

STATE OF LOUISIANA

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NO. 2017-KA-0396

VERSUS

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COURT OF APPEAL

FREDDIE W. JOHNSON

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 521-533, SECTION "G"
Honorable Byron C. Williams, Judge

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Judge Edwin A. Lombard

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(Court composed of Judge Terri F. Love, Judge Edwin A. Lombard, Judge Roland L. Belsome)

Leon A. Cannizzaro, Jr.
DISTRICT ATTORNEY
Donna Andrieu
ASSISTANT DISTRICT ATTORNEY
ORLEANS PARISH DISTRICT ATTORNEY'S OFFICE
619 South White Street
New Orleans, LA 70119

COUNSEL FOR THE STATE OF LOUISIANA

Christopher J. Murell
Cormac S. Boyle
CAPITAL APPEALS PROJECT
636 Baronne Street
New Orleans, LA 70113

COUNSEL FOR DEFENDANT/APPELLANT

APPEAL DISMISSED

OCTOBER 4, 2017

The defendant, Freddie W. Johnson, appeals his conviction for attempted second degree murder and being a felon in possession of a firearm. After review of the record in light of the applicable law, we dismiss the appeal without prejudice.

Relevant Facts and Procedural History

The defendant was convicted on June 15, 2016. On July 19, 2016, he filed his Motion for New Trial. The district court denied his motion and sentenced the defendant to twenty years at hard labor. Counsel was appointed to represent the defendant on appeal and the State filed a multiple offender bill of information.

The defendant's appeal was lodged in this court on May 8, 2017. On May 15, 2017, counsel for the defendant filed a motion to supplement the record and suspend the briefing schedule. On May 18, 2017, the motion was granted in two separate orders and the briefing schedule was suspended.

On June 15, 2017, counsel for the defendant file a Second Motion for a New Trial in the district court. On that same date, counsel for the defendant filed a motion in this court requesting a stay of appellate proceedings pending the district court's determination of his Second Motion for a New Trial; concomitantly, in

accordance with La. Code Crim. Proc. art. 853(C), the defendant also requested remand to the district court for consideration of the defendant's Second Motion for New Trial. On June 22, 2017, the defendant's motion was granted.

The defendant's Motion for New Trial is pending in the district court.

Discussion

Because the district court has not yet ruled on the defendant's Second Motion for New Trial, the instant appeal is hereby dismissed without prejudice. The defendant's right to appeal his conviction and sentence is preserved and his new appeal may be filed after the district rules upon the pending Second Motion for New Trial.

Conclusion

The defendant's appeal is dismissed without prejudice.

APPEAL DISMISSED.