

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA * **NO. 2002-KA-1084**
VERSUS * **COURT OF APPEAL**
CEDRIC WILLIAMS * **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 374-816, SECTION "G"
Honorable Julian A. Parker, Judge
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Judge Terri F. Love
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(Court composed of Chief Judge William H. Byrnes III, Judge Terri F. Love,
Judge Max N. Tobias, Jr.)

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**AFFIRMED IN PART;
SENTENCE VACATED IN PART;
REMANDED**

This appeal concerns resentencing. Cedric Williams argues that the trial court erred when it failed to adjudicate him a multiple offender prior to resentencing him under La. R.S. 15:529.1. We agree.

On April 21, 1997, Cedric Williams was convicted of the armed robbery of Robert Muzik and the attempted armed robbery of Rachel Hargis Muzik, with both offenses occurring in a single criminal episode. He was sentenced on May 16, 1997 to serve fifty-two years on count one and to thirty years on count two, both without benefit of probation, parole, or suspension of sentence. On that same day, the State filed a bill of information charging Williams as a second felony offender based upon a March 1994 guilty plea to possession of cocaine. Williams appealed his convictions and sentences, and in an unpublished opinion, this court affirmed the convictions, vacated the sentences and remanded the case for resentencing on the grounds that the trial court failed to state for the record the factual basis for the sentences as required by Article 894.1 of the Code of

Criminal Procedure. State v. Williams, 97-2433 (La. App. 4 Cir. 9/16/98), 720 So.2d 475.

On April 9, 1999, after a hearing on the multiple bill, the court held that Williams was a second felony offender and sentenced the defendant to serve fifty-two years without benefit of parole, probation, or suspension of sentence on the armed robbery conviction and to serve thirty years without benefit of parole, probation, or suspension of sentence on the attempted armed robbery conviction. The defendant appealed, and in an unpublished opinion, this court vacated his adjudication as a multiple offender and his sentences after finding that he was multiple billed on both offenses. State v. Williams, 99-2473 (La. App. 4 Cir. 2/16/00), 761 So.2d 823.

On December 4, 2001, he was resentenced to fifty-two years as a second offender on the armed robbery conviction; the sentence was imposed without benefits of parole, probation, or suspension of sentence. Williams received a thirty-year sentence for the attempted armed robbery; this sentence too was imposed without benefits and to run concurrently with the first sentence but consecutively with any other sentence the defendant is serving. The defendant appeals these sentences arguing that the trial court erred in failing to adjudicate the defendant a second offender prior to his resentencing.

The facts of the case are not relevant to the issue presented.

The defendant's position is correct. At the December 4, 2001, sentencing hearing, the trial court mistakenly stated that the defendant had been adjudicated a second felony offender and then proceeded to impose a sentence. Thus, it appears the trial court misinterpreted this court's action in vacating the multiple offender adjudication.

Accordingly, we vacate the defendant's fifty-two year sentence as a second offender and remand the case so that the trial court can make a determination of the defendant's multiple offender status prior to his being resentenced. We affirm his thirty-year sentence for his attempted armed robbery conviction.

**AFFIRMED IN PART;
SENTENCE VACATED IN PART;
REMANDED**