

Judgment rendered August 3, 2007.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C.Cr.P.

No. 42,680-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

HAB
STATE OF LOUISIANA

Appellee

CBP
versus

MICHAEL WAYNE KATELY

Appellant

Dmm

Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 241858

Honorable John D. Mosely, Jr., Judge

JAMES E. BEAL
Louisiana Appellate Project

Counsel for
Appellant

PAUL J. CARMOUCHE
District Attorney

Counsel for
Appellee

JOHN FORD McWILLIAMS, JR.
PHILIP HOUSE
Assistant District Attorneys

Before BROWN, PEATROSS, and MOORE, JJ.

NOT DESIGNATED FOR PUBLICATION.
Rule 2-16.3, Uniform Rules, Courts of Appeal.

PER CURIAM.

This appeal arises from the First Judicial District Court, Parish of Caddo, the Honorable John Mosely presiding. Our error patent review reveals, and the parties concede, the prematurity of this appeal caused by the trial court's failure to rule on a motion for post-verdict judgment of acquittal.

On July 25, 2006, the jury convicted defendant of intentional exposure to the AIDS virus. On August 28, 2006, the defendant filed a motion for post-judgment verdict of acquittal. On December 4, 2006, the trial court sentenced defendant to nine years imprisonment at hard labor. The record is silent as to whether the trial court ruled on the motion for post-verdict judgment of acquittal.

The sentence imposed is hereby vacated, and the matter is remanded to the trial court for further proceedings, which include ruling on the motion for post-verdict judgment of acquittal and a new sentencing hearing. The defendant'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.