

STATE OF MAINE
CUMBERLAND, ss.

UNIFIED CRIMINAL COURT
PORTLAND
Docket Nos. CR 2018-4409

STATE OF MAINE

STATE OF MAINE
Cumberland, SS. Clerk's Office

JAN 18 2019

v.

RECEIVED

ORDER

WILLIAM POTTER,

Defendant

The Defendant has been charged with Class A gross sexual assault during the period from June 20, 1984 to October 31, 2007 and with Class D incest during the period of October 29, 1989 to October 31, 2007. The alleged victim of both offenses was born on October 29, 1971. The Defendant has made an oral motion to limit the gross sexual assault charge to the period of October 10, 1985 to October 29, 1987 and to dismiss the incest charge on its entirety based on the statute of limitations.

When the conduct allegedly began in June of 1984 the statute of limitations for a Class A offense was six years and for a Class D offense three years. Effective October 9, 1991 the statute of limitations for a gross sexual assault, which was not time barred, was changed to allow prosecution to "be commenced at any time", 17-A M.R.S. §8 (1), if the victim was under the age of 16 at the time of the offense. Going back 6 years from October 9, 1991 brings us to October 9, 1985. The alleged victim's sixteenth birthday was October 29, 1987. A prosecution for any gross sexual assault between October 10, 1985 and October 29, 1987 is permitted.

The statute of limitations for any Class A offense of gross sexual assault, including those with a victim over the age of 16, has been extended to eight years. 17-A M.R.S. §2-

Entered on the Docket: 1-22-19

A. This case began, 17-A M.R.S. §8(6)(B)(2), with an indictment of August 10, 2018 more than eight years after the concluding date of October 31, 2007 alleged in the indictment.

The incest charge has a three-year statute of limitation. The alleged ending date of October 31, 2007 is well outside the three years.

It is correct that 17-A M.R.S. §8 (6)(A) provides that; "A crime is committed when every element has occurred, or if the crime consists of a continuing course of conduct, at the time when the course of conduct or the defendant's complicity is terminated." Here the last date alleged is October 31, 2007. The statute of limitation for all acts, other than those before age 16, starts to run on October 31, 2007. Most of the indictment comes too late.

The entry is:

Oral motion to limit the indictment is granted. Count 2 is dismissed. Count 1 is limited to the period of October 10, 1985 to October 29, 1987.

DATED: January 18, 2019



Paul A. Fritzsche
Unified Criminal Court Judge