

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160315

Docket: A-271-15

Citation: 2016 FCA 86

**CORAM: PELLETIER J.A.
DAWSON J.A.
GAUTHIER J.A.**

BETWEEN:

BRIAN WILLIAM KARAM

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on March 15, 2016.
Judgment delivered from the Bench at Ottawa, Ontario, on March 15, 2016.

REASONS FOR JUDGMENT OF THE COURT BY:

PELLETIER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on March 15, 2016).

PELLETIER J.A.

[1] The appellant appeals from the decision of the Federal Court (2015 FC 600) dismissing his application for judicial review of what he characterizes as a collection matter.

[2] The basis of the appellant's argument is that the notice of confirmation provided by the Minister on November 17, 2010 provides the legally correct basis of the appellant's liability for

income tax and that the Minister's collection activity is limited to the amount of tax owing when that basis of assessment is given effect.

[3] The difficulty with this argument is that it amounts to a collateral attack on the reassessment issued by the Minister as well as on of the Tax Court of Canada decision's dismissing the appellant's appeal from that reassessment (2013 TCC 354). The amount of tax payable by a taxpayer is assessed by the Minister (ss. 152(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) "the ITA") and is communicated to the taxpayer in a notice of assessment (ss. 152(2)) or reassessment (ss. 152(4)). Any challenge to the amount of tax payable must proceed by way of an appeal from the assessment or reassessment to the Tax Court of Canada which has exclusive original jurisdiction over appeals from assessments (ss. 165(7) of the ITA and ss. 12(1) of the *Tax Court of Canada Act*, R.S.C. 1985, c. T-2.

[4] The appellant concedes, as he must, that the correctness of the amount of tax for which he was liable could have been raised before the Tax Court of Canada but, for reasons best known to the appellant, that was not done. Given this right of appeal, section 18.5 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 deprives this Court of jurisdiction in this matter.

[5] For these reasons, the appeal will be dismissed with costs in the amount agreed between the parties.

"J.D. Denis Pelletier"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-271-15
STYLE OF CAUSE: BRIAN WILLIAM KARAM v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: MARCH 15, 2016

REASONS FOR JUDGMENT OF THE COURT BY: PELLETIER J.A.
DAWSON J.A.
GAUTHIER J.A.

DELIVERED FROM THE BENCH BY: PELLETIER J.A.

APPEARANCES:

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BRIAN WILLIAM KARAM

André Leblanc FOR THE RESPONDENT
ATTORNEY GENERAL OF
CANADA

SOLICITORS OF RECORD:

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