

Federal Court of Appeal



Cour d'appel fédérale

Date: 20161013

Docket: A-95-16

Citation: 2016 FCA 251

**CORAM: NADON J.A.
STRATAS J.A.
RENNIE J.A.**

BETWEEN:

ELTON MAYNARD AND LISA MAYNARD

Appellants

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on October 13, 2016.
Judgment delivered from the Bench at Toronto, Ontario, on October 13, 2016.

REASONS FOR JUDGMENT OF THE COURT BY:

RENNIE J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on October 13, 2016).

RENNIE J.A.

[1] The appellants appeal a judgment of the Tax Court of Canada (2016 TCC 21) delivered January 28, 2016.

[2] In that judgment, the Tax Court dismissed the appeal of penalties for gross negligence that were imposed on the appellants pursuant to subsection 163(2) of the *Income Tax Act* in

relation to their 2008 taxation year and requested loss carry back for the 2005, 2006 and 2007 years.

[3] In our view, no error has been demonstrated in the judge's analysis of the governing legal principles and his appreciation of the evidence. Paragraphs 33-35 of the judge's reasons provide an ample evidentiary foundation to support the conclusion of gross negligence. The judge concluded that the appellants made no effort to verify the accuracy and completeness of their returns; rather they simply signed their returns without even examining them in circumstances where they ought to have been on notice that something was amiss. The judge also concluded that had they made the most minimal effort, they would have easily noticed the false information contained in their returns.

[4] Notwithstanding Mr. Barnwell's forceful arguments, we are satisfied that in the circumstances of this case, the conclusion of the judge that the appellants had been grossly negligent cannot be disturbed.

[5] The appeal will be dismissed with costs.

"Donald J. Rennie"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-95-16

APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE MASSE OF THE TAX COURT OF CANADA DATED JANUARY 28, 2016 IN DOCKET NOS. 2013-1894 (IT)G AND 2013-1895 (IT)I.

STYLE OF CAUSE: ELTON MAYNARD AND LISA
MAYNARD v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: OCTOBER 13, 2016

REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.
STRATAS J.A.
RENNIE J.A.

DELIVERED FROM THE BENCH BY: RENNIE J.A.

APPEARANCES:

Osborne G. Barnwell FOR THE APPELLANTS

Craig Maw FOR THE RESPONDENT
H. Annette Evans

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