

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
R. QUEZADA RODRIGUEZ, ) OTA NO. 230112237  
 )  
 APPELLANT. )  
 )  
 )

## TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Thursday, August 17, 2023

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

BEFORE THE OFFICE OF TAX APPEALS

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Transcript of Electronic Proceedings,  
taken in the State of California, commencing  
at 9:44 p.m. and concluding at 10:03 p.m.  
on Thursday, August 17, 2023, reported by  
Ernalyn M. Alonzo, Hearing Reporter, in and  
for the State of California.

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APPEARANCES:

Panel Lead: ALJ SHERIENE RIDENOUR

Panel Members: ALJ ASAF KLETTER  
ALJ AMANDA VASSIGH

For the Appellant: R. QUEZADA RODRIGUEZ

For the Respondent: STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
ERIC BROWN  
BRADLEY COUTINHO

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received at page 7.)

(Department's Exhibits A-D were received at page 7.)

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1 California; Thursday, August 17, 2023

2 9:30 a.m.

3  
4 JUDGE RIDENOUR: We are opening the record in the  
5 Office of Tax Appeals oral hearing for the Appeal of  
6 Roberto Quezada Rodriguez, OTA Case Number 23011237.  
7 Today's dated is Thursday, August 16th, 2023, and the time  
8 is 9:44. This hearing is being conducted electronically  
9 with the agreement of the parties.

10 Today's hearing is being heard by a panel of  
11 three Administrative Law Judges. I am Judge Ridenour, and  
12 I will be the lead for purposes of conducting this  
13 hearing. My co-Panelists are Judge Vassigh and Judge  
14 Kletter. All three judges are equal participants and  
15 deliberating and determining the outcome of this appeal.

16 For the record, will the parties please state  
17 their names who they represent, starting with the  
18 representatives for Franchise Tax Board.

19 MR. BROWN: I'm Eric Brown, California Franchise  
20 Tax Board.

21 MR. COUTINHO: I'm Brad Coutinho, also  
22 representing Respondent Franchise Tax Board. Thank you.

23 JUDGE RIDENOUR: Thank you.

24 And Mr. Quezada Rodriguez, can you please state  
25 your name for the record.

1           MR. QUEZADA RODRIGUEZ: Yes. My name is Roberto  
2           Antonio Quezada Rodriguez.

3           JUDGE RIDENOUR: Okay. Thank you so much.

4           As discussed and agreed upon by the parties at  
5           the prehearing conference on July 27th, 2023, and as  
6           stated in my minutes and orders, dated August 1st, 2023,  
7           there is one issue in this appeal, which is whether  
8           Appellant's claim for refund for the 2007 tax year is  
9           barred by the statute of limitations.

10          As for exhibits, each party's exhibits were  
11          listed in an exhibit log, which was attached to the  
12          minutes and orders, as well as copies emailed to the  
13          parties after the prehearing conference. During the  
14          prehearing conference, neither party raised objections to  
15          the other party's exhibits. And in my minutes and orders  
16          I entered the exhibits into evidence.

17          However, I have since decided not to admit FTB's  
18          Exhibit E as it is a law summary and therefore, not  
19          evidence. Does either party object to FTB not being  
20          admitted into evidence?

21          Mr. Brown?

22          MR. BROWN: I don't object.

23          JUDGE RIDENOUR: Thank you.

24          Mr. Quezada Rodriguez.

25          MR. QUEZADA RODRIGUEZ: Yes. It's fine.

1 JUDGE RIDENOUR: Do you object? Oh, it's fine.  
2 Okay. Thank you.

3 All right. Appellant's Exhibit 1 is admitted  
4 into evidence, and FTB's Exhibits A through D are admitted  
5 into evidence.

6 (Appellant's Exhibit 1 was received in  
7 evidence by the Administrative Law Judge.)

8 (Department's Exhibits A-D were received in  
9 evidence by the Administrative Law Judge.)

10 JUDGE RIDENOUR: Mr. Quezada Rodriguez, indicated  
11 that he will be testifying today. As such, he will be  
12 sworn in before his presentation. There are no other  
13 witnesses today.

14 As a reminder to the parties, during our  
15 prehearing conference, we decided that the parties will  
16 each have five minutes to make their arguments, starting  
17 with Mr. Quezada Rodriguez, