

Date: 20080129

Docket: T-862-06

Citation: 2008 FC 120

Ottawa, Ontario, January 29, 2008

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

BRENDA CHA

Respondent

REASONS FOR ORDER AND ORDER

O'KEEFE J.

[1] This proceeding was scheduled to hear submissions and evidence, if any, with respect to the sentencing of the respondent whom I found to be in contempt of court on September 14, 2007.

[2] At the commencement of this proceeding on January 18, 2008, the parties submitted a joint recommendation with respect to the appropriate sentence to be imposed.

[3] That recommendation was as follows:

1. Brenda Cha shall pay a fine of \$3,000 (the fine) within 31 days from the date of this order.

2. Brenda Cha shall pay costs to the Minister on a solicitor-client basis at an amount fixed at \$4,000 (the costs) within 31 days from the date of this order.

3. If the Minister informs the Court by affidavit that payment of either of the fine or the costs has not been made within 31 days from the date of this order, this Court then imposes on Brenda Cha a sentence of 15 days imprisonment for default on the payment of the costs and a consecutive sentence of 15 days imprisonment for default on the payment of the fine to a total of 30 days imprisonment.

4. Brenda Cha shall provide the Minister with a copy of the separation agreement in effect between Brenda L. Cha and Peter Howard Wardle (the document) within 90 days of this order, being the document subject to the order of Justice Campbell dated July 31, 2006.

5. If the parties have not jointly notified the Court in writing that production of the document is no longer necessary and if the Minister informs the Court by affidavit that Brenda Cha has failed to provide the document within 90 days from the date of this order, Brenda Cha must attend a hearing in Federal Court on May 2, 2008 to show cause why she should not be sentenced to a further 15 days imprisonment.

6. If Brenda Cha does not attend the hearing on May 2, 2008, she shall be sentenced without further order to an additional 15 days imprisonment, such term to run consecutive to any other term of imprisonment imposed by this order.

[4] The parties agreed I should remain seized of the case.

[5] My order of September 14, 2007 stated that the order issued after the sentencing hearing would confirm the finding that the respondent was in contempt of court. I hereby confirm that I am satisfied beyond a reasonable doubt that the respondent was in contempt of court.

[6] I am prepared to impose the following sentence:

1. Brenda Cha shall pay a fine of \$3,000 (the fine) within 31 days from the date of this order.
2. Brenda Cha shall pay costs to the Minister on a solicitor-client basis at an amount fixed at \$4,000 (the costs) within 31 days from the date of this order.
3. If the Minister informs the Court by affidavit that payment of either of the fine or the costs has not been made within 31 days from the date of this order, this Court then imposes on Brenda Cha a sentence of 15 days imprisonment for default on the payment of the costs and a consecutive sentence of 15 days imprisonment for default on the payment of the fine to a total of 30 days imprisonment.
4. Brenda Cha shall provide the Minister with a copy of the separation agreement in effect between Brenda L. Cha and Peter Howard Wardle (the document) within 90 days of this order, being the document subject to the order of Justice Campbell dated July 31, 2006.
5. If the parties have not jointly notified the Court in writing that the production of the document is no longer necessary and if the Minister informs the Court by affidavit that Brenda Cha has failed to provide the document within 90 days from the date of this order, Brenda Cha must attend a hearing in Federal Court, before me, on May 2, 2008 to show cause why she should not be sentenced to a further 15 days imprisonment.
6. If Brenda Cha does not attend the hearing on May 2, 2008, she shall be sentenced without further order to an additional 15 days imprisonment, such term to run consecutive to any other term of imprisonment imposed by this order.

ORDER

[7] **IT IS ORDERED that:**

1. Brenda Cha shall pay a fine of \$3,000 (the fine) within 31 days from the date of this order.
2. Brenda Cha shall pay costs to the Minister on a solicitor-client basis at an amount fixed at \$4,000 (the costs) within 31 days from the date of this order.
3. If the Minister informs the Court by affidavit that payment of either of the fine or the costs has not been made within 31 days from the date of this order, this Court then imposes on Brenda Cha a sentence of 15 days imprisonment for default on the payment of the costs and a consecutive sentence of 15 days imprisonment for default on the payment of the fine to a total of 30 days imprisonment.
4. Brenda Cha shall provide the Minister with a copy of the separation agreement in effect between Brenda L. Cha and Peter Howard Wardle (the document) within 90 days of this order, being the document subject to the order of Justice Campbell dated July 31, 2006.
5. If the parties have not jointly notified the Court in writing that the production of the document is no longer necessary and if the Minister informs the Court by affidavit that Brenda Cha has failed to provide the document within 90 days from the date of this order, Brenda Cha must attend a hearing in Federal Court, before me, on May 2, 2008 to show cause why she should not be sentenced to a further 15 days imprisonment.
6. If Brenda Cha does not attend the hearing on May 2, 2008, she shall be sentenced without further order to an additional 15 days imprisonment, such term to run consecutive to any other term of imprisonment imposed by this order.

“John A. O’Keefe”
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-862-06

STYLE OF CAUSE: MINISTER OF NATIONAL REVENUE
- and -
BRENDA CHA

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: January 18, 2008

**REASONS FOR ORDER
AND ORDER OF:** O'KEEFE J.

DATED: January 29, 2008

APPEARANCES:

Neva Beckie

FOR THE APPLICANT

Praveen K. Sandhu

FOR THE RESPONDENT

SOLICITORS OF RECORD:

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE APPLICANT

Koffman Kalef LLP
Vancouver, British Columbia

FOR THE RESPONDENT