

Federal Court



Cour fédérale

Date: 20151130

**Dockets: T-1468-15
T-1184-15
T-1141-15**

Citation: 2015 FC 1321

Ottawa, Ontario, November 30, 2015

PRESENT: The Honourable Mr. Justice O'Reilly

Docket: T-1468-15

BETWEEN:

**HAROLD COOMBS &
JOAN COOMBS &
PETER G. MOSSOP**

Applicants

and

**THE MINISTER OF JUSTICE (CANADA)
THE DEPARTMENT OF JUSTICE (CANADA)
THE ATTORNEY GENERAL OF CANADA**

Respondents

Docket: T-1184-15

AND BETWEEN:

**JOAN COOMBS &
JOHN F. COOMBS**

Applicants

and

**MINISTER OF NATIONAL REVENUE &
MINISTER OF JUSTICE &
ATTORNEY GENERAL OF CANADA**

Respondents

Docket: T-1141-15

AND BETWEEN:

**PERCY G. MOSSOP &
LORNA MOSSOP &
JOAN COOMBS &
JOHN F. COOMBS &
BOB WYSOCKI &
HAROLD COOMBS**

Applicants

and

MINISTER OF NATIONAL REVENUE

Respondent

ORDER AND REASONS

[1] The Respondent Ministers in these three applications for judicial review have moved to strike the applications on the basis that they are “so clearly improper as to be bereft of any possibility of success” (*Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc*, 2013 FCA 250, at para 47).

[2] I agree and will therefore grant the respondents' motions.

[3] The three applications are based on numerous allegations. In essence, however, there are just three in total. The applicants allege that:

1. The Minister of National Revenue was biased and violated the *Income Tax Act* by allowing an unauthorized person to participate in a search and seizure in September 2006, resulting in a violation of the *Canadian Bill of Rights*, the *Canadian Charter of Rights and Freedoms*, and the applicants' right to a fair hearing (T-1141-15 and T-1184-15).
2. Crown Counsel (Mr Ricky YM Tang) attempted to obstruct, pervert or defeat the course of justice by having discussions with two witnesses at a hearing before the Tax Court of Canada and, in doing so, violated the *Charter* and the *Department of Justice Act*, and denied the applicants fundamental justice and procedural fairness (T-1184-15 and T-1468-15).
3. Crown Counsel (Ms Sonia Singh) acted improperly by bringing motions to strike the earlier applications for judicial review. By so doing, she followed an allegedly illegal Direction from Prothonotary Kevin Aalto, thereby violating the *Charter* and the *Department of Justice Act*, bringing the administration of justice into disrepute, and depriving the applicants of a fair hearing (T-1468-15).

[4] The first allegation has already been the subject of numerous previous applications for judicial review and motions to strike. Indeed, in *Coombs et al v Attorney General of Canada*, 2014 FC 233, Justice Catherine Kane found that it had "been the subject of five previous proceedings, all of which were dismissed" (at para 16) (affirmed 2014 FCA 222). And yet, the

issue subsequently came before Justice Denis Gascon, once again, as recently as July 15, 2015 (*Coombs v Canada (National Revenue)*, 2015 FC 869). Justice Gascon found that the application before him “boils down to a repackaging and variation on issues already decided by the courts” (at para 7). Further, he concluded that the application represented an abuse of the Court’s process.

[5] I see nothing in the materials before me that might distinguish these three applications from the many applications previously brought before this Court which have raised the issue of an allegedly improper search and seizure conducted in September of 2006. All previous applications have found no impropriety and were considered on a full record. Therefore, in my view, this allegation cannot possibly succeed.

[6] As for the second allegation, the alleged improper conduct arose in proceedings before the Tax Court of Canada. The allegation was the subject of a motion that came before Chief Justice Eugene Rossiter, who dismissed it on July 30, 2015 (2014-16(IT)I and 2013-4882(IT)I). The applicants would be free to raise this issue on an appeal of the decision of the Tax Court, or of Chief Justice Rossiter’s Order.

[7] In my view, therefore, the allegation has already been addressed in the Tax Court and there is an alternative remedy of an appeal. Accordingly, the allegation cannot possibly succeed in this Court. In any case, contrary to the applicants’ submission, I highly doubt that the allegation is the proper subject of an application for judicial review.

[8] The third allegation has not been specifically addressed elsewhere. However, a related question, the propriety of Prothonotary Aalto's Direction, did come before Justice Kane in the decision cited above. The applicants alleged that the Direction displayed bias in that it actually invited the respondent to bring motions to strike against the applicants. Justice Kane found no evidence of bias; the Prothonotary's intention, in her view, was merely to consolidate the various applications and motions in order "to promote efficiency and access to justice so that the identical issues could be dealt with together" (at para 25).

[9] The allegation relating to Ms Singh is that she acted improperly by informing the Court of her intention to bring motions to strike a number of applications and to seek consolidation of those applications in the interest of efficiency. She then brought those motions to strike before Justice Kane in accordance with Prothonotary Aalto's Direction.

[10] Again, assuming that this allegation is a proper subject for an application for judicial review (which I doubt), I can see no merit in it whatsoever. Ms Singh's conduct appears entirely consistent with her responsibility as Crown counsel and as an officer of the Court. In my view, therefore, the allegation against her cannot possibly succeed.

[11] Therefore, I find that all of the allegations contained in these applications for judicial review are "so clearly improper as to be bereft of any possibility of success". Accordingly, I will grant the respondents' motions, with costs.

ORDER

THIS COURT ORDERS that the motions to strike are granted, with costs against the applicants in each application set at \$500.00.

"James W. O'Reilly"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1468-15

STYLE OF CAUSE: HAROLD COOMBS & JOAN COOMBS & PETER G. MOSSOP v THE MINISTER OF JUSTICE (CANADA) THE DEPARTMENT OF JUSTICE (CANADA) THE ATTORNEY GENERAL OF CANADA

AND DOCKET: T-1184-15

STYLE OF CAUSE: JOAN COOMBS & JOHN F. COOMBS v MINISTER OF NATIONAL REVENUE & MINISTER OF JUSTICE & ATTORNEY GENERAL OF CANADA

AND DOCKET: T-1141-15

STYLE OF CAUSE: PERCY G. MOSSOP & LORNA MOSSOP & JOAN COOMBS & JOHN F. COOMBS & BOB WYSOCKI & HAROLD COOMBS v MINISTER OF NATIONAL REVENUE

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 24, 2015

ORDER AND REASONS: O'REILLY J.

DATED: NOVEMBER 30, 2015

APPEARANCES:

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