrontation errors are subject to a harmless error analysis. *State v. Dillard*, 45,633 (La. App. 2 Cir. 11/3/10), 55 So. 3d 56, *writ denied*, 10-2853 (La. 11/18/11), 75 So. 3d 454. An error is harmless when the guilty verdict was surely unattributable to the error. *State v. Robertson*, 06-1537 (La. 1/16/08), 988 So. 2d 166; *Brown, supra*. Factors to be considered include the importance of the evidence to the state’s case, whether the testimony was cumulative, the presence or absence of additional corroboration of the evidence, the extent of cross-examination permitted, and the overall strength of the state’s case. *Id.*; *State v. Smith*, 54,510 (La. App. 2 Cir. 11/8/23), 374 So. 3d 1035.

June argues that the improper admission of the evidence was not harmless error because it was used to paint him in a bad light and to bolster Z.P.'s testimony. June urges that the improper admission denied him a fair trial and that the trial court should have declared mistrial based on the hearsay evidence. It is unnecessary to determine whether a hearsay exception applied to the other crimes evidence, the confrontation clause was implicated and violated, or the evidence failed the La. C.E. art. 403 balancing test. Any error was harmless because the verdict was surely unattributable to the evidence.

Z.P.'s testimony was consistent with the statement she provided in her Gingerbread House interview. It was also harmonious with the testimony given by her grandmother, Det. Stewart, and Ofc. Washington. Z.P. stated that June rubbed her feet while masturbating. She verbally and physically described June's actions. She said that June was her stepfather and lived in her house with the rest of her family. She was 10 years old at the time of the offense, and June bribed her to keep quiet about what he had done. We find that the verdict in this case is surely not attributable to the purported errors. The jury heard uncontradicted testimony about June's behavior and found him guilty of attempted molestation of a juvenile under the age of 13. This assignment of error lacks merit, and June's conviction is affirmed.

Excessive Sentence

In his final assignment of error, June argues that his sentence is excessive. Because this court is vacating June's sentence and remanding his case to the trial court for resentencing, this assignment of error is moot.

Errors Patent

The record has been reviewed for errors patent and two were found. First, the trial court provided June with an illegally lenient sentence when it failed to restrict his benefits when sentencing him. La. R.S. 14:81.2(D)(1) provides that whoever commits the crime of molestation of a juvenile when the victim is under the age of 13 years shall serve “at least 25 years of the sentence” without benefits. This error is not automatically corrected under La. R.S. 15:301.1 because the penalty language of the statute gives the trial court discretion in determining the exact length of time that benefits are to be withheld. *State v. Boehm*, 51,229 (La. App. 2 Cir. 4/5/17), 217 So. 3d 596. The sentence must be vacated and the case remanded to the trial court for resentencing in compliance with La. R.S. 14:81.2.

Second, the trial court did not properly advise June of his post-conviction relief time limits in accordance with La. C. Cr. P. art. 930.8. The trial court told June he was eligible to seek post-conviction relief, but it failed to inform him that he has two years from when his conviction and sentence become final to seek relief. Because June’s sentence will be vacated and his case remanded for resentencing, this error patent is moot.

CONCLUSION

For the reasons stated above, we affirm the conviction of defendant Travis S. June. His illegally lenient sentence is vacated, and the case is remanded to the trial court for resentencing.

CONVICTION AFFIRMED. SENTENCE VACATED; REMANDED FOR RESENTENCING.