

STATE OF LOUISIANA

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NO. 2018-KA-0482

VERSUS

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COURT OF APPEAL

RUDY FRANCIS

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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LEDET, J., DISSENTS IN PART WITH REASONS

I dissent from the majority's decision to affirm Mr. Francis' sentence. As we previously observed, the district court's failure to observe the twenty-four-hour delay required by La. C.Cr.P. art. 873 between denying Mr. Francis' motion for new trial and imposing sentence is an error patent. *State v. Francis*, 11-1082, p. 11 (La. App. 4 Cir. 11/7/12) (*unpub.*), 2012 WL 6619022, *6. We previously found that error to be harmless because Mr. Francis did not complain of his sentence on appeal. *Id.* (citing *State v. Collins*, 584 So.2d 356, 359 (La. App. 4th Cir. 1991)). Because Mr. Francis now complains of his sentence on appeal, I would vacate Mr. Francis' sentence and remand this case to the district court for resentencing. In all other respects, I join the majority's opinion.