

VIRGINIA

Gardner v. Commonwealth

262 Va. 18 · Decided June 8, 2001

SUMMARY

The Supreme Court of Virginia held that a fatal variance existed between an indictment alleging that money obtained by false pretenses was the property of George Gardner and evidence showing that the money was owned by the bank. Because ownership of the property was a substantive and descriptive allegation that could not be treated as surplusage, the court reversed the Court of Appeals, vacated the trial court's judgment, and dismissed the indictment. Justice Kinser dissented, reasoning that the offense was complete when Gardner obtained the bank's money and that no prejudicial variance occurred.

CASE DETAILS

JURISDICTION	Virginia
DECIDED	June 8, 2001