

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121002

Docket: A-398-11

Citation: 2012 FCA 248

**CORAM: PELLETIER J.A.
TRUDEL J.A.
MAINVILLE J.A.**

BETWEEN:

LARBI ZOUAIMIA

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario, on October 2, 2012.

Judgment delivered from the bench at Ottawa, Ontario, on October 2, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Ottawa, Ontario, on October 2, 2012)

TRUDEL J.A.

[1] Mr. Zouaimia is appealing a decision (2011 TCC 436) of the Tax Court of Canada (the TCC) dismissing with costs his appeals from reassessments made under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), for the 2003, 2004 and 2005 taxation years.

[2] Mr. Zouaimia advances many arguments regarding the delay in receiving the TCC judgment and regarding as well the reasons of the trial judge. More specifically, Mr. Zouaimia is challenging the accuracy of the assumptions of the Minister of Revenue (Minister) on which the reassessments

are based, such as the geographic area covered by the T-11 taxi permit that he held and the average annual gross business income generated under a taxi permit.

[3] Mr. Zouaimia is also challenging the projection method used by the Minister to establish his additional business income.

[4] Before this Court, he reviewed several of the documents filed before the TCC by the Minister, describing them as false (such as mechanical inspection certificates on which there were odometer readings and which were not signed by the appellant) or inaccurate (such as his fuel consumption in the last few years).

[5] The TCC judge had all of these documents before him. He concluded from his analysis of them that the Minister had met his burden while the appellant had kept neither books nor accounting records that could enlighten the Court concerning his true financial situation.

[6] Analysis of the evidence is the trial judge's responsibility, and this Court will intervene only if it is satisfied that the judge made a palpable and overriding error in his or her assessment (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 at paragraph 36). Mr. Zouaimia did not demonstrate that there was any such error.

[7] As to the resemblance of the reasons in the present case with those delivered by the same judge in a similar case, but involving another taxpayer, and as to the factual errors they may contain (such as the number of members of Mr. Zouaimia's family and his wife's not having a job), we note

that, while these errors are regrettable, as is the delay in issuing the judgment under appeal, there is nothing in the judgment on which we could base a conclusion that the trial judge was not mindful of the relevant facts of the case in drafting his reasons. We therefore decline Mr. Zouaimia's invitation to conclude that the principle of procedural fairness was violated.

[8] In short, in spite of Mr. Zouaimia's many arguments, we have not been persuaded that the TCC judge made an error of principle or of fact that would warrant the intervention of this Court.

[9] Accordingly, this appeal will be dismissed with costs.

“Johanne Trudel”

J.A.

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-398-11

STYLE OF CAUSE: Larbi Zouaimia v.
Her Majesty the Queen

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: October 2, 2012

REASONS FOR JUDGMENT OF THE COURT BY: PELLETIER J.A.
TRUDEL J.A.
MAINVILLE J.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

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