

Docket: 2016-2259(IT)I

BETWEEN:

GEORGE L. BOROS,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on May 4, 2022, at Ottawa, Ontario; transcript received on
May 16, 2022

Presiding: The Honourable Mr. Justice Rommel G. Masse, Deputy Judge

Appearances:

Counsel for the appellant: The appellant himself

Counsel for the respondent: Andrée-Anne Lavoie

JUDGMENT

In accordance with the attached reasons, the appeals from reassessments made under the *Income Tax Act* (the Act) for the 2005, 2006 and 2007 taxation years are dismissed, without costs.

Signed at Ottawa, Canada, this 4th day of November, 2022.

“G. Jorré”

Deputy Judge Jorré

Docket: 2015-5482(IT)I

BETWEEN:

LOUISE GINGRAS,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on May 4, 2022, at Ottawa, Ontario; transcript received on
May 16, 2022

Before: The Honourable Mr. Justice Gaston Jorré

Appearances:

Counsel for the appellant: George L. Boros
Counsel for the respondent: Andrée-Anne Lavoie

JUDGMENT

In accordance with the attached reasons, the appeals from the September 22, 2015 reassessments concerning the Canada Child Tax Benefit for the 2006 and 2007 base taxation years are dismissed, without costs.

Signed at Ottawa, Canada, this 4th day of November, 2022.

“G. Jorré”

Deputy Judge Jorré

Citation: 2022 TCC 136

Date: 20221104

Docket: 2016-2259(IT)I

BETWEEN:

GEORGE L. BOROS,

Appellant,

and

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Docket: 2015-5482(IT)I

BETWEEN:

LOUISE GINGRAS,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Deputy Judge Jorré

Overview

(1) On November 9, 2011, the appellant, Georges Boros, filed an appeal with this Court concerning the 2005, 2006 and 2007 taxation years.¹

(2) On May 3, 2013, I rendered a judgment allowing the Notice of Appeal in part. The appellant appealed this judgment; the Federal Court of Appeal dismissed the appeal.²

¹ Docket 2011-3621(IT)I

² 2014 FCA 147 (CanLII).

(3) Mr. Boros is appealing the reassessments arising from the judgment rendered on May 3, 2013.³

(4) The issue in this appeal is: are the reassessments at issue in accordance with the judgment rendered on May 3, 2013?

(5) Ms. Gingras is appealing the redeterminations made on October 20, 2015, concerning the 2006 and 2007 base taxation years. There are two aspects to her appeal.

(6) First, if Mr. Boros's appeal is allowed, and Mr. Boros's income is changed, this could change the family income and consequently the amounts of Canada Child Tax Benefits payable to Ms. Gingras.

(7) Second, the appellant claims that, in determining the amount of the benefit to which Ms. Gingras is entitled, the Minister did not take into account the fact that the appellant has joint custody of two children, M and W.

(8) The appeals involve reassessments and redeterminations respectively. This Court can review these reassessments and redeterminations. The appeals also attempt to raise other issues that are outside the jurisdiction of this Court, and I will not address those issues.⁴

Mr. Boros

(9) The May 3, 2013, judgment ordered two changes to the assessments.

(10) First, the appellant had an automobile; 32% of the use of this automobile was for business purposes. The judgment allowed the appellant to claim, upon request, 32% of the depreciation of the vehicle allowed under the *Income Tax Act* and the *Income Tax Regulations*.

(11) Second, the judgment ordered that the penalty under subsection 163(2) of the Act be recomputed taking into account that the amounts to which the penalty was applied should be reduced by \$1,545 in 2005, \$1,518 in 2006 and \$1,776 in 2007.

(12) With respect to the first change, the Minister granted a capital cost allowance of \$2,976 in 2005, \$2,293 in 2006 and \$1,605 in 2007, a total of \$6,874. Since the

³ These reassessments were confirmed in a letter dated September 22, 2015.

⁴ For example, the appellants seek judicial review.

business use was only 32%, this implied that the Minister accepted that there was a \$21,481 amortization during the three years at issue.

(13) Since the regulations provide for a depreciation rate of 30% of the undepreciated capital cost (UDC), this implies a UDC of approximately \$30,000 at the beginning of 2005.⁵

(14) Mr. Boros asked the respondent's witness how these amounts were computed. The witness explained that according to the documents in the record the amounts used were provided by the appellant.

(15) The appellant testified that he did not recall submitting this request to the Minister. He did not provide any evidence that could show that the Minister should have granted a higher amount of depreciation. For example, he did not provide any evidence regarding the price paid for the car or the year it was purchased.

(16) Under the circumstances, there is no reason to increase the depreciation.

(17) With respect to the penalty under subsection 163(2) of the *Income Tax Act*, the evidence is very clear that the result of all the assessments is as follows: the penalty assessed for each year is \$100.⁶

(18) This is consistent with the May 3, 2013 judgment because the Act provides for a minimum penalty of \$100.

(19) There is therefore no reason to vary Mr. Boros's assessments, and his appeal must be dismissed.

Ms. Gingras

(20) It follows that Mr. Boros's appeal cannot have any effect on the computation of the Canada Child Tax Benefit payable to Ms. Gingras.

(21) There remains the issue of shared custody.

⁵ $\$30,000 * 30\% = \$9,000$ and $\$9,000 * 32\% = \$2,888$, a little less than the amount of \$2,976 granted in 2005.

⁶ See, inter alia, paragraphs 9, 10 and 11 of Steven Guillemette's affidavit relating to Mr. Boros's appeal, Exhibit A-2.

(22) The Reply to the respondent's Notice of Appeal stated that in making the redeterminations the Minister relied, among other things, on the following fact: that the appellant and the mother had joint custody of the children.⁷

(23) I asked the appellant's representative, Mr. Boros, to explain why the appellant claimed that the Minister did not take shared custody into account.

(24) I did not receive a satisfactory answer to this question, and the evidence shows that the Minister took shared custody into account.⁸

(25) Accordingly, there is no reason to interfere with the determinations at issue and Ms. Gingras's appeal must be dismissed.

Conclusion

(26) The appeals are dismissed without costs.

Signed at Ottawa, Canada, this 4th day of November, 2022.

"G. Jorré"

Deputy Judge Jorré

⁷ See paragraphs 5 a), b), c) of the Reply to the Notice of Appeal.

⁸ See the first page of Exhibit I-2, which shows that the Minister took into account the joint custody between Ms. Gingras and the mother starting in August 2005, before the period at issue, and that the Minister continued to take this joint custody into account after the period that concerns us.

CITATION: 2022 TCC 136

DOCKET: 2015-5482(IT)I; 2016-2259(IT)I

STYLE OF CAUSE: LOUISE GINGRAS AND HIS MAJESTY
THE KING; GEORGE L. BOROS AND
HIS MAJESTY THE KING

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: May 4, 2022

DATE THE COURT RECEIVED
THE TRANSCRIPT: May 16, 2022

REASONS FOR JUDGMENT BY: The Honourable Mr. Justice Gaston Jorré

DATE OF JUDGMENT: November 4, 2022

APPEARANCES:

Counsel for the appellant: George L. Boros
Counsel for the respondent: Andrée-Anne Lavoie

COUNSEL OF RECORD:

For the appellant:

Name:

Law firm:

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Ottawa, Canada