

Federal Court of Appeal



Cour d'appel fédérale

Date: 20191001

Docket: A-335-17

Citation: 2019 FCA 242

**CORAM: PELLETIER J.A.
STRATAS J.A.
MACTAVISH J.A.**

BETWEEN:

LARRY MCGUIRE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on October 1, 2019.

REASONS FOR ORDER BY:

PELLETIER J.A.

CONCURRED IN BY:

**STRATAS J.A.
MACTAVISH J.A.**

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REASONS FOR ORDER

PELLETIER J.A.

[1] Mr. McGuire is aggrieved because the Tax Court of Canada adjourned a hearing of his case without notice to him apparently because counsel for the Minister was unable to attend and yet, when he was unable to attend the rescheduled hearing due to a medical appointment, the Tax Court dismissed his appeal as a result of his failure to appear. Mr. McGuire appealed the order of the Tax Court of Canada to this Court.

[2] From those humble beginnings, this case has spiralled out of control. Mr. McGuire is an intelligent, articulate individual who has cast his appeal in terms of constitutional principles and judicial misconduct on a personal and institutional level. Had he sought professional advice, he might well have been told that he would be better off pursuing his remedy under subsection 18.21(3) of the *Tax Court of Canada Act*, R.S.C. 1985, c. T-2.

[3] In any event, some 22 months after the filing of the notice of appeal, this matter has not been set down for a hearing. A notice of status review was issued in July 2018 and an order was made allowing the matter to proceed on the basis that Mr. McGuire would file the appeal book “in the form agreed” no later than October 15, 2018. In spite of this order, the appeal book was not filed in the agreed form by the specified date and on November 5, 2018, the Court issued an order dismissing an application to amend the content of the appeal book. The Court then ordered that the appeal book be filed by November 19, 2018.

[4] Further difficulties arose and on April 3, 2019 Mr. Justice Stratas issued a direction setting the specific steps which Mr. McGuire must take to regularize his appeal and the times within which he must take them, failing which a second notice of status review would be issued. Mr. McGuire chose to proceed by submitting a motion for a stay of proceedings on the basis of the judicial misconduct. Predictably, a second notice of status review was issued and the application for a stay was referred to the judge dealing with the response to the notice of status review.

[5] In his response to the notice of status review, Mr. McGuire addressed in considerable detail his constitutional preoccupations with the independence of the Tax Court of Canada, the institutional bias underlying the *Federal Court Rules* and his arguments as to how the procedures to date have not respected his fundamental rights. He did not include a timetable showing the steps remaining to be taken and the time within which he proposes to take them.

[6] The difficulty with all of this is that Mr. McGuire has lost sight of his basic problem which is that the Minister of National Revenue has assessed him for unpaid Goods and Services Tax of \$7,261. While one can understand how Mr. McGuire would feel aggrieved by the dismissal of his appeal by the Tax Court of Canada, he had a summary remedy which he chose not to pursue. He may have had a remedy in this Court arising from the circumstances under which the original decision to strike his appeal was made. He has instead launched upon constitutional arguments which are no doubt sincerely held but which are misguided. Those questions could have been debated within the appeal itself but Mr. McGuire chose not to perfect his appeal.

[7] Justice Stratas' direction was unambiguous as to the steps to be taken. Mr. McGuire has not taken those steps. Since this is a second notice of status review, Mr. McGuire's failure to perfect his appeal as directed by Mr. Justice Stratas leaves me no choice but to dismiss his appeal with costs to the respondent.

[8] Since Mr. McGuire's appeal will be dismissed, his motion for a stay is moot and will also be dismissed but without costs.

"J.D. Denis Pelletier"

J.A.

"I agree
David Stratas J.A."

"I agree
Anne L. Mactavish J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-335-17

STYLE OF CAUSE: LARRY MCGUIRE v. HER
MAJESTY THE QUEEN

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: PELLETIER J.A.

CONCURRED IN BY: STRATAS J.A.
MACTAVISH J.A.

DATED: OCTOBER 1, 2019

WRITTEN REPRESENTATIONS BY:

Larry McGuire FOR THE APPELLANT
(on his own behalf)

Gregory B. King FOR THE RESPONDENT

SOLICITORS OF RECORD:

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