

**STATE OF LOUISIANA**

\*

**NO. 2001-KA-0333**

**VERSUS**

\*

**COURT OF APPEAL**

**PATRICK D. HENRY**

\*

**FOURTH CIRCUIT**

\*

**STATE OF LOUISIANA**

\*

\*

\*\*\*\*\*

APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 418-060, SECTION "J"  
Honorable Leon Cannizzaro, Judge

\*\*\*\*\*

\*\*\*\*\*

**Judge Steven R. Plotkin**

\*\*\*\*\*

(Court composed of Chief Judge William H. Byrnes III, Judge Steven R. Plotkin, Judge Miriam G. Waltzer)

**(ON APPLICATION FOR REHEARING)**

Harry F. Connick  
District Attorney  
Leslie Parker Tullier  
Assistant District Attorney  
619 South White Street  
New Orleans, LA 70119

**COUNSEL FOR PLAINTIFF/APPELLEE**

William R. Campbell, Jr.

LOUISIANA APPELLATE PROJECT  
700 Camp Street  
New Orleans, LA 70130  
**COUNSEL FOR DEFENDANT/APPELLANT**

**PREVIOUS DECREE VACATED; REVERSED**

On rehearing we vacate the previous decree and reverse the ruling of the trial court. When the entirety of the evidence, including inadmissible evidence which was erroneously admitted, is insufficient to support the conviction, the accused must be discharged as to that crime, and any discussion by the court of the trial error issues as to that crime would be pure dicta since those issues are moot. State v. Hearold, 603 So.2d 731, 734 (La.1992). Looking at the evidence and testimony in the instant case we find that the State did not produce sufficient evidence to sustain a conviction for attempted stalking.

For the reasons stated above the previous decree of this Court in the above captioned matter is vacated and the defendant's conviction and sentence are reversed.

**PREVIOUS DECREE VACATED; REVERSED**