

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
S. PADRON-ALLINSON,) OTA NO. 21119049
) 22019543
APPELLANT.)
)
_____)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Friday, October 14, 2022

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
S. PADRON-ALLINSON,) OTA NO. 21119049
) 22019543
)
 APPELLANT.)
)
 _____)

Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:40 a.m. and concluding at 9:50 a.m. on
Friday, October 14, 2022, reported by Ernalyn M.
Alonzo, Hearing Reporter, in and for the State
of California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Administrative Law Judge: ALJ OVSEP AKOPCHIKYAN

For the Appellant: S. PADRON-ALLINSON
RI YU

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

CAMILLE DIXON
NANCY PARKER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-8 were received at page 7.)

(Department's Exhibits A-G were received at page 6.)

P R E S E N T A T I O N

	<u>PAGE</u>
By Ms. Yu	8
By Ms. Dixon	11

W I T N E S S T E S T I M O N Y

	<u>PAGE</u>
By Ms. Padron-Allinson	9

C L O S I N G S T A T E M E N T

	<u>PAGE</u>
By Ms. Yu	13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

California; Friday, October 14, 2022

9:40 a.m.

JUDGE AKOPCHIKYAN: We're going on the record in the consolidated Appeal of S. Padron-Allinson before the Office of Tax Appeals. The OTA Case Numbers are 21119049 and 22019543. Today is Friday, October 14th, 2022, and the time is approximately 9:40 a.m. We're holding this appeal electronically via Webex by the consent of all parties.

My name is Ovsep Akopchikyan, and I'm the Administrative Law Judge who will be deciding this appeal. I have reviewed each side's briefs and exhibits and may ask questions after your presentation to make sure I have all the information that I need to decide this appeal.

Now for introductions, will the parties please identify yourself by stating your name for the record, beginning with Appellant.

MS. YU: Yeah. I'm Appellant's tax representative. My name is Ri Yu.

JUDGE AKOPCHIKYAN: Thank you, Ms. Yu. Ms. Yu, will you be introducing Ms. Allinson?

MS. YU: Yes, I will be. And we have the Appellant, Susan Padron-Allinson.

MS. PADRON-ALLINSON: Yes, hello.

1 JUDGE AKOPCHIKYAN: Thank you Ms. Padron.

2 And now for the Franchise Tax Board.

3 MS. DIXON: Good morning. My name is Camille
4 Dixon. I'm tax counsel with the Franchise Tax Board and
5 will be representing the Franchise Tax Board. Along with
6 me is co-counsel Nancy Parker also with the Franchise Tax
7 Board.

8 JUDGE AKOPCHIKYAN: Thank you, Ms. Dixon and
9 Ms. Parker.

10 Okay. As discussed and agreed upon by the
11 parties at the prehearing conference on September 20th,
12 2022, and as noted in my prehearing conference minutes and
13 orders, the issue in this appeal is whether Appellant's
14 claims for refund for the 2014, 2015, and 2016 tax years
15 are barred by the statute of limitations.

16 With respect to the evidentiary record, FTB
17 provided Exhibits A through G during the briefing process.
18 Appellant did not object to the admissibility of these
19 exhibits. Therefore, all of FTB's exhibits are entered
20 into the record.

21 (Department's Exhibits A-G were received in
22 evidence by the Administrative Law Judge.)

23 Appellant provided eight exhibits during the
24 briefing process, which I relabeled as Exhibits 1
25 through 8 during the prehearing conference. FTB did not

1 object to the admissibility of these exhibits. Therefore,
2 all these exhibits are entered into the record.

3 (Appellant's Exhibits 1-8 were received
4 in evidence by the Administrative Law Judge.)

5 Lastly, as discussed Appellant will be testifying
6 today at this hearing. This oral hearing will begin with
7 Appellant's presentation, including her testimony for a
8 total of 15 minutes. FTB will then have 10 minutes for
9 its presentation and Appellant will have 5 minutes for
10 rebuttal.

