

Federal Court of
Appeal



Cour d'appel
fédérale

Date: 20091116

Docket: A-52-09

Citation: 2009 FCA 329

**CORAM: BLAIS C.J.
NOËL J.A.
TRUDEL J.A.**

BETWEEN:

WALTER STURZER

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Montréal, Quebec, on November 16, 2009.

Judgment delivered from the Bench at Montréal, Quebec, on November 16, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Montréal, Quebec, on November 16, 2009)

NOËL J.A.

[1] This is an appeal from a decision rendered by Bédard J. of the Tax Court of Canada (the Tax Court Judge) wherein he dismissed Walter Sturzer's (the appellant) appeal for reassessments made by the Minister of National Revenue (the Minister) with respect to his 2000, 2001 and 2002 taxation years.

[2] The appellant has been a Canadian resident within the meaning of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the Act) since March 16, 1989. He was the sole shareholder of two domestic corporations involved in video poker gambling operations until both dissolved in July 1997.

[3] The appellant went bankrupt on December 24, 1997 and was discharged from this bankruptcy on September 24, 1998.

[4] In 2000, the appellant bought vacant land in the municipality of Morin Heights, Quebec for \$150,000. From 2000 to 2002, he disbursed \$1,538,683 for the construction of a residence on this land.

[5] The income reported by the appellant for the relevant taxation years was \$52,000, \$41,000 and \$45,000 for the year 2000, 2001 and 2002 taxation years respectively.

[6] Using the net worth method, the Minister estimated that the appellant had failed to report \$213,155, \$1,132,169 and \$626,649 of business income for the three taxation years in issue. Reassessments were issued on that basis and a penalty was imposed for failure to disclose the income in question.

[7] The appellant challenged these reassessments on the basis that the increases in his net worth could be explained by gifts from his father and loans or advances from an Austrian Bank and a foreign company whose head office is in Liechtenstein.

[8] The Tax Court Judge rejected the explanation given by the appellant for the increases in his net worth on the basis that he was not credible. He found the appellant's testimony to be vague, imprecise and contradictory. The Tax Court Judge also placed considerable reliance on the fact that the appellant was in a position to produce corroborative evidence, but did not do so.

[9] Counsel for the appellant asserts that the Tax Court Judge made a variety of errors in his assessment of the evidence.

[10] Having considered the evidence, we are unable to conclude that the Tax Court Judge committed any of the alleged errors.

[11] The appeal will be dismissed with costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-52-09

**(APPEAL FROM A JUDGMENT OF THE HONOURABLE JUSTICE BÉDARD OF
THE TAX COURT OF CANADA DATED JANUARY 8, 2009, NO. 2006-3362(IT)G.)**

STYLE OF CAUSE: Walter Sturzer and Her Majesty
the Queen

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 16, 2009

REASONS FOR JUDGMENT OF THE COURT BY: BLAIS C.J.
NOËL J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: NOËL J.A.

DATED: November 16, 2009

APPEARANCES:

Serge Fournier FOR THE APPELLANT

Benoit Mandeville FOR THE RESPONDENT

SOLICITORS OF RECORD:

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