

**NOVA SCOTIA COURT OF APPEAL**

**Citation: *R. v. R.T.H.*, 2007 NSCA 18**

**Date:** 20070209

**Docket:** CAC 248144

**Registry:** Halifax

**Between:**

R.T.H.

Appellant

v.

Her Majesty the Queen

Respondent

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**Restriction on publication:** pursuant to ss. 278.9(1) and s. 486(3) [now s. 486.4(1)] of the **Criminal Code**.

**Judge:** The Honourable Justice Thomas Cromwell

**Appeal Heard:** November 28, 2006

**Subject:** Sexual assault; third party records; jury instructions

**Summary:** The appellant was convicted by judge and jury of five sexual offences committed against three female complainants while they were children.

**Issues:**

1. Is the verdict unreasonable?
2. Did the judge err in law by:
  - a. failing to order separate trials?
  - b. unduly limiting the scope of a hypothetical question posed to the defence expert witness?
  - c. not ordering the Children's Aid records of one of the complainants to be produced to the defence?
  - d. failing to properly instruct the jury about the use of

evidence from one count in relation to other counts and about the use of evidence about the appellant's uncharged discreditable acts?

**Result:**

Appeal dismissed. The verdict was reasonable, the judge did not err by failing to order separate trials or in limiting the scope of expert evidence. The judge did err in his instructions to the jury by failing to warn the jury not to engage in propensity reasoning based on evidence of the appellant's uncharged discreditable acts. The judge also erred in failing to order produced the CAS records in relation to one of the complainants. However, these errors assessed in combination could not reasonably have affected the result.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 25 pages.**