

Docket: 2010-1146(EI)

BETWEEN:

WILLIAM SHAWN DAVITT,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

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Motion heard together with the motion in *William Shawn Davitt* (2010-1147(CPP)),  
and decision rendered orally from the Bench on October 7, 2010,  
at Toronto, Ontario.

Before: The Honourable Justice Patrick Boyle

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Annie Paré

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**JUDGMENT**

UPON motion by the Respondent for an Order of this Court to strike a Notice of Appeal filed by the Appellant under the *Employment Insurance Act*;

UPON reading the pleadings and other materials filed;

AND UPON hearing submissions of both parties;

IT IS ORDERED THAT:

1. The Respondent's motion is granted and the appeal filed under the *Employment Insurance Act* is quashed in accordance with the Reasons for Judgment attached hereto.

2. Costs in the aggregate amount of \$5,000 shall be payable by the Appellant in favour of the Respondent on or before January 21, 2011.
3. The Appellant, William Shawn Davitt, may not institute an appeal in this Court in respect of Employment Insurance ("EI") matters without written leave of the Court having first been obtained.
4. William Shawn Davitt may not appear as counsel in this Court in respect of any EI appeal in which any issue is substantially similar to the issues raised in this case or in any of Mr. Davitt's previous EI appeals to this Court without written leave of the Court having first been obtained.
5. William Shawn Davitt may not institute any appeal or represent any other person in this Court if the proceeding raises any issue which is substantially similar to the issues raised in this case or any of Mr. Davitt's previous EI appeals to this Court without written leave of the Court having first been obtained.
6. Any such leave application shall be in writing and shall not exceed 10 pages in length.

Signed at Ottawa, Canada, this 7<sup>th</sup> day of December 2010.

"Patrick Boyle"

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Boyle J.

Docket: 2010-1147(CPP)

BETWEEN:

WILLIAM SHAWN DAVITT,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

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Motion heard together with the motion in *William Shawn Davitt* (2010-1146(EI)),  
and decision rendered orally from the Bench on October 7, 2010,  
at Toronto, Ontario.

Before: The Honourable Justice Patrick Boyle

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Annie Paré

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**JUDGMENT**

UPON motion by the Respondent for an Order of this Court to strike a Notice of Appeal filed by the Appellant under the *Canada Pension Plan*;

UPON reading the pleadings and other materials filed;

AND UPON hearing submissions of both parties;

IT IS ORDERED THAT:

1. The Respondent's motion is granted and the appeal filed under the *Canada Pension Plan* is quashed in accordance with the Reasons for Judgment attached hereto.

2. Costs in the aggregate amount of \$5,000 shall be payable by the Appellant in favour of the Respondent on or before January 21, 2011.
3. The Appellant, William Shawn Davitt, may not institute an appeal in this Court in respect of Canada Pension Plan ("CPP") matters without written leave of the Court having first been obtained.
4. William Shawn Davitt may not appear as counsel in this Court in respect of any CPP appeal in which any issue is substantially similar to the issues raised in this case or in any of Mr. Davitt's previous CPP appeals to this Court without written leave of the Court having first been obtained.
5. William Shawn Davitt may not institute any appeal or represent any other person in this Court if the proceeding raises any issue which is substantially similar to the issues raised in this case or any of Mr. Davitt's previous CPP appeals to this Court without written leave of the Court having first been obtained.
6. Any such leave application shall be in writing and shall not exceed 10 pages in length.

Signed at Ottawa, Canada, this 7<sup>th</sup> day of December 2010.

"Patrick Boyle"

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Boyle J.

CITATION: 2010 TCC 555

2010-1146(EI)  
2010-1147(CPP)

BETWEEN:

WILLIAM SHAWN DAVITT,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

**EDITED VERSION OF TRANSCRIPT  
OF REASONS FOR JUDGMENT**

Let the attached edited transcript of the Reasons for Judgment delivered orally from the Bench at Toronto, Ontario, on October 7, 2010, be filed. I have edited the transcript (certified by the Court Reporter) for style, clarity and to make minor corrections only. I did not make any substantive change.

