

Criminal Procedure

Appeal Issues

[State v. Howard](#), __ N.C. __, __ S.E.2d __ (Mar. 7, 2014). The court affirmed per curiam the decision below in [State v. Howard](#), __ N.C. App. __, 742 S.E.2d 858 (June 18, 2013) (over a dissent, the court dismissed the defendant's appeal where the defendant objected to the challenged evidence at trial under Rule 403 but on appeal argued that it was improper under Rule 404(b); the court stated: "A defendant cannot 'swap horses between courts in order to get a better mount'"; the dissenting judge believed that the defendant preserved his argument and that the evidence was improperly admitted).

Indictment Issues

[State v. Jones](#), __ N.C. __, __ S.E.2d __ (Mar. 7, 2014). (1) Affirming the decision below in [State v. Jones](#), __ N.C. App. __, 734 S.E.2d 617 (Nov. 20, 2012), the court held that an indictment charging obtaining property by false pretenses was defective where it failed to specify with particularity the property obtained. The indictment alleged that the defendant obtained "services" from two businesses but did not describe the services. (2) The court also held that an indictment charging trafficking in stolen identities was defective because it did not allege the recipient of the identifying information or that the recipient's name was unknown.

Criminal Offenses

Frauds

[State v. Jones](#), __ N.C. __, __ S.E.2d __ (Mar. 7, 2014). Affirming the decision below in [State v. Jones](#), __ N.C. App. __, 734 S.E.2d 617 (Nov. 20, 2012), the court held that the evidence was sufficient to establish identity theft. The case arose out of a scheme whereby one of the defendants, who worked at a hotel, obtained the four victim's credit card information when they checked into the premises. The defendant argued the evidence was insufficient on his intent to fraudulently use the victim's cards. However, the court found that based on evidence that the defendant had fraudulently used other individuals' credit card numbers, a reasonable juror could infer that he possessed the four victim's credit card numbers with the intent to fraudulently represent that he was those individuals for the purpose of making financial transactions in their names. The defendant argued further that the transactions involving other individuals' credit cards actually negated the required intent because when he made them, he used false names that did not match the credit cards used. He continued, asserting that this negates the suggestion that he intended to represent himself as the person named on the cards. The court rejected that argument, stating: "We cannot conclude that the Legislature intended for individuals to escape criminal liability simply by stating or signing a name that differs from the cardholder's name. Such a result would be absurd and contravene the manifest purpose of the Legislature to criminalize fraudulent use of identifying information."