

SUPREME COURT OF YUKON

Citation: *Smith et al. v. Woloszeniuk*, 2012 YKSC 53

Date: 20100921
Docket S.C. No.: 10-AP009
Registry: Whitehorse

BETWEEN:

MELVA SMITH, BARBARA LEGAULT and FERN SHAW

Respondents

AND:

PETER WOLOSZENIUK

Applicant

Before: Mr. Justice L.F. Gower

Appearances:

Peter Woloszeniuk

Appearing on his own behalf

REASONS FOR JUDGMENT DELIVERED FROM THE BENCH

[1] GOWER J. (Oral): This is an application by Mr. Woloszeniuk for an extension of the time to file his Notice of Appeal in this matter. The appeal is from the imposition of a s. 810 recognizance, otherwise known as a peace bond, which was made on November 2, 2009. It is for a one-year period and requires Mr. Woloszeniuk to have no contact with the three female individuals identified therein, or not to be within 50 metres of the senior's complex on College Drive in Whitehorse.

[2] The attempt to file the Notice of Appeal apparently was made on September 14, 2010, and at that point, Mr. Woloszeniuk was informed that he had to make a previous application to extend the time for filing.

[3] The law in this area is well known, and that is that in order to obtain an order to extend the time for filing the applicant or the appellant must demonstrate on a balance of probabilities that he formed the intent to appeal within the appeal period; there is no evidence that that was done, and that the appellant/applicant was duly diligent in his efforts to try and get the Notice of Appeal filed. What Mr. Woloszeniuk's affidavit does say is that he was ill from December 2009 to April 2010, with a variety of illnesses and that was the reason for his inability to prepare and file and serve the Notice of Appeal.

[4] He referred today, at this hearing, to other illnesses and operations that he has had to undergo since April 2010, and made reference to certain doctors' letters and so on. None of that is properly in evidence before me, and it could easily have been referred to in his affidavit, which was prepared with the professional assistance of the personnel at the Law Line here in Whitehorse.

[5] In summary, Mr. Woloszeniuk's application for an extension for time to file does not meet the legal requirements. The application is dismissed.

GOWER J.