

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20130206**

**Docket: A-328-11**

**Citation: 2013 FCA 30**

**CORAM: EVANS J.A.  
DAWSON J.A.  
STRATAS J.A.**

**BETWEEN:**

**KEITH R. BALLANTYNE**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Vancouver, British Columbia, on February 6, 2013.

Judgment delivered from the Bench at Vancouver, British Columbia, on February 6, 2013.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**DAWSON J.A.**

Federal Court of Appeal



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BETWEEN:

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**REASONS FOR JUDGMENT OF THE COURT**

(Delivered from the Bench at Vancouver, British Columbia, on February 6, 2013)

**DAWSON J.A.**

[1] This is an appeal from an order rendered by the Tax Court of Canada on August 22, 2011, in Court Docket: 2011-852 (IT) I. The order quashed, without costs, an appeal brought by the appellant relating to reassessments made under the *Income Tax Act*, R.S.C., 1985, c. I (5<sup>th</sup> Supp.) (Act) for the 2006 through 2009 taxation years. The Tax Court quashed the appeal primarily on the basis that it did not have jurisdiction to hear the appeal because the appellant had not served notices of objection in respect of the reassessments.

[2] The appellant characterizes the issues raised on this appeal to be:

My fundamental rights and freedoms as held in Trust by the Crown in Right of Canada are non-negotiable and are not to be usurped by Colour of Law and the designation of the natural person without right. I have an inalienable and lawful entitlement to the principles of common law and that as also accorded by the Canadian Bill of Rights. I have the right to life, liberty, security of the person and enjoyment of property, the right to equality before the law and the protection of the law nor to find myself the subject of cruel and unusual treatment and punishment.

I have found myself subject to fraud and extortion by agencies of government and when in defence against these criminal acts, demand that my rights be acknowledged, do find these government officials who have sworn to serve, ranged against me enforcing their Colour of Law and inflicting great financial and emotional harm upon this Man and pensioner of limited means.

These agencies of government have also failed to act with due diligence as would be demanded by this Court in the preparation of an Audit of Obligation attesting that all prerequisite legal requirements including an audit sworn under the penalty of perjury proving claim and proof of loss prior to serving of a "Requirement to Pay" or "Statutory Set-Off". In addition, these agencies of government have failed to produce when so demanded, proof that this adult man in full unlimited capacity is subject to and without right to the Crown in Right of Canada or of a Province.

The Government of Canada through the Minister of National Revenue and its officers are bound by the CANADIAN CHARTER OF RIGHTS AND FREEDOMS and as Trustee's of the Trust have failed to act with integrity, in a non-partisan manner, have been entirely without care, high handed, discriminatory, intentional and indifferent to the consequences by unreasonable and or imprudent actions, are in violation of their oath to serve and are in dishonour.

[3] For the following two reasons, we are all of the view that the appellant has not demonstrated any error by the Tax Court that would permit us to grant his appeal.

[4] First, under section 169 of the Act, a taxpayer must serve a notice of objection on a timely basis in order to proceed with an appeal to the Tax Court. Put another way, service of a notice of objection is a condition precedent to the institution of an appeal to the Tax Court (*Bormann v. Canada*, 2006 FCA 83, 2006 DTC 6147, at paragraph 3). The evidence before the Tax Court

showed that the appellant had failed to file any notice of objection. The Judge made no error in concluding that in that circumstance the Tax Court had no jurisdiction to hear the appeal.

Mr. Ballantyne's refusal to open communications from the Canada Revenue Agency sent to his home address does not justify his failure to serve notices of objection in accordance with the Act.

[5] Second, the Tax Court draws its jurisdiction from statute. On an appeal under subsection 169(1) of the Act it may only grant the relief provided in section 171 of the Act. The Judge made no error in his characterization of the relief sought by the appellant in the Tax Court. Nor did the Judge err in law when he concluded the Tax Court could not grant the relief sought by the appellant. The appellant conceded in oral argument that he was in the wrong court for the relief he seeks.

[6] For these reasons, the appeal will be dismissed with costs fixed in the lump sum of \$1,250.00, inclusive of disbursements and any applicable taxes.

“Eleanor R. Dawson”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-328-11

**(APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE  
HERSHFIELD DATED AUGUST 22, 2011, DOCKET NO. 2011-852(IT)D)**

**STYLE OF CAUSE:** Keith R. Ballantyne v.  
Her Majesty the Queen

**PLACE OF HEARING:** Vancouver, British Columbia

**DATE OF HEARING:** February 6, 2013

**REASONS FOR JUDGMENT OF THE COURT BY:** Evans, Dawson, Stratas JJ.A.

**DELIVERED FROM THE BENCH BY:** Dawson J.A.

**DATED:** February 6, 2013

**APPEARANCES:**

Keith R. Ballantyne, on his own behalf

THE APPELLANT

Zachary Froese and Nadine Taylor Pickering

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENT