

**Date: 20080206**

**Docket: A-185-07**

**Citation: 2008 FCA 45**

**CORAM : DESJARDINS J.A.  
NOËL J.A.  
PELLETIER J.A.**

**BETWEEN:**

**RÉAL BLANCHETTE**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Montréal, Quebec, on February 5, 2008.

Judgment delivered at Montréal, Quebec, on February 6, 2008.

**REASONS FOR JUDGMENT BY:**

**PELLETIER J.A.**

**CONCURRED IN BY:**

**DESJARDINS J.A.  
NOËL J.A.**

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**REASONS FOR JUDGMENT**

**PELLETIER J.A.**

[1] We are of the opinion that the appeal should be dismissed.

[2] The appellant alleges that the Tax Court of Canada judge was misled on questions of fact and that she did not properly apply the Supreme Court's decision in *Stewart v. Canada*, 2002 SCC 46, [2002] 2 S.C.R. 645.

[3] The judge concluded that the appellant was using the aircraft for personal purposes. This conclusion is based on the evidence in the record and on the appellant's own testimony. We are not convinced that there is palpable and overriding error in that conclusion.

[4] The Supreme Court decision in *Stewart, supra*, is applicable because of the conclusion reached that there was an element of personal use in the purchase of the aircraft. In reviewing this issue, the judge ruled that the appellant's use of his aircraft was not a source of income. We are not convinced that there was either an error in law or an error on a mixed question of fact and law in this ruling.

[5] As for the penalty, the judge found no credibility in the explanation given by the appellant, an informed businessman, that he had forgotten that his travel expenses had already been reimbursed by Bombardier.

[6] Consequently, this appeal should be dismissed with costs.

“J.D. Denis Pelletier”

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J.A.

“I concur.”

Alice Desjardins J.A.

“I concur.”

Marc Noël J.A.

Certified true translation

Brian McCordick, Translator

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-185-07

**APPEAL FROM AN ORDER OF LAMARRE J. DATED MARCH 5, 2007, DOCKET NO. 2005-3136-IT-G.**

**STYLE OF CAUSE:** Réal Blanchette v. Her Majesty the Queen

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** February 5, 2008

**REASONS FOR JUDGMENT BY:** PELLETIER J.A.

**CONCURRED IN BY:** DESJARDINS J.A.  
NOËL J.A.

**DATED:** February 6, 2008

**APPEARANCES:**

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**SOLICITORS OF RECORD:**

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