Signed at Ottawa, Canada, this 7<sup>th</sup> day of December 2010.

"Patrick Boyle"

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Boyle J.

Citation: 2010 TCC 555  
Date: 20101207  
Dockets: 2010-1146(EI)  
2010-1147(CPP)

BETWEEN:

WILLIAM SHAWN DAVITT,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

**EDITED VERSION OF TRANSCRIPT**  
**OF REASONS FOR JUDGMENT**

[delivered orally from the Bench at Toronto, Ontario, on October 7, 2010]

**Boyle J.**

[1] These are my reasons on the motion in the William Shawn Davitt Employment Insurance (“EI”) and Canada Pension Plan (“CPP”) appeals heard in Toronto today. This is a motion by the Crown to strike the Appellant’s EI and CPP Notices of Appeal for 2007.

[2] The Appellant, William Shawn Davitt, is a lawyer and a chartered accountant. He has a long and consistent history of appearing in this Court on his own behalf. He is clearly bright and is both passionate and knowledgeable about his adopted cause. He has brought a series of essentially similar *Charter*-based and substantive law-based appeals to this Court since 2001 when he was a student-at-law. All have been entirely unsuccessful without the need for a trial. The appeals were all quashed at the outset. Over time his appeals morphed to include numerous allegations of fraud at federal and provincial government levels, among other things, in support of his claim of age-based *Charter* discrimination. He also added over time claims of judicial bias. There is little new in his current appeals beyond additional evidence being pleaded at considerable length.

[3] His most recent prior proceeding involved his 2006 EI and CPP assessments. They were struck by Justice Webb in 2008. Justice Webb's decision was upheld by the Federal Court of Appeal in 2009. The Supreme Court of Canada dismissed Mr. Davitt's leave application in April of this year without reasons.

[4] At paragraphs 10 through 13 of Justice Webb's 2008 reasons for order, he wrote:

[10] The Appellant had previously filed appeals to this Court based on his argument that the *EI Act* and the *CPP* discriminate contrary to section 15 of the *Charter*. Associate Chief Justice Bowman (as he then was) allowed the Motion of the crown and struck out the Appellant's notice of appeal filed in 2001. . . Justice MacArthur [*sic*] struck out a Notice of Appeal filed by the Appellant in relation to the issue of whether the contribution rates under the *CPP* discriminated based on age contrary to subsection 15(1) of the *Charter*. . . That Notice of Appeal had also included an argument that the *CPP* was a Ponzi scheme.

[11] Justice Little struck out Notices of Appeal filed by the Appellant in 2003 under the *Income Tax Act*, the *EI Act*, and the *CPP*. . . In the Notices of Appeal filed under the *EI Act* and the *CPP* the Appellant was alleging that the premium rate under the *EI Act* and the contribution rate under the *CPP* discriminate on the basis of age contrary to section 15 of the *Charter*.

[12] In 2006 the Appellant brought a Motion to set aside the orders issued by Associate Chief Justice Bowman (as he then was), Justice MacArthur [*sic*] and Justice Little referred to above. Justice Mogan dismissed this motion. . . In his decision Justice Mogan made the following comments:

11 If the Appellant is right in maintaining that the Canada Pension Plan rates are too high, that the Plan is too well-funded, that the excess goes into the general federal revenue; or if he is right that employment insurance rates are too high and he ought not to have paid as much as he paid in the years 1998 or 1999 or 2000; whether such rates are too high or not is an issue that, again, is beyond the jurisdiction of this Court. Those rates are set in public debates in Parliament depending on the particular legislation. There are parliamentary committee hearings where different interest groups, and different political parties make their position known. I conclude the Tax Court of Canada has no jurisdiction to interfere with that kind of legislation.

[13] The Appellant has again filed Notices of Appeal under the *EI Act* and the *CPP* alleging that the premium rate set under the *EI Act* and the contribution rate set under the *CPP* should be reduced to nil. The first issue that must be decided is whether this Court has the jurisdiction to review the premium rate as set under the *EI Act* and the contribution rate as set under the *CPP*.

