

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20151217**

**Docket: A-298-14**

**Citation: 2015 FCA 292**

**CORAM: NADON J.A.  
TRUDEL J.A.  
SCOTT J.A.**

**BETWEEN:**

**RAYNALD GRENIER**

**Appellant**

**and**

**THE ATTORNEY GENERAL OF CANADA FOR  
THE CANADA REVENUE AGENCY (CRA)**

**Respondent**

Heard at Québec, Quebec, on December 15, 2015.

Judgment delivered at Ottawa, Ontario, on December 17, 2015.

**REASONS FOR JUDGMENT BY:**

**SCOTT J.A.**

**CONCURRED IN BY:**

**NADON J.A.  
TRUDEL J.A.**

**Federal Court of Appeal**



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**Respondent**

**REASONS FOR JUDGMENT**

**SCOTT J.A.**

[1] Raynald Grenier (appellant) appeals from the decision of Justice Martineau (the Judge) of the Federal Court dated May 27, 2014, 2014 FC 504, granting a motion to strike his application for judicial review, which was filed against a decision by the Canada Revenue Agency (CRA) on February 10, 2014, denying his second request for relief relating to the taxation years 1981 to 1996, 2001 to 2004, and 2006, to overturn the decision to limit his farm losses.

[2] The appellant makes two submissions before this Court. He alleges that the Judge erred by striking out his application for judicial review on the basis that the Federal Court did not have jurisdiction to grant the remedies sought, which are a matter for the Tax Court of Canada. He submits that the Judge was also required to address his cause of action based on the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c. 11 (the Charter). Indeed, the appellant, who is a physician, argues that he was discriminated against because he has two sources of income, that is, income from his medical practice and income from his sylvicultural operation. He submits that the application of subsections 31(1) and (1.1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (Act) is a violation of section 15 of the Charter. The CRA disallowed the deduction of a portion of his losses from his farming business on the grounds that farming was not his chief source of income during the years in dispute.

[3] I am of the opinion that those arguments cannot succeed. The appellant's application for judicial review failed to raise a cognizable administrative law claim. The Judge was correct in ruling that the Federal Court could not grant him the remedy sought.

[4] The Federal Court could not then examine the appellant's constitutional argument, irrespective of whether or not he served a notice of constitutional question. The Supreme Court has noted on numerous occasions that it must be vigilant "to ensure that a proper factual foundation exists before measuring legislation against the provisions of the Charter, particularly where the effects of impugned legislation are the subject of the attack" (*Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, page 1099; *Canadian Broadcasting Corp. v. New*

*Brunswick (Attorney General)*, [1996] 3 SCR 480, paragraph 15; *British Columbia (Attorney General) v. Christie*, 2007 SCC 21, [2007] 1 S.C.R. 873, paragraph 28; *Canada v. Stanley J. Tessmer Law Corporation*, 2013 FCA 290, paragraph 9).

[5] For these reasons, I propose to dismiss the appeal with costs.

“A.F. Scott”

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J.A.

“I concur.

M. Nadon, J.A.”

“I concur.

Johanne Trudel, J.A.”

Certified true translation  
Francois Brunet, Revisor

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-298-14

**STYLE OF CAUSE:** RAYNALD GRENIER v. THE  
ATTORNEY GENERAL OF  
CANADA FOR THE CANADA  
REVENUE AGENCY (CRA)

**PLACE OF HEARING:** QUÉBEC, QUEBEC

**DATE OF HEARING:** DECEMBER 15, 2015

**REASONS FOR JUDGMENT BY:** SCOTT J.A.

**CONCURRED IN BY:** NADON J.A.  
TRUDEL J.A.

**DATED:** DECEMBER 17, 2015

**APPEARANCES:**

Raynald Grenier FOR THE APPELLANT  
(Self-represented)

Lune Arpin FOR THE RESPONDENT  
THE ATTORNEY GENERAL OF  
CANADA FOR THE CANADA  
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REVENUE AGENCY (CRA)