

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20230420**

**Dockets: A-311-21  
A-310-21**

**Citation: 2023 FCA 81**

**CORAM: BOIVIN J.A.  
WOODS J.A.  
MONAGHAN J.A.**

**Docket: A-311-21**

**BETWEEN:**

**JEREMY FREEDMAN**

**Appellant**

**and**

**HIS MAJESTY THE KING**

**Respondent**

**Docket: A-310-21**

**AND BETWEEN:**

**JOANNE LAURIA**

**Appellant**

**and**

**HIS MAJESTY THE KING**

**Respondent**

Heard at Toronto, Ontario, on April 20, 2023.  
Judgment delivered from the Bench at Toronto, Ontario, on April 20, 2023.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Toronto, Ontario, on April 20, 2023).**

**BOIVIN J.A.**

[1] The appellants appeal from the judgments of Justice Pizzitelli of the Tax Court of Canada (the Judge), rendered on October 13, 2021, in files (2018-1955(IT)G) and (2018-1954(IT)G). The appeals of both appellants were heard and decided by the Judge on the basis of common evidence, with reasons reported as *Lauria v. The Queen*, 2021 TCC 66.

[2] The Judge found that the Minister of National Revenue had the authority to reassess the appellants outside of the normal reassessment period pursuant to subparagraph 152(4)(a)(i) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the Act).

[3] The standards of review applicable to this appeal are the those set out in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R.235, that is palpable and overriding error for questions of fact and mixed fact and law and correctness for questions of law.

[4] We are all of the view that the Judge correctly identified and applied the two-step approach to determine whether the appellants could be reassessed beyond the normal reassessment period pursuant to subparagraph 152(4)(a)(i) of the Act (*Vine v. Canada*, 2015 FCA 125, [2015] 4 F.C.R. 698). In a detailed and thorough analysis, the Judge considered the evidence before him and found that the proceeds of dispositions of shares had been misrepresented on the appellants' respective 2006 income tax returns, and that these misrepresentations were attributable to carelessness and neglect within the meaning of

subparagraph 152(4)(a)(i) of the Act (Judge's Reasons at para 96). We all agree with his conclusions for essentially the same reasons.

[5] The appellants are in fact asking us to reweigh the evidence and to substitute our views for those of the Judge, which is not our role. We are all of the view that the Judge did not commit any error that would warrant our intervention.

[6] The appeals will accordingly be dismissed with costs.

“Richard Boivin”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKETS:** A-311-21 AND A-310-21

**DOCKET:** A-311-21

**STYLE OF CAUSE:** JEREMY FREEDMAN v. HIS  
MAJESTY THE KING

**AND DOCKET:** A-310-21

**STYLE OF CAUSE:** JOANNE LAURIA v. HIS  
MAJESTY THE KING

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** APRIL 20, 2023

**REASONS FOR JUDGMENT OF THE COURT  
BY:** BOIVIN J.A.  
WOODS J.A.  
MONAGHAN J.A.

**DELIVERED FROM THE BENCH BY:** BOIVIN J.A.

**APPEARANCES:**

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FOR THE RESPONDENT

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FOR THE RESPONDENT