

R. v. Tennina

Her Majesty the Queen v. Doreen Tennina

Ontario Superior Court of Justice

C. Gilmore J.

Heard: May 31, 2013

Judgment: May 31, 2013

Docket: Oshawa 1933/10

Counsel: C. Zary, M. Cullen, for Crown

HEARING to determine sentence for tax preparer convicted of tax fraud.

C. Gilmore J. (orally):

1 These are my reasons for sentence in relation to two counts of fraud over \$5000 against Doreen Tennina, the Crown seeks the maximum period of incarceration or 10 years on both counts to run concurrently, and also seeks a fine on count two on the amount of tax evaded.

2 I agree with the Crown that maximum sentences are reserved for the worst offenders, and I also agree with the Crown that this is one of those rare cases of a worst offender.

3 Ms. Tennina's elaborate, deliberate and well planned fraud scheme has resulted in the evasion of over \$17 million of tax. She gained the trust of hundreds of clients in her role as a tax preparer, and then effectively rigged their tax returns to include deductions they did not know about and donations they had not made. She then failed to report the cash income she made from the scheme, and on the eve of trial absconded, leaving her clients subjected to reassessments by CRA that have caused personal financial tragedy and bankruptcy for many.

4 I agree with the statements in *Knox Contracting Ltd. v. R.* [\(1990\), 58 C.C.C. \(3d\) 65](#) (S.C.C.), "The tax system is dependent upon the integrity of the taxpayer," and I would add in this case the tax preparer. "If the system is to work, returns must be honestly completed."

5 There is also the fraud on the public purse to consider, which goes far beyond the taxes evaded. The reassessment and appeal process for the hundreds of taxpayers involved may go on for years. That will cost each and every one of us while CRA spends time and resources processing this rather than on other duties.

6 The cost to the court system has also been almost incalculable. The matter took four years to get to trial, partly because of Ms. Tennina's attempts to have court appointed counsel and bringing numerous other requests for relief to the court prior to trial; all of which were denied.

7 This trial, while substantially reduced in time due to the lack of an accused, still took eight days to complete. The amount of documentary evidence filed took up almost an entire wall of the courtroom.

8 Ms. Tennina, by her actions, has compromised the good will and deeds done by so many charities. Who could blame an individual for hesitating to donate in the future after reading about this case? That damage cannot be calculated in dollars and cents.

9 The result is that charities, who already find it difficult to obtain donations, must now feel compelled to demonstrate legitimacy before even asking for donations.

10 I have asked myself whether there are any mitigating factors in this case which I should consider, and I find that there are not. Ms. Tennina has showed no remorse. Her actions in leaving the country the night before her trial commenced while in the same breath committing to being ready to proceed, is yet another example of her cowardly and fraudulent conduct.

11 She has made no attempt to repay any money to CRA. She has no child, health or employment related issues that would mandate a consideration of a lesser sentence.

12 I therefore find that in this rare set of circumstances, there are no mitigating factors to consider.

13 Turning to the principles of sentencing, I do not consider rehabilitation as a factor in this case, as Ms. Tennina is not present, and her actions in absconding may be inferred to mean that the possibility of rehabilitation is remote in any event.

14 General deterrence is the most important factor in this case. The public must be made aware that not only are fraudulent schemes of this magnitude illegal, but the ripple effect on government, court resources and individuals has both an emotional and financial cost that affects every citizen in this country.

15 Specific deterrence is also important, as Ms. Tennina must be stopped in her tracks. She must be isolated from society to ensure that no further harm is done. Her life of luxury illegally earned off the backs of innocent taxpayers must not be condoned.

16 Finally, I refer to Section 380.1 of the *Criminal Code*, which sets out various aggravating factors that the court must consider with respect to sentencing on a fraud case. In my view, each of them applies.

17 That section says that the court shall consider the following as aggravating circumstances:

A) the magnitude, complexity, duration or degree of planning of the fraud committed was significant.

And it certainly was in this case;

B) that the offence adversely affected or had the potential to adversely affect the stability of the Canadian economy of financial system, or any financial market in Canada or investor confidence in such a financial market.

And I agree that that section also applies here as submitted by the Crown;

C) the offence involved a large number of victims.

There can be no doubt about that;

C.1) the offence had a significant impact on the victims given their personal circumstances, including their age, health and financial situation.

And we had that evidence in the courtroom many times over about the effects of having to repay the amounts reassessed to these individual taxpayers, and the hardship that that created for them;

D) in committing the offence, the offender took advantage of the high regard in which the offender was held in the community.

And I say that applies as well, because Ms. Tennina was a well-known tax preparer. People came to her over and over again over many years, and she took advantage of that;

E) the offender did not comply with a licensing requirement or a professional standard that is normally applicable to the activity or conduct that forms the subject matter of the offence.

Well, she was not a licensed accountant, we know that, but she was a tax preparer, and I am sure all the tax preparers in the community will be upset by this, because this particular incident may well affect their business;

F) the offender concealed or destroyed records related to the fraud or to the disbursement of the proceeds of the fraud.

And it is clear that the documents that were seized were significant, but that there were many others that were never found, and the fact that she conducted her business in cash to deliberately avoid tracing, which I have also reviewed.

18 Given all of the above considerations, I hereby sentence Doreen Tennina to 10 years of imprisonment on count one, and 10 years of imprisonment on count two to run concurrently. A fine is payable in relation to count two in the amount taxes evaded by Ms. Tennina, namely, \$699,608.00

Accused fined \$699,608 and sentenced to two 10-year concurrent sentences.