

Federal Court of Appeal



Cour d'appel fédérale

Date: 20201102

Docket: A-124-19

Citation: 2020 FCA 187

**CORAM: STRATAS J.A.
GLEASON J.A.
LASKIN J.A.**

BETWEEN:

ROBERT JEWETT

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard by online video conference hosted by the registry on November 2, 2020.
Judgment delivered from the Bench at Ottawa, Ontario, on November 2, 2020.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of Appeal



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BETWEEN:

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on October 29, 2020).

STRATAS J.A.

[1] The appellant appeals from the judgment of the Federal Court (*per* Heneghan J.): 2019 FC 200. The Federal Court dismissed his application for judicial review of the decision of the Appeals Branch of the Canada Revenue Agency. The Appeals Branch refused in part his request

for the waiver of interest under subsection 220(3.1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

[2] The decision of the Appeals Branch is a discretionary, factually suffused decision. As a result, as the appellant fairly concedes, it is a relatively unconstrained decision and difficult to set aside under *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1. The appellant has not persuaded us that the decision violates these minimal constraints and is unreasonable.

[3] In oral argument, the appellant points to delay on the part of the Appeals Branch. But in conducting reasonableness review, it is not our role to reweigh the facts of this case. This also appears to be a new, impermissible argument on appeal from a judicial review; the appellant did not explain to the Appeals Branch in any detail that its own delays should prompt relief. Instead, he focused his submissions to the Appeals Branch on delay caused by his previous counsel.

[4] The decision letter of the Appeals Branch offers few express reasons behind the refusal. However, when the decision letter is viewed in light of the appellant's conduct, his request for relief (pages 175-186, 195-199 and 205-224 of the appeal book), the fact sheets prepared by the Appeals Branch (see, *e.g.*, pages 453-459, 608-614, 652-657 and 665-670 of the appeal book), and correspondence passing between the appellant and the Appeals Branch, the basis for the refusal can be seen. As a result, we conclude that the decision exhibits sufficient transparency, intelligibility and justification.

[5] Therefore, we will dismiss the appeal with costs.

“David Stratas”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-124-19

APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE HENEGHAN DATED FEBRUARY 18, 2019, DOCKET NO. T-1238-17

STYLE OF CAUSE: ROBERT JEWETT v. THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HEARD BY ONLINE VIDEO CONFERENCE HOSTED BY THE REGISTRY

DATE OF HEARING: NOVEMBER 2, 2020

REASONS FOR JUDGMENT OF THE COURT BY: STRATAS J.A.
GLEASON J.A.
LASKIN J.A.

DELIVERED FROM THE BENCH BY: STRATAS J.A.

APPEARANCES:

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Tony C. Cheung FOR THE RESPONDENT

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