

Federal Court



Cour fédérale

Date: 20140520

Docket: T-1196-13

Citation: 2014 FC 482

Toronto, Ontario, May 20, 2014

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Applicant

and

KEVIN DUANE CAMERON

Respondent

ORDER AND REASONS

[1] This is a motion by the Minister of National Revenue for an Order finding Kevin Duane Cameron in contempt of Court for failing to comply with my Order of August 21, 2013 under section 231.7 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp), as amended. That Order required Mr. Cameron to provide the applicant with information and documents within 30 days of that Order and to attend with Canada Revenue Agency (CRA) officers.

[2] Notwithstanding my Order of August 21, 2013 referred to above, the Respondent did not provide his books, records and documents to the Applicant, nor did he meet with CRA officers as ordered.

[3] The Applicant moved for an Order under rule 476 of the *Federal Courts Rules* requiring the Respondent to attend before a judge of this Honourable Court to hear proof of facts that the Respondent was in contempt of the Compliance Order. The Respondent was to be prepared to present any defence that he may have in order to avoid being found guilty of contempt of this Court under rule 466 and sentenced under rule 472 of the *Federal Court Rules* for his failure to comply with the Compliance Order.

[4] By Order dated January 14, 2014, the Honourable Mr. Hughes ordered the Respondent to attend before a judge of the Federal Court to hear proof of his contempt of the Federal Court's Amended Order dated August 21, 2013.

[5] By Order dated March 11, 2014, at the direction of the Chief Justice, the contempt hearing was ordered to take place on Tuesday, May 20, 2014 at 9:30 in the morning for a duration of two hours.

[6] The evidence before me establishes that notwithstanding effective service of this Court's Orders on the Respondent, the Respondent has failed to comply with my Order of August 21, 2013. Oral evidence of an officer for the Canada Revenue Agency, Lynda Wingate, was

presented at the hearing. Ms. Wingate gave evidence that notwithstanding service of this Court's Orders on Mr. Cameron, there had been no correspondence from Mr. Cameron with CRA.

[7] Rule 472 of the *Federal Court Rules* provides for the penalty that may be imposed on a finding of contempt:

472. Penalty – Where a person is found to be in contempt, a judge may order that:

- (a) The person be imprisoned for a period of less than five years or until the person complies with the order;
- (b) The person be imprisoned for a period of less than five years if the person fails to comply with the order;
- (c) The person pay a fine;
- (d) The person do or refrain from doing any act;
- (e) In respect of a person referred to in rule 429, the person's property be sequestered; and
- (f) The person pay costs.

[8] The Respondent's breach is intentional and in flagrant disregard for this Court's Orders. Notwithstanding Mr. Cameron's appearance at the hearing, he refused to acknowledge the requirements of this Court's Orders or the jurisdiction of this Court over his person.

ORDER

THIS COURT ORDERS that:

1. The Order that accompanies these reasons is to be personally served upon Mr. Cameron by leaving a copy of it with him.
2. The Respondent is in contempt of this Court's Order of August 21, 2013, and shall pay a fine of \$5,000.00 and solicitor-client costs of the Applicant in the amount of \$5,822.34, within 30 days from the date of service of the Sentencing Order, failing which the Respondent shall be subject to imprisonment for 30 days;
3. If, within 30 days from the date of service of the Sentencing Order, the Respondent arranges with the Applicant for an oral examination under oath and provides evidence satisfactory to the Court that the Respondent is not able to pay the fine or the costs, or both, or that he needs an extended period of time to pay, then the Respondent shall not be imprisoned for failure to pay the fine or costs or both; and
4. If the Applicant informs that Court by affidavit that either the fine or the costs or both have not been paid within 30 days from the date of service of the Sentencing Order, and that the Respondent has not arranged with the Applicant for an oral examination under oath with respect to the Respondent's ability to pay the fine or the costs or both, the Court shall issue a warrant for the Respondent's imprisonment for 30 days.
5. The Respondent is to provide the information and documents and meet with officer(s) of the Canada Revenue Agency as set out in the Compliance Order within 30 days from the date of service of this Sentencing Order, or, provide the

Applicant with an affidavit explaining why he is not able to provide the information and documents and meet with officer(s) of the Canada Revenue Agency as required, failing which the Respondent shall be imprisoned for ten (10) days, such term to run consecutively to any other term of imprisonment imposed by this Order; and

6. If the Applicant informs the Court by affidavit that the Respondent has not, within 30 days of service of the Sentencing Order, provided the information and documents and met with officer(s) of the Canada Revenue Agency and has not provided an affidavit explaining why he is not able to provide the information and documents and meet with officer(s) of the Canada Revenue Agency, the Court shall issue a warrant for the Respondent's imprisonment for a term of ten (10) days, such term to run consecutively to any other term of imprisonment imposed by this Order.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1196-13

STYLE OF CAUSE: THE MINISTER OF NATIONAL REVENUE
v KEVIN DUANE CAMERON

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 20, 2014

ORDER AND REASONS: MANSON J.

DATED: MAY 20, 2014

APPEARANCES:

Margaret J. Nott FOR THE APPLICANT

Self-Represented FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney FOR THE APPLICANT
Deputy Attorney General of
Canada

N/A FOR THE RESPONDENT