

Date: 20080424

Docket: A-246-05

Citation: 2008 FCA 155

Present: SHARLOW J.A.

BETWEEN:

**WILLEM VANKERK
ELSBETH VANKERK**

Appellants

and

HER MAJESTY THE QUEEN

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on April 24, 2008.

REASONS FOR ORDER BY:

SHARLOW J.A.

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REASONS FOR ORDER

SHARLOW J.A.

[1] The appellants are seeking an order for payment of approximately \$350 standing to their credit in an account held by the Court. The respondent, the Crown, objects to the payment.

[2] The amount in the Court account represents interest earned on \$4,774.75 that the appellants were ordered to pay into Court as security for costs in an income tax appeal. When the appeal was unsuccessful (2006 FCA 96), the Crown sought and obtained an order for payment of the \$4,774.45 in satisfaction of its award of costs.

[3] The Crown does not suggest that the accrued interest is not the property of the appellants, but objects to the payment because they have an outstanding income tax liability. In my view, that is not a valid objection to the appellants' request to receive the money that belongs to them.

[4] An order will be made requiring the accrued interest to be paid in trust to the solicitors for the appellants.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-246-05

STYLE OF CAUSE:

**WILLEM VANKERK
ELSBETH VANKERK
v. HER MAJESTY THE QUEEN**

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:

SHARLOW J.A.

DATED:

APRIL 24, 2008

WRITTEN REPRESENTATIONS BY:

John McDonald

FOR THE APPELLANTS

Harry Erlichman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE APPELLANTS

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FOR THE RESPONDENT