

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Wilcox, 2014 SCC 75, [2014] 3 S.C.R. 616 | **Date:** 20141208  **Docket:** 35758 |

Between:

James Steven Wilcox

Appellant

and

Her Majesty The Queen

Respondent

and

Canadian HIV/AIDS Legal Network,

HIV & AIDS Legal Clinic Ontario and

Coalition des organismes communautaires

**québécois de lutte contre le sida**

Interveners

**Coram:** McLachlin C.J. and Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ.

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| **Reasons for Judgment:**  (para. 1) | Karakatsanis J. (McLachlin C.J. and Rothstein, Cromwell, Moldaver, Wagner and Gascon JJ. concurring) |

r. *v.* wilcox, 2014 SCC 75, [2014] 3 S.C.R. 616

James Steven Wilcox Appellant

v.

Her Majesty The Queen Respondent

and

Canadian HIV/AIDS Legal Network,

HIV & AIDS Legal Clinic Ontario and

Coalition des organismes communautaires

québécois de lutte contre le sida Interveners

**Indexed as: R. *v.* Wilcox**

2014 SCC 75

File No.: 35758.

2014: December 8.

Present: McLachlin C.J. and Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ.

on appeal from the court of appeal for quebec

*Criminal law ― Evidence ― Assessment ― Accused convicted of aggravated sexual assault as a result of having transmitted HIV to complainant ― Trial judge finding that complainant would not have engaged in sexual relations had he known about accused’s HIV positive status ― Trial judge properly analyzed complainant’s credibility in light of evidence as a whole.*

**Cases Cited**

**Referred to:** *R. v. W. (D.)*, [1991] 1 S.C.R. 742.

APPEAL from a judgment of the Quebec Court of Appeal (Dalphond, Hilton and Bélanger JJ.A.), 2014 QCCA 321, 307 C.C.C. (3d) 355, SOQUIJ AZ-51046931, [2014] Q.J. No. 1180 (QL), 2014 CarswellQue 1137, upholding the accused’s conviction for aggravated sexual assault. Appeal dismissed.

Jeffrey K. Boro and Jonathan Gordon, for the appellant.

Dennis Galiatsatos and Richard Audet, for the respondent.

Jonathan A. Shime and Amanda Ross, for the intervener the Canadian HIV/AIDS Legal Network.

Ryan Peck, for the intervener the HIV & AIDS Legal Clinic Ontario.

Liz Lacharpagne, for the intervener Coalition des organismes communautaires québécois de lutte contre le sida.

The judgment of the Court was delivered orally by

1. Karakatsanis J. — This is an appeal as of right on a question of law. We agree with the majority of the Quebec Court of Appeal that it was open to the trial judge to conclude beyond a reasonable doubt that the complainant would not have engaged in sexual relations had he known about the appellant’s HIV positive status. The fact that the trial judge also found that it was possible that the sexual relationship continued after disclosure, despite the complainant’s denial, does not necessarily render that first finding unreasonable. While it would have been preferable for the trial judge to more fully explain his reasoning relating to the complainant’s credibility, we are not satisfied that the trial judge erred in the analytical process set out in *R. v. W. (D.)*, [1991] 1 S.C.R. 742, or that he failed to analyze the evidence as a whole relating to an ultimate issue. The appeal is dismissed.

*Judgment accordingly.*

Solicitors for the appellant: Boro, Polnicky, Lighter, Montréal.

Solicitor for the respondent: Director of Criminal and Penal Prosecution Services of Quebec, Montréal.

Solicitors for the intervener the Canadian HIV/AIDS Legal Network: Cooper, Sandler, Shime & Bergman, Toronto.

Solicitor for the intervener the HIV & AIDS Legal Clinic Ontario: HIV & AIDS Legal Clinic Ontario, Toronto.

Solicitor for the intervener Coalition des organismes communautaires québécois de lutte contre le sida: Coalition des organismes communautaires québécois de lutte contre le sida, Montréal.