

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110216

Docket: A-464-09

Citation: 2011 FCA 60

**CORAM: SEXTON J.A.
LAYDEN-STEVENSON J.A.
STRATAS J.A.**

BETWEEN:

DAVID WHITE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on February 16, 2011.

Judgment delivered from the Bench at Toronto, Ontario, on February 16, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

LAYDEN-STEVENSON J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on February 16, 2011)

LAYDEN-STEVENSON J.A.

[1] This is an appeal from an order of Paris J. of the Tax Court of Canada (the judge) dismissing the appellant's motion. On his motion, the appellant sought an order allowing his appeals and setting aside the income tax and goods and services tax assessments levied against him as the director of two corporations. The corporations failed to remit income tax source deductions and GST between 1992 and 2002. They went out of business in 2002.

[2] The judge denied the motion for a number of reasons. After a comprehensive analysis, he determined that the issues raised by the appellant were best left to be determined at trial.

[3] The appellant has not identified any error of law or principle on the part of the judge. Essentially, the appellant seeks a rehearing of his motion. That is not the function of an appellate court. Absent palpable and overriding error on the judge's part, or an indication that he reached his decision on the basis of irrelevant factors or that he failed to have regard to relevant factors, this Court cannot intervene in the judge's discretionary order. Neither has been demonstrated here.

[4] Consequently, the appeal will be dismissed with costs to the respondent.

"Carolyn Layden-Stevenson"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-464-09

(APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE PARIS DATED NOVEMBER 9, 2009, IN TAX COURT FILE NOS. 2007-1561(IT)G & 2007-1665(GST)G)

STYLE OF CAUSE: DAVID WHITE
v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 16, 2011

**REASONS FOR JUDGMENT
OF THE COURT BY:** (SEXTON, LAYDEN-STEVENSON
& STRATAS JJ.A.)

DELIVERED FROM THE BENCH BY: LAYDEN-STEVENSON J.A.

APPEARANCES:

David White FOR THE APPELLANT
(Self-represented)

Shatru Ghan FOR THE RESPONDENT
Sandra K.S. Tsui

SOLICITORS OF RECORD:

N/A FOR THE APPELLANT
(Self-represented)

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Deputy Attorney General of Canada