

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150603

Docket: A-405-14

Citation: 2015 FCA 138

**CORAM: TRUDEL J.A.
RYER J.A.
RENNIE J.A.**

BETWEEN:

LAWRENCE WATTS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on June 3, 2015.

Judgment delivered from the Bench at Toronto, Ontario, on June 3, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

RYER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on June 3, 2015).

RYER J.A.

[1] This is an appeal from an order of Chief Justice Eugene Rossiter of the Tax Court of Canada, dated September 22, 2014, in Docket 2014-1231(IT)G. In that matter, Mr. Lawrence Watts appealed to the Tax Court of Canada, by Notice of Appeal dated December 9, 2013, to vacate assessments of income tax and penalties that were imposed upon him under the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), by notice of assessment, dated May 28, 2009, in respect of

his 2007 taxation year (the “2007 Reassessment”) and by notice of reassessment, dated November 22, 2012, in respect of his 2009 and 2010 taxation years (the “2009 and 2010 Reassessments”).

[2] In an earlier Amended Notice of Appeal, dated January 9, 2012, Mr. Watts appealed to the Tax Court of Canada to vacate the 2007 Reassessment. However, that Amended Notice of Appeal was struck from the record and the appeal was dismissed by the order of Justice Diane Campbell of the Tax Court of Canada, dated January 30, 2013

[3] A motion by Mr. Watts, pursuant to Rule 140 (2) of the *Tax Court of Canada Rules (General Procedure)*, SOR/90-688a, to set aside Justice Campbell’s order was dismissed by Justice Brent Paris of the Tax Court of Canada, by order dated November 8, 2013. In the transcript of his oral reasons for refusing to set aside Justice Campbell’s order, Justice Paris determined that Justice Campbell’s order struck out Mr. Watts’ Amended Notice of Appeal and dismissed his appeal on the merits of the Crown’s motion to strike and not because of Mr. Watts’ failure to appear before Justice Campbell. Justice Paris further stated that Justice Campbell’s order could only be challenged by way of an appeal to the Federal Court of Appeal.

[4] In the order of the Chief Justice, which is before us in this appeal, he:

- a) Granted the Crown’s motion to strike out a portion of Mr. Watts’ Notice of Appeal, dated December 9, 2013, that related to his 2007 taxation year;
- b) Permitted Mr. Watts to file an amended Notice of Appeal not later than October 31, 2014 with respect to his 2009 and 2010 taxation years;
- c) Permitted the Crown to file a reply no later than December 31, 2014; and
- d) Awarded costs to the Crown in the amount of \$500.

[5] The oral reasons of the Chief Justice demonstrate his conclusion that the order of Justice Campbell was a final determination with respect to the validity of the 2007 Reassessment, pursuant to which the Minister imposed a liability under the *Income Tax Act* upon Mr. Watts. This conclusion led him to find that Mr. Watts was precluded from relitigating the validity of the 2007 Reassessment by virtue of the principle of *res judicata*.

[6] We have not been persuaded that in granting the Crown's motion to strike out the portion of Mr. Watts' Notice of Appeal that relates to the 2007 Reassessment, the Chief Justice made any reviewable error of law or fact that would warrant our intervention.

[7] Mr. Watts has requested this Court to grant him an extension of time to file an amendment to his Notice of Appeal with respect to the 2009 and 2010 Reassessments, as permitted by the order of the Chief Justice. This relief is within the purview of the Tax Court of Canada and should be requested from that Court.

[8] For the foregoing reasons, we would dismiss the appeal, with all inclusive costs in the amount of \$1,000.

"C. Michael Ryer"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-405-14

STYLE OF CAUSE: LAWRENCE WATTS v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: JUNE 3, 2015

REASONS FOR JUDGMENT OF THE COURT BY: TRUDEL J.A.
RYER J.A.
RENNIE J.A.

DELIVERED FROM THE BENCH BY: RYER J.A.

APPEARANCES:

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OWN BEHALF)

H. Annette Evans FOR THE RESPONDENT
Rishma Bhimji

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