

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
ANTHONY BLAINE SCHRADER (Appellant)	- and -	HER MAJESTY THE QUEEN (Respondent)
CAC 165942	Halifax, N.S.	CROMWELL, J.A. (Orally)

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[Cite as: **R. v. Schrader, 2000 NSCA 20**]

**APPEAL HEARD:** January 30, 2001

**JUDGMENT DELIVERED:** January 30, 2001

**WRITTEN RELEASE OF ORAL:** January 31, 2001

**SUBJECT:** **Criminal Law - Miscarriage of Justice - Misapprehension of the Evidence**

**SUMMARY:** The appellant was convicted of possession of stolen angle iron. In convicting, the judge relied on what he took to be the evidence concerning the length and weight of the angle iron as well as the evidence concerning the number of pieces stolen. He did so both with respect to his rejection of the evidence of a defence witness and his finding that the accused knew the angle iron was stolen. The judge was seriously mistaken about the evidence on these points.

**ISSUES:** Was the conviction a miscarriage of justice?

**RESULT:** Appeal allowed. The appellant demonstrated significant errors which figure prominently in the judge's reasoning. His misapprehensions of the evidence went to the "very core of the reasoning process which culminated in a conviction": **R. v. Morrissey** (1995), 97 C.C.C. (3d) 193 (Ont. C.A.) at p. 221. The conviction was set aside and a new trial ordered.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 5 pages.
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