[5] It should be noted that the only change to the remedies sought by Mr. Davitt in today's 2007 appeals from the remedies sought by him in his 2006 appeals as reproduced in Justice Webb's reasons was to change the year from 2006 to 2007 and the amount of the statutory deduction to the 2007 amount. His \$11 million punitive damage claim for *Charter* infringement remained unchanged in amount this time.

[6] The Federal Court of Appeal and this Court has previously told Mr. Davitt he was in the wrong court in the clearest of language. Yet he returns. Every taxpayer is entitled to their day in court, but Mr. Davitt has had his day in each level of court yet carries on using up days that should otherwise be used by other taxpayers.

[7] In the *Davitt* 2001 decision of the then Associate Chief Justice Bowman, he used such words and phrases as "wholly unmeritorious and frivolous argument that has no possible chance of success", "it is certainly not relief that there is any remote chance of this or any other court awarding", "This court is not a forum for the propagation of political, social and economic theories", "Moreover, the arguments under section 15 of the Charter have no hope of success. They are wholly without merit", "devoid of merit", "a rather fanciful conjecture", "their utter hopelessness", "frivolous", "[t]he appellant might wish to consider speaking to his Member of Parliament", "so demonstrably nonsensical that it is sufficient merely to state it for it to be defeated by its own manifest absurdity", and

"[...] it is frivolous, vexatious and scandalous and discloses no reasonable cause of action. I have not for some time seen such an array of singularly unmeritorious propositions. There can be no objection to law students debating imaginative and indeed far-fetched notions in a college common room. It is no doubt a salutary and necessary part of their education. It is however a waste of public funds and of the court's time to advance such matters before the courts.", and

"Paragraph 249 of the notice of appeal reads as follows.

249. The taxpayer requests that this appeal be dealt with expeditiously so that he can make an assessment as to whether it is in his best interest to continue to reside in Canada.

I hope that I have dealt with this motion with sufficient expeditiousness to comply with this rather presumptuous demand."

[8] In *Davitt* 2003, Justice McArthur wrote:



[13] The pyramid (Ponzi) scheme the Appellant referred to is novel, but is pleaded only to provide context on which to analyze section 15 of the *Charter*. It does not assist the Appellant's position.

[14] The Appellant appears to have a fixation directed at the *CPP* and other Canadian tax-related legislation. The relief he seeks would probably cost the Treasury billions of dollars. This Court is not the forum for these colossal social upheavals. I believe that the Appellant can only find relief from the Federal Parliament.

[15] I urge the Appellant to cease arguing his social reforms before the Tax Court of Canada. His extraordinary efforts would be better spent in other directions. This Court's resources are better spent dealing with more worthy appeals. . .

[9] In *Davitt 2004*, Justice Little used such language as “unacceptable”, “based upon dubious or incorrect reasoning”, “[i]n my opinion these arguments are unfounded and cannot be accepted”, “this argument is without merit”, and “the Notice of Appeal is frivolous or vexatious and an abuse of the process of the Court”.

[10] Last year Justice Sharlow of the Federal Court of Appeal writing for the Court wrote:

These are not valid foundations for an allegation of a reasonable apprehension of bias. . . The difficulty here is that Mr. Davitt has chosen the wrong procedure and the wrong court.

[11] I have had the opportunity to read and consider the full reasons of Justices Sharlow, Webb, Mogan, Little, McArthur and Bowman as regards the applicable law on such a motion and its application to the issues and relief raised by Mr. Davitt. I need only say that I concur with them in their entirety. I have also read the judgment of Chief Justice McLachlin of the Supreme Court of Canada dismissing Mr. Davitt's leave application on behalf of a panel comprised of the Chief Justice and Justices Abella and Rothstein.

[12] The Crown's motions to strike are allowed. Mr. Davitt's 2007 EI and CPP Notices of Appeal are quashed.

