

Citation: 2014 TCC 110
Date: 20140409
Docket: 2012-1211(IT)G

BETWEEN:

ROBERT P. HARRIS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent;

Docket: 2012-2192(IT)G

AND BETWEEN:

SUSAN L. HARRIS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

(Edited from the transcript of Reasons for Order delivered orally from the Bench
on February 4, 2014 at Ottawa, Canada)

Campbell J.

[1] There are two matters before me concerning the appeals of Mr. and Mrs. Harris.

[2] The Respondent had brought a motion in each of these appeals to dismiss both of them for the delays.

[3] The transcript would show the history that Respondent Counsel, Mr. Warren, outlined, but briefly, throughout these appeals and until today, Mr. and Mrs. Harris have been self-represented.

[4] There was an Order by Justice Jorré and a timetable given in this matter, on November 7, 2012 and dates for examinations were set.

[5] Mr. Warren issued Notices to Attend for those examinations in January of 2013.

[6] The examinations, according to the documents in front of me, were set for February 25th, 2013.

[7] Mr. Harris advised the Respondent that Ms. Harris would not be attending those examinations and, at the examinations, Mr. Harris simply refused to answer any of the questions put to him.

[8] This gave rise to a motion similar to the present one by the Respondent asking that the appeals be dismissed.

[9] That resulted in a second Order by Justice Valerie Miller, dated June 20, 2013, and in that Order she established new steps, including a new date for completion of the examinations, which was November 29, 2013. Costs were awarded.

[10] The last paragraph of that Order, in fact, says “If the Appellant fails to comply with the amended Timetable Order, the Respondent will bring a motion for dismissal of his appeal.”

[11] That is where we are at again today.

[12] The Respondent issued Notices to Attend the examinations.

[13] Both parties attended, however, in response to all of the questions, they read from a pre-prepared statement, which was to the effect “an undertaking to gather the requested information subject to consulting counsel in respect to my *Charter of Rights*.”

[14] That was the response given even when asked such simple and direct questions as to whether, for example, it was their signature on the return, what year they were appealing and were they operating a business?

[15] Subsequent to that, the examinations were adjourned. There were, according to Mr. Warren, numerous e-mails back and forth respecting the deadlines for undertakings and compliance with the Court Order. I have reviewed those e-mails.

[16] Mr. Warren was clear with the Appellants that there had been disclosure of the documents, that it was not a criminal matter and that only their reassessments were before this Court.

[17] The Respondent brought the two motions to dismiss, a motion in each matter, and that is why we are here today.

[18] Up until this morning, the record showed that Mr. Harris was representing himself and this morning he came in with counsel.

[19] Ms. Harris does not have counsel today, and provided no comments in respect to Mr. Warren's submissions.

[20] Basically, Ms. Christian, the solicitor for Mr. Harris, contended that, because he is self-represented, he confused the concepts of a criminal proceeding and criminal matters with the civil matter, which is the reassessment that is before this Court. She also stated that potentially there could be a *Charter* issue.

[21] Generally, as indicated in my remarks earlier during the hearing of the motions, I have a level of comfort when I have counsel come in on a motion such as this, and advise that she is representing the Appellants or one of them. This would suggest to me that if she is unsure if she can represent both Appellants and is asking until the end of the week to ascertain that, that in addition she would suggest something to the Court in terms of these undertakings the Appellants gave by way of this standard response, that she would provide dates, perhaps, for turnaround on further examinations and undertakings and that she would address the costs issue. None of this was addressed by Ms. Christian, the counsel.

[22] In fact, I gathered from some of her remarks that she may have been retained only for today's motions and not for the entire matter, even as it relates to Mr. Harris alone.

[23] She did say, and the transcript would show, that she might represent one or both of them if there was not a conflict, or possibly another counsel might be conducting the matter.

[24] That leaves me very little comfort that this matter will not appear back in this Court at some point down the road, with the very same history presented for the third time.

[25] I believe that the reading of that response at the examination is an indication of the Appellants' attempt, continued attempt, to thwart the processes of this Court and frustrate the processes to take up valuable time and resources when there are taxpayers that are self-represented and wish to move their matters along swiftly.

[26] Mr. Harris and Mrs. Harris have had ample time, when I look at the history of this file, to have hired counsel long before this morning.

[27] If they had issues, if they were not sure on matters, they had ample opportunity to get instructions from an accountant, a lawyer, someone, before today's motions in front of me and to suggest future timelines for completion of steps.

[28] It appears that with their response at the examinations, they wanted time to look at these undertakings that they had given. There is no indication they have done so.

[29] Therefore, I am going to dismiss both the appeals and I am combining the matters and I am going to award \$2,500 to the Respondent, payable forthwith, in both of these matters.

Signed at Ottawa, Canada this 9th day of April 2014.

“Diane Campbell”

Campbell J.

CITATION: 2014 TCC 110

COURT FILE NOS.: 2012-1211(IT)G
2012-2192(IT)G

STYLES OF CAUSE: ROBERT P. HARRIS and
HER MAJESTY THE QUEEN
SUSAN L. HARRIS and
HER MAJESTY THE QUEEN

PLACE OF HEARING: Ottawa, Canada

DATE OF HEARING: February 4, 2014

REASONS FOR ORDER BY: The Honourable Justice Diane Campbell

DATE OF ORAL REASONS: February 4, 2014

APPEARANCES:

Counsel for the Appellant,
Robert P. Harris: Lisa Christian

For the Appellant,
Susan L. Harris: The Appellant herself

Counsel for the Respondent: Jack Warren

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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