

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121116

Docket: A-355-12

Citation: 2012 FCA 293

Present: NOËL J.A.

BETWEEN:

EVERTON BROWN

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on November 16, 2012.

REASONS FOR ORDER BY:

NOËL J.A.

Federal Court of Appeal



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REASONS FOR ORDER

NOËL J.A.

[1] The appellant moves to file new evidence in support of his pending appeal pursuant to Rule 351 of the *Federal Courts Rules*, SOR/98-106.

[2] The Notice of Motion is unsigned and undated. I have nevertheless authorized the filing of the motion and will address it despite this flaw.

[3] The documents in question are letters and Court documents relating to the Canada Revenue Agency Collection proceedings in respect to the appellant's tax debts; questions and answers given

at discovery; the affidavit of Ms Jacqueline Brown, a non-witness and a letter from Mr. Alan Gervais, a witness who testified during the trial.

[4] Although the appellant asserts otherwise the Registry of the Tax Court of Canada has confirmed that these documents were not before the Tax Court judge. The record also reveals that the appellant did seek to include these documents in the appeal book, but eventually agreed not to include them. The agreement as to the content of the appeal book and the appeal book were filed on September 5 and 6, respectively.

[5] In effect, the appellant through this motion is attempting to revisit the agreement that he gave. This is not a proper ground for invoking Rule 351. I would add that none of these documents has been shown to be conclusive of any issue raised on appeal.

[6] The motion will accordingly be dismissed, with costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-355-12

STYLE OF CAUSE: EVERTON BROWN and HER
MAJESTY THE QUEEN

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: Noël J.A.

DATED: November 15, 2012

WRITTEN REPRESENTATIONS BY:

Everton Brown

FOR THE APPELLANT
(for his own behalf)

Suzanie Chua

FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A

FOR THE APPELLANT
(for his own behalf)

William F. Pentney
Deputy Attorney General of Canada

FOR THE RESPONDENT