

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND CRAIG JONES,

Defendant-Appellant.

UNPUBLISHED
September 22, 2009

No. 276690
Wayne Circuit Court
LC No. 06-005379-01

ON REMAND

Before: Markey, P.J., and Wilder and M. J. Kelly, JJ.¹

Wilder, J., (*concurring*).

In defendant's appeal of right, the majority reversed defendant's conviction and remanded for a new trial on the basis that defendant had been denied the effective assistance of counsel. *People v Jones*, unpublished opinion per curiam of the Court of Appeals, issued August 12, 2008 (Docket No. 276690). I disagreed with the majority's conclusion that defendant had been denied the effective assistance of counsel, *Jones*, *id*, slip op at p*6 (Wilder, J., concurring in part and concurring in the judgment), but alternately concluded that the midtrial amendment of the information entitled defendant to a new trial. *Id.*, slip op at pp*6, *8 (Wilder, J., concurring in part and concurring in the judgment).

On the prosecution's application for leave to appeal, our Supreme Court reversed in part the judgment of this Court that defendant had been denied the effective assistance of counsel, *People v Jones*, 483 Mich 899; 761 NW2d 97 (2009), and remanded "for consideration of whether [a] midtrial amendment of the information entitles defendant to a new trial." *Id.* at 900. On remand and after further examination of the record, I now agree with Judge Markey that defendant has failed to show that the trial court abused its discretion in permitting the prosecution to amend the information midtrial. Accordingly, I join with Judge Markey's opinion.

/s/ Kurtis T. Wilder

¹ Judge Michael J. Kelly has substituted for former Court of Appeals Judge Helene N. White.