

State v. Jones (2007-208)

2007 VT 117

[Filed 12-Oct-2007]

ENTRY ORDER

2007 VT 117

SUPREME COURT DOCKET NO. 2007-208

OCTOBER TERM, 2007

State of Vermont

v.

Everett Jones, Jr.

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APPEALED FROM:

District Court of Vermont,
Unit No. 1, Orange Circuit

DOCKET NO. 476-11-05 Oecr

Trial Judge: M. Patricia Zimmerman

In the above-entitled cause, the Clerk will enter:

¶ 1. Defendant Everett Jones, Jr. appeals from his conviction, after a jury trial, for aggravated sexual assault, under the current versions of 13 V.S.A. §§ 3252(a)(3) and 3253(a)(9), for acts committed between 1979 and 1983. Defendant contends, among other things, that the information failed to charge an offense extant at the time of the crimes. The State concedes this error, and also concedes that no legislative amendment applies retroactively to criminalize defendant's conduct and that the jury instruction omitted the essential elements of aggravated

sexual assault. We agree with defendant and the State that the information failed to charge an offense, and accordingly reverse defendant's conviction.

Conviction reversed; mandate to issue forthwith.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice