

Date: 20030715

Docket: A-237-03

Citation: 2003 FCA 305

Present: PELLETIER J.A.

BETWEEN:

ILONA ZSOLDOS

Applicant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

“Dealt with in writing without appearance of parties.”

Order delivered at Ottawa, Ontario, on July 15, 2003.

REASONS FOR ORDER BY: PELLETIER J.A.

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REASONS FOR ORDER

PELLETIER J.A.

[1] This is a motion brought by Ilona Zsoldos, the applicant in files A-237-03 and A-60-03, and the wife of Gabor Zsoldos, the applicant in file A-556-01. The motion seeks the following relief:

1. An Order allowing the applicant to file a Supplementary Motion Record for the judicial review of a Tax Court of Canada decision dated August 21, 2001 as part of new evidence that includes her Motion Record dated March 25, 2003, the transcript of the cross-examination of Cesare Chiarotto on his March 25, 2003 affidavit filed in support of the Respondent's motion, the transcripts of the hearing of the Respondent's motion to strike the applicant's Notice of Appeal from the Minister's reassessment issued for the taxation year of 1993, pursuant the Tax Courts' [*sic*] decision rendered on August 21, 2001 which referred back to the Minister the appellant's reassessments for the taxation years of 1992-1997;

2. An Order to permit the Applicant to enter further relevant and critical evidence obtained which were not available before the appellant filed her previous Application Record;
3. An Order to allow the Applicant's Application to be heard together with her husband's application for judicial review of a Tax Court judgement [*sic*] dated August 21, 2001 to consolidate the actions that are based on common factual and legal issues;
4. Such further and other relief as this Honorable [*sic*] Court may grant.

[2] File A-556-01 is an application for judicial review brought by Gabor Zsoldos with respect to the decision of the Tax Court of Canada dated August 21, 2001 in appeal 2000-2626(IT). File A-60-03 is an application for judicial review brought by Ilona Zsoldos with respect to the decision of the Tax Court of Canada dated August 21, 2001 in appeal 2000-2626(IT). Based upon the affidavit of Cesare Chiarotto, I believe that the reference to appeal 2000-2626(IT) is a typographical error and that the right file number is 2000-2625(IT). It is my understanding that the appeals of Gabor Zsoldos and Ilona Zsoldos were heard together on common evidence. File A-237-01 is an application for judicial review brought by Ilona Zsoldos with respect to a decision of the Tax Court of Canada dated April 25, 2003 in appeal 2002-4661(IT). In that decision, the Tax Court judge struck the Notice of Appeal on the ground that the matters raised in the appeal had already been dealt within appeal 2000-2625(IT).

[3] The applicant requests that the applications in all three files be heard together. There is already an order that the applications A-556-01 and A-60-03 be heard at the same time, or one following the other as the Court may determine. Consequently, the present motion seeks to join the hearing of application A-237-03 to the other two applications. Given the fact that all three

applications appear to arise out of the same proceeding, there will be an order that application A-237-03 be heard at the same time, or following the hearing of applications A-556-01 and A-60-03 or as the Court hearing the applications may determine.

[4] The motion also requests leave to file a Supplementary Record including new evidence such as the applicant's Motion Record of March 25, 2003, the transcript of the cross-examination of Cesare Chiarotto on his affidavit, and the transcript of the proceedings before the Tax Court in appeal 2002-4661(IT). I am unable to determine with any precision exactly what the new evidence the applicant seeks to put before the Court is intended to prove and on what basis it would be relevant to the applications for judicial review. Some of the evidence, such as the transcript of proceedings in the Tax Court in appeal 2002-4661(IT) would properly be before the Court in application no. A-237-03 but have nothing to do, whether by way of new evidence or otherwise with the other two applications. Some of the evidence, such as the cross-examination of Cesare Chiarotto on his affidavit would have been known to the applicant prior to the hearing in appeal 2002-4661(IT).

[5] A review of the affidavits filed by the applicant in her Notice of Application A-60-03, and on this motion (the affidavit of Gabor Zsoldos) demonstrates that neither the applicant nor her husband understand the limitations of an application for judicial review. It appears to me that the motion to file additional evidence is simply an attempt to relitigate the merits of the underlying decisions of the Tax Court of Canada. On the basis of the material before me, I

cannot see any new evidence which would properly be admissible in the context of an application for judicial review. That part of the Notice of Motion will be dismissed.

(s) "J.D. Denis Pelletier"

J.A.

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-237-03

STYLE OF CAUSE: *ILONA ZSOLDOS and The Attorney General of Canada*

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: PELLETIER J.A.

DATED: July 15, 2003

WRITTEN REPRESENTATIONS BY:

Mrs. Iona Zsoldos Applicant on her own behalf

Ms. Suzanne M. Bruce
Ms. Margaret Nott For the respondent

SOLICITORS OF RECORD:

Mrs. Iona Zsoldos Applicant on her own behalf
Toronto, Ontario

Mr. Morris Rosenberg For the respondent
Attorney General of Canada
Ottawa, Ontario