

Federal Court



Cour fédérale

Date: 20101112

Docket: T-191-09

Citation: 2010 FC 1130

Toronto, Ontario, November 12, 2010

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

BRIAN COUCH

Applicant

and

**THE MINISTER OF NATIONAL REVENUE
AS REPRESENTED BY THE ATTORNEY
GENERAL OF CANADA**

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application concerns a fairness decision dated December 23, 2008 made by the Canada Revenue Agency (CRA) respecting Mr. Couch's request for relief from the payment of interest and penalties arising from a tax debt. The decision was made pursuant to s.220(3.1) of the *Income Tax Act*, R.S.C. 1995, c.1 (5th supp.) which provides unfettered discretion in granting such relief and the Guidelines applied pursuant thereto which relate to proof of hardship (see Respondent's Record, Volume 1 of 2, p.154).

[2] The decision under review is the conclusion of a dialogue between Mr. Couch and CRA dating back to 1999. In bringing the present Application, Mr. Couch makes two key arguments: the CRA is in error in not finding that it would be a hardship for him to pay accrued interest and penalties on any outstanding tax debt; and with respect to the quantum of interest and penalties owing at the time he applied for relief, the CRA acted in bad faith by not following through on an alleged agreement whereby, once Mr. Couch's tax debt was paid, accrued interest and penalties would be liquidated.

[3] In the end result, I find that in rendering the decision under review the CRA was correct in its application of the Guidelines and reasonable in rendering a denial of relief to Mr. Couch on the basis that hardship had not been proved given the uncontested fact that Mr. Couch had significant assets at the time he made the present request for relief.

[4] In addition, I find no evidence of bad faith on the part of CRA in its dealings with Mr. Couch.

ORDER

Accordingly, the present Application is dismissed.

I make no order as to costs.

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-191-09

STYLE OF CAUSE: BRIAN COUCH v. THE MINISTER OF NATIONAL
REVENUE AS REPRESENTED BY THE ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 22, 2010

**REASONS FOR ORDER
AND ORDER BY:** CAMPBELL J.

DATED: NOVEMBER 12, 2010

APPEARANCES:

BRIAN COUCH FOR THE APPLICANT
(ON HIS OWN BEHALF)

SANDRA K.S. TSUI FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPLICANT
(ON HIS OWN BEHALF)

MYLES J. KIRVAN FOR THE RESPONDENT
DEPUTY ATTORNEY GENERAL
OF CANADA