11 Does anyone have any questions before I swear in
12 Ms. Padron for her testimony?

13 MS. YU: No.

14 JUDGE AKOPCHIKYAN: Thank you.

15 Ms. Padron, will you please raise your right
16 hand.

17 S. Padron-Allinson,
18 produced as a witness, and having been first duly sworn by
19 the Administrative Law Judge, was examined and testified
20 as follows:

21

22 JUDGE AKOPCHIKYAN: Thank you.

23 Ms. Yu, please proceed with your presentation
24 when you are ready.

25 MS. YU: Thank you.

1 PRESENTATION

2 MS. YU: This is tax representative Ri Yu, and
3 I'll start my presentation.

4 Appellant was unable to timely file her taxes for
5 the years 2014, 2015, and 2016 due to very unfortunate
6 circumstances. She's seeking to receive a refund for all
7 three years. It is very evident that Appellant was going
8 through very dire times. She was suffering mental issues
9 while also trying to provide for her family. And I cannot
10 even imagine how difficult that would be.

11 I would like to also further mention how the
12 circumstances surrounding the statute of limitations
13 during the Covid-19 pandemic do not equate to the standard
14 and usual circumstances, which the statute of limitations
15 now applies. Many people during the pandemic did not file
16 for tax refunds which the IRS has even published an
17 article that mentions that they have financially gained
18 about \$1.4 million from the outstanding tax refund claims.

19 This suggests that during the specific time
20 period, the statute of limitations was on an occasional
21 harshness as FTB suggested. Therefore, we respectfully
22 ask that OTA to recognize the inequalities of the law
23 presented here. And even despite this comparison,
24 although the law surrounding the statute of limitations
25 are strict, we still believe that Appellant deserves a

1 chance to speak on her behalf and share her side of the
2 story of why her appeal should be granted.

3 Therefore, Ms. Padron will now go ahead and start
4 her own presentation to state her reasons on why her
5 appeal should be granted.

6

7

WITNESS TESTIMONY

8

MS. PADRON-ALLINSON: Thank you, Ms. Yu.

9

10 Good morning. My name is Susan Padron-Allinson.
11 I would like to thank you for your time and for the
12 opportunity to explain why I didn't file taxes for 2014,
13 '15, and '16 in a timely manner. Life has been very
14 difficult for me. I've gone through many hardships. I
15 have been mentally stressed out and overwhelmed. I was
16 married to an alcoholic who was verbally and physically
17 abusive. I was in survival mode. I felt helpless and
18 didn't know what to do.

18

19

20

21

22

23

24

25

I had to think about not only my welfare but also
the welfare of my two children. I couldn't concentrate on
filing taxes because my life was out of control. It was a
traumatic time in my life. My children's father moved to
Texas in 2018. That was the last time they saw him. He
ended up passing away in 2020 from a heart attack.

Unfortunately, my daughter has been suffering
from anxiety and depression, which she continues to seek

1 therapy for. It makes me very sad that she is afflicted
2 by this. I worry about how this affects her daily and how
3 it will affect her future. It breaks my heart that she
4 goes through this.

5 A third reason why I didn't file taxes on time is
6 because I was helping my mother take care of my father who
7 had Parkinson's among many other health problems. He had
8 a colostomy bag for bowl and a catheter for urine, which
9 needed to be changed and emptied several times per day.
10 It was emotionally very difficult to watch my father
11 suffer and struggle daily. This also broke my heart. My
12 father passed away in 2019 after a long and difficult
13 fight to stay alive for our family.

14 I didn't seek medical care for what I was going
15 through because I put the needs of my family before mine.
16 I wanted to be there for them as much as I could. I
17 didn't have time to seek medical help as I was a full-time
18 mother, daughter, and employee. I hope you understand why
19 I didn't file taxes in a timely manner and grant me the
20 refund which I worked very hard to earn.

21 Thank you again for your attention to my
22 circumstances.

23 JUDGE AKOPCHIKYAN: Thank you, Ms. Padron for
24 sharing your story, and I'm sorry to hear about the
25 circumstances that you've been through.

1 MS. PADRON-ALLINSON: Thank you.

2 JUDGE AKOPCHIKYAN: Ms. Yu, are done with your
3 presentation?

4 MS. YU: Yes. This concludes Appellant's side of
5 the presentation. Thank you.

6 JUDGE AKOPCHIKYAN: Thank you.

7 Does FTB have any questions for Ms. Padron?

8 MS. DIXON: I do not.

9 JUDGE AKOPCHIKYAN: Thank you, Ms. Dixon. It's
10 now your turn to make your presentation. You have ten
11 minutes, and please proceed when you're ready.

