

**Date: 20070706**

**Docket: A-377-06**

**Citation: 2007 FCA 253**

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

**BETWEEN:**

**MERVIN MICHAEL BODNARCHUK**

**Appellant**

**and**

**MINISTER OF NATIONAL REVENUE**

**Respondent**

Dealt with in writing without appearance of parties.

Judgment delivered at Ottawa, Ontario, on July 6, 2007.

**REASONS FOR JUDGMENT BY: .**

**TRUDEL J.A.**

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**BETWEEN:**

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**REASONS FOR JUDGMENT**

**TRUDEL J.A.**

[1] On August 26, 2006, Mervin Michael Bodnarchuk commenced his appeal from an order of the Federal Court (Gauthier J.). He was found guilty of contempt in regard to a show cause order and ordered to pay a fine of \$1,000 and costs of \$600.

[2] The grounds of appeal read as follows:

“a) the questions were not clear and the appellant did not agree to provide answers to at (sic) the questions.

b) the circumstances of the case were such that it would be necessary to proceed to with (sic) a fresh motion for a show cause order then be concerned about cost.

c) the appellant did provide information to the best of his abilities and that the Canada Revenue Agency was not satisfied with the answers (negative net worth) and sought contempt.

d) a deadline was never imposed by the Court and that providing the requested information any time thereafter did not warrant contempt.”

[3] Following the issue of a Notice of Status Review on May 16, 2007, the appellant filed submissions to show cause why his appeal should not be dismissed for delay.

[4] The appellant gives the following reasons for his delay:

- a) He has been involved in a criminal appeal in the British Columbia Court of Appeal;
- b) He cannot afford the cost of the transcripts;
- c) He needs more time to raise money to hire a lawyer.

Therefore, he seeks an extension until September 7, 2007 to retain counsel and prepare the necessary documentation.

[5] The normal factors in support of the extension, sought by the appellant, can be summarized as (a) a continuing intention to pursue the appeal; (b) the existence of an arguable case; (c) a reasonable explanation for the delay; and (d) the lack of prejudice to the other party [*Rosen v. Canada*, [2002] F.C.J. No. 415 (Fed. (C.A.))].

[6] In his submissions, the appellant fails to address two questions: Is there a reasonable explanation for the delay and what practical measure does he propose to move his appeal forward?

[7] Between the filing of his appeal on August 28, 2006 and the Notice of Status Review dated May 16, 2007, the appellant has shown no interest for his file. The mere submission that a litigant is dealing with other matters cannot be used to justify a delay. Otherwise, the time requirements of the Rules would serve no purpose.

[8] The appellant also fails to show that there is any merit to his appeal.

[9] Courts are reluctant to dismiss a proceeding for a failure to comply with the rules of practice when the litigant wishes to proceed, particularly when the litigant is self-represented.

[10] However, there are cases where early dismissal of the appeal is entirely appropriate in order to avoid an unnecessary and costly hearing.

[11] In my opinion, this is a case where the appellant has not shown a sustained interest for his case and where the appeal has not been shown to have any merit.

[12] For these reasons, I would dismiss the appeal with costs.

“Johanne Trudel”

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J.A.

“I agree  
Gilles Létourneau J.A.”

“I agree  
J.D. Denis Pelletier J.A. ”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-377-06

**STYLE OF CAUSE:** MERVIN MICHAEL  
BODNARCHUK and MINISTER OF  
NATIONAL REVENUE

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** TRUDEL J.A.

**DATED:** July 6, 2007

**WRITTEN REPRESENTATIONS BY:**

Mr. Mervin Michael Bodnarchuk FOR HIS OWN BEHALF

Jason Levine FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

MERVIN MICHAEL BODNARCHUK FOR HIS OWN BEHALF  
Surrey, British Columbia

JOHN H. SIMS Q.C. FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Vancouver, British Columbia