[13] This Court has full power to regulate abuses of its process. See for example, *Fournier v. Canada*, 2005 FCA 131, [2006] G.S.T.C. 52, in the Federal Court of Appeal and Rule 9(2) as well as the decisions of this Court which have considered the relationship between cost awards and abuse of process such as *Bono v. M.N.R.*, 2010 TCC 466, and *Harold Isaac OP Sunrise Electrical v. M.N.R.*, 2010 TCC 225. I

have considered the Appellant's position in the Notices of Appeal, and his comments and submissions today in the context of the considerations applicable to awards of costs generally and to how best regulate abuses of process, which are summarized in the cases I have referred to and in our court's rules. On abuse of process, I would refer also to my reasons in *Golden et al. v. The Queen*, 2009 TCC 396, 2009 DTC 1273, and the Supreme Court of Canada authorities referred to therein, which decision has been upheld by the Federal Court of Appeal. In these circumstances, I fix the costs payable by the Appellant at \$5,000 to be paid within 45 days.

[14] William Shawn Davitt has brought a series of very similar appeals and proceedings to this Court. They have all been unsuccessful and the appeals have all been struck. Mr. Davitt cannot be left unconstrained to continue to abuse the processes of this Court by instituting vexatious proceedings. He might be described in current legal parlance as a class of vexatious litigant. In order to prevent any further abuses of this Court's processes by Mr. Davitt, my order will deny Mr. Davitt the right to file an EI or CPP appeal in this Court without written leave of this Court having first been obtained. Nor will he be permitted to represent another person in this Court in respect of such an appeal if the issues raised in it are substantially similar to those in the numerous *Davitt* appeals without leave of this Court having first been obtained. Nor will he be allowed to institute any appeal in this Court or represent another taxpayer in this Court if the appeal in either case raises substantially similar issues to those raised in the *Davitt* appeals without written leave of this Court having first been obtained. Any such leave application shall be in writing and shall not exceed 10 pages in length.

[15] Mr. Davitt has raised concerns in his materials and in his submissions regarding the open court principle and the Canadian Judicial Council's publication Ethical Judicial Principles. He raised these, as I understand him, in the context of his concern that I not, in writing my reasons in this motion, engage in constitutionally prohibited censorship and a denial of open public access to this Court's proceeding by not letting the Canadian public know his views by summarizing each of the arguments advanced in his Notices of Appeal and in argument today, and all of the relevant facts and evidence that, in his submissions in his Notices of Appeal and in argument today, were relevant to those arguments. There is no doubt that I am not obligated to do so, nor do I imagine it could be possible for me to summarize his two Notices of Appeal, which each run to hundreds of numbered paragraphs and each to more than 120 pages in length, to Mr. Davitt's satisfaction.

[16] However, to satisfy Mr. Davitt's concern, I will be attaching a copy of his Notices of Appeal as schedules forming part of my order and I will also attach a copy of both the court reporter's transcript of today's proceedings in its entirety and, if necessary and to the extent appropriate, a copy of the transcript edited by me to identify obvious errors in the transcription and punctuation.

[17] Thank you very much Ms. Paré, Madam Registrar, and Madam Court Reporter. We are adjourned for today.

Signed at Ottawa, Canada, this 7<sup>th</sup> day of December 2010.

"Patrick Boyle"

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Boyle J.

CITATION: 2010 TCC 555

COURT FILE NOS.: 2010-1146(EI), 2010-1147(CPP)

STYLE OF CAUSE: WILLIAM SHAWN DAVITT v. THE  
MINISTER OF NATIONAL REVENUE

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: October 7, 2010

REASONS FOR JUDGMENT BY: The Honourable Justice Patrick Boyle

DATE OF JUDGMENT: December 7, 2010

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Annie Paré

ALSO PRESENT:

Court Registrar: Roberta Colombo

Court Reporter: Christal Chan

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: Myles J. Kirvan  
Deputy Attorney General of Canada  
Ottawa, Canada