12 MS. DIXON: Thank you.

13

14 PRESENTATION

15 MS. DIXON: The evidence shows that Appellant has
16 failed to establish that timely claims for refund were
17 filed for the 2014, 2015, and 2016 tax years before the
18 statute of limitations expired. Under the applicable
19 section of the Revenue & Taxation Code, the general
20 statute of limitations provides that the last date to file
21 a claim for refund is the later of four years from the
22 date of the return being filed, if filed within the
23 extended due date, which doesn't apply here; four years
24 from the due date of the return without regard to
25 extensions; or one year from the date of overpayment.

1 For the 2014, 2015, and 2016 tax years, both the
2 four and one-year statute of limitations expired before
3 Appellant filed her returns. Appellant late filed all
4 returns for the applicable tax years on July 15th, 2021,
5 well after the four-year statute of limitations, and the
6 only payments on file are withholding credits deemed paid
7 on the due date of the return.

8 Therefore, the one-year statute of limitations is
9 also unavailable to allow a refund to Appellant for the
10 tax years in consideration by this panel. Appellant
11 contends that various hardships caused her to late file
12 the applicable returns and she should still be eligible
13 for the refund. While Appellant's situation is absolutely
14 unfortunate and we are sympathetic to her situation, such
15 hardships do not change the Appellant's responsibility to
16 timely file a return and will not extend the statute of
17 limitations.

18 Further, there's no reasonable cause or equitable
19 basis for suspending the statute of limitations. The
20 Office of Tax Appeals in its precedential opinion Appeal
21 of Benemi Partners found that the language of the statute
22 of limitations is explicit and must be strictly construed.
23 And the United States Supreme Court in United States
24 versus Dom explain that this is true even when it is later
25 shown the tax was not owed in the first place.

1 Appellant has not provided any additional
2 evidence that would allow FTB by law to grant her claims
3 for refund. Therefore, FTB respectfully request that the
4 Office of Tax Appeals sustain the Franchise Tax Board
5 claim for refund denials for tax years 2014, 2015, and
6 2016.

7 Thank you and I'm happy to answer any questions.

8 JUDGE AKOPCHIKYAN: Thank you, Ms. Dixon.

9 Ms. Yu, it's now your turn to rebut FTB's
10 argument and give your final statement. You have up to
11 five minutes. Please proceed when you're ready.

12 MS. YU: Thank you.

13

14 CLOSING STATEMENT

15 MS. YU: Ms. Padron and I both truly believe that
16 the law is harsh and unfair. Therefore, we respectfully
17 ask OTA to at least consider Ms. Padron's very unfortunate
18 circumstances and also the negative impact inequalities
19 that the law has given, not only to Appellant, but many
20 other people who are undergoing very similar or even worse
21 hardships.

22 We would like to have this hearing as an
23 opportunity to have a reasonable cause to be considered as
24 a possible exception to the statute of limitation cases,
25 not only for Appellant but also for other people who are

1 undergoing through similar struggles and hardships as
2 well. We appreciate all of your time today, and this
3 concludes the Appellant's final statement.

4 Thank you.

5 MS. PADRON-ALLINSON: May I say something?

6 JUDGE AKOPCHIKYAN: Of course, Ms. Padron.

7 MS. PADRON-ALLINSON: With all due respect, it
8 doesn't make sense that the statute of limitations for a
9 refund is four years. Yet, if taxes are owed, it's ten
10 years. The government doesn't say you don't have to owe
11 taxes after four years.

12 Thank you.

13 JUDGE AKOPCHIKYAN: Thank you.

14 Okay. Does anybody have any questions before we
15 conclude the hearing?

16 MS. PADRON-ALLINSON: No.

17 JUDGE AKOPCHIKYAN: Thank you.

18 Okay. We are ready conclude this hearing and
19 close the record. This case is submitted on October 14th,
20 2022, and the record is now closed.

21 I want to thank the parties for their
22 presentations and Ms. Padron for her testimony. I will
23 decide the case based on the arguments and evidence
24 presented to Office of Tax Appeals and issue a written
25 addition within 100 days from today.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This concludes the only hearing for today. Thank
you all for your participation.

(Proceedings adjourned at 9:50 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 4th day of November, 2022.

ERNALYN M. ALONZO
HEARING REPORTER