

## **Vancouver Rape Relief Society v. Nixon 2005 BCCA 601 Summary of Decision**

In August 1995, Rape Relief excluded Kimberly Nixon, a post-operative male-to-female transsexual, from its training programme for volunteer peer counsellors because Kimberly Nixon had not been born and raised as a girl and woman, and she had experienced what it is like to have lived in the world as a man. Ms. Nixon initiated a complaint under the Human Rights Code alleging that Rape relief had discriminated against her in violation of the Human Rights Code.

In *Vancouver Rape Relief Society v. Nixon* 2005 BCCA 601, the Court of Appeal confirmed that Vancouver Rape Relief Society did not contravene the Human Rights Code when it excluded Kimberly Nixon. In so doing, the Court of Appeal held that Rape Relief is a group that is protected by section 41 of the Human Rights Code.

The Court of Appeal held that a group that is protected by section 41 can prefer a sub-group of those whose interests it was created to serve, provided that the group acts in good faith and provided there is a rational connection between the preference and the group's work, or purpose.

The Human Rights Tribunal had previously ruled that Rape Relief's decision to allow into the training programme only women who had been born and raised as girls and women was rationally connected to Rape Relief's work of counselling women victims of sexual assault and fighting male violence and women's inequality. The Tribunal also held that that Rape Relief's decision was made in good faith. The Court of Appeal upheld those findings of the Tribunal.

Having found that Rape Relief's decision was rationally connected to its goals and was made in good faith, the Court of Appeal held that Rape Relief's decision did not contravene the Human Rights Code.

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