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68 Vol. 3, No. 1, January 30, 1995

Court of Criminal Appeals

Opinion delivered January 25, 1995

Stevens v. State, (01/25/95) No. 950-93; Baird, J.

Facts: Appellant was charged with the aggravated sexual assault of "10059-040584." The State made no effort during trial on the merits to prove that the victim and 10059-040584 were the same person, although the victim's real name had been disclosed and discussed during pre-trial hearings.

Due process guarantees the Defendant notice of the charges against him.

Sufficiency (General): (1) Only a material variance is fatal; (2) a variance which does not operate to the Defendant's surprise or prejudice his rights is not material.

Sufficiency / Element of Offense / Name of Victim: Failure to prove that victim and person named by pseudonym in the indictment is not material so long as the Defendant's due process right to notice is satisfied.