

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230420

Docket: A-270-21

Citation: 2023 FCA 82

**CORAM: LOCKE J.A.
LEBLANC J.A.
ROUSSEL J.A.**

BETWEEN:

BRANDON OSADCHUK

Appellant

and

HIS MAJESTY THE KING

Respondent

Heard at Edmonton, Alberta, on April 20, 2023.
Judgment delivered from the Bench at Edmonton, Alberta, on April 20, 2023.

REASONS FOR JUDGMENT OF THE COURT BY:

LOCKE J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Edmonton, Alberta, on April 20, 2023).

LOCKE J.A.

[1] The appellant, Brandon Osadchuk, seeks an Order from this Court prohibiting the respondent from collecting income taxes from him, and requiring it to return taxes collected from him in the past. The basis for his request is that he is a free human being who cannot, without his

consent, be recognized as a person under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), and required to pay income taxes.

[2] The present appeal relates to a decision of the Tax Court of Canada (in docket no. 2021-1118(IT)G, *per* Justice Robert J. Hogan) that granted the respondent's motion to strike an appeal before that court of notices of assessment concerning Mr. Osadchuk's 2009 and 2010 income tax returns. The Tax Court noted that Mr. Osadchuk made no arguments on the substance of the notices of assessment in issue, and instead argued that his rights as a human being under the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11, s. 91(24), and the *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171, Can T.S. 1976 No. 47, were violated. The Tax Court agreed with the respondent's argument that it was plain and obvious that Mr. Osadchuk's appeal had no reasonable prospect of success. The Tax Court also found that Mr. Osadchuk's appeal was characteristic of what is called "Organized Pseudo-Legal Commercial Argument" as described in detail in the Alberta Court of Queen's Bench decision in *Meads v. Meads*, 2012 ABQB 571, [2012] A.J. No. 980.

[3] Before this Court, Mr. Osadchuk makes arguments and seeks remedies similar to those he made and sought before the Tax Court. He also argues that this Court has inherent jurisdiction that the Tax Court does not have to grant the remedies he seeks. Though he cites some additional authorities, it is perfectly clear to us that the Tax Court made no reviewable error in striking the appeal before that Court. The Tax Court was correct to conclude that it is plain and obvious that Mr. Osadchuk's appeal had no reasonable prospect of success. This Court has repeatedly rejected arguments like Mr. Osadchuk's based on a distinction between a human being and a natural

person: *Nadeau v. Canada*, 2019 FCA 246 at paragraph 6, *Nadeau v. Canada*, 2017 FCA 75 at paragraph 5. The inherent jurisdiction of this Court is of no moment on this question. Moreover, consent is not a requirement for Mr. Osadchuk's liability to pay taxes under the *Income Tax Act*. None of the authorities cited by Mr. Osadchuk supports his argument to the contrary. International treaties and conventions are not part of Canadian law unless they have been implemented by statute (*Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at paragraph 69).

[4] Before concluding, we would like to note that this appeal might have been susceptible to being dismissed summarily as was done before the Tax Court. We note that resources were saved before the Tax Court because of the summary dismissal, and the same could have been achieved (though perhaps to a lesser degree) in this Court. We take this opportunity to encourage the respondent, in appropriate cases like this one, to move for summary dismissal of appeals before this Court.

[5] This appeal will be dismissed with costs in accordance with Tariff B of the *Federal Courts Rules*, S.O.R./98-106.

"George R. Locke"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-270-21

STYLE OF CAUSE: BRANDON OSADCHUK v. HIS
MAJESTY THE KING

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: APRIL 20, 2023

**REASONS FOR JUDGMENT OF THE COURT
BY:** LOCKE J.A.
LEBLANC J.A.
ROUSSEL J.A.

DELIVERED FROM THE BENCH BY: LOCKE J.A.

APPEARANCES:

Brandon Osadchuk FOR THE APPELLANT
(On his own behalf)

Mary Softley FOR THE RESPONDENT

SOLICITORS OF RECORD:

Shalene Curtis-Micallef FOR THE RESPONDENT
Deputy Attorney General of Canada