

Federal Court



Cour fédérale

Date: 20100216

Docket: T-1402-08

Citation: 2010 FC 155

Toronto, Ontario, February 16, 2010

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

**MARGARET M.A. GANGNON
ROBERT NORMAN GANGNON**

Applicants

and

CANADA REVENUE AGENCY

Respondent

REASONS FOR ORDER AND ORDER

[1] This is an application brought and argued in person by the Applicants Margaret Gangnon and Robert Gangnon. They are husband and wife who, throughout their working lives have endeavored to pay their taxes and arrange their tax affairs in such a way as to be honest and forthright in reporting their various incomes and affairs appropriately.

[2] Unfortunately, as happens the complexity of our taxation system, the confusing forms and sometimes unhelpful officials at the Canada Revenue Agency have all served to frustrate their attempts, done on their own, to do the right thing. Mr. Gangnon endeavored to create a spousal RRSP for his wife, confusion arose with his contributions, his employer's contributions and where to put everything on the form. The record shows that the Agency's officials themselves gave the Gangnons confusing and conflicting information.

[3] Ultimately, the Agency decided that Mr. Gangnon owed some tax, which he paid. The Agency also insisted that he pay penalties and interest notwithstanding the confusion caused by the Agency's own forms and advice given by the Agency to these taxpayers. The Gangnons brought this judicial review application as a result.

[4] This matter came on for a hearing before me on September 22, 2008 at which time the confusion caused by the Agency became apparent to Counsel and the Court. I adjourned the matter to allow the Agency further time to review the matter on the terms that, if nothing seemed to be happening after three months' time, the Gangnons were free to write to the Court asking that the matter be resumed.

[5] Three months came and went. Nothing appeared to be happening. The Gangnons wrote to the Court asking that the hearing be resumed. A further month went by and the Agency still did nothing. Just silence. I resumed the hearing by teleconference on February 4, 2010. Counsel for the Agency filed no affidavit or other written submissions as to any reason for the delay. Counsel orally

offered that the file has been moved to another branch of the Agency and was “under review” there. There was no evidence as to what if anything actually was happening.

[6] I indicated to the parties during the teleconference that the matter of interest and penalties was given a wide discretion in the hands of the Agency and the Court had little discretion in reviewing the exercise of that discretion in that regard. However the confusion caused by the Agency, the unconscionable and unexplained delay in dealing with the matter would cause the Court to consider awarding costs against the Agency. I gave the Agency’s Counsel a further week to make whatever written submissions were considered appropriate. I have reviewed those submissions, they do not include any explanation or evidence as to the failure of the Agency to deal with the matter. Nor did the Agency given one last chance, do anything. As a result it is appropriate to award costs against the Agency.

[7] To bring the matter to an end, I will dismiss the application but make an award of \$1,200.00 to the Applicant by way of recompense for disbursements they incurred in this matter. I am satisfied having heard the Applicants’ during the teleconference that the sum of \$1,200.00 will at least partially defray the money they have expended in this matter.

ORDER

FOR THE REASONS given:

THIS COURT ORDERS AND ADJUDGES THAT:

1. The application is dismissed;
2. The Applicants are entitled to be paid, as compensations for expenses incurred in this application, by the Respondent forthwith, the sum of \$1,200.00.

“Roger T. Hughes”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1402-08

STYLE OF CAUSE: MARGARET M.A. GANGNON; ROBERT NORMAN
GANGNON
v.
CANADA REVENUE AGENCY

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 4, 2010

**REASONS FOR ORDER
AND ORDER:** Hughes J.

DATED: February 16, 2010

APPEARANCES:

Robert Norman Gangnon FOR THE APPLICANTS
Margaret M.A. Gangnon (SELF-REPRESENTED)

Maria Bujnovic FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPLICANTS
(SELF-REPRESENTED)

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada