

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. T.E.H., 2011 NSCA 117

Date: 20111215

Docket: CAC 341395

Registry: Halifax

Between:

T. E. H.

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: Section 486.4 of the **Criminal Code**

Editorial Notice

Identifying information has been removed from this electronic version of the library sheet.

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: October 5, 2011

Subject: Criminal Law, Misapprehension of the evidence, Insufficient reasons, Sentence

Summary: The appellant, aged 51, was convicted of sexual interference and invitation to sexual touching, both involving a person under the age of 16, and sentenced to two consecutive eight- month sentences. The evidence was that these offences occurred on two separate days at a secluded public swimming hole, with an escalation in the seriousness of the activity to reciprocal oral sex on the second visit.

Issue: Did the judge misapprehend the evidence, misapply **R. v. W.(D.)**, [1991] 1 SCR 742, or give insufficient reasons? Was the sentence improper, unfit or unduly harsh?

Result:

Appeal dismissed. The judge did not misapprehend the evidence, properly considered and applied **W.(D.)** and her reasons were adequate. It is not necessary that she refer to each aspect of the evidence in her reasons. Her reasons indicate she was alive to the issues in this short, simple trial. They inform the parties of the basis of the verdict, provide public accountability and permit meaningful appellate review. Deference is owed to the sentencing judge on both the length of the sentences and whether they are served consecutively or concurrently. The sentence was not improper, unfit or unduly harsh.

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 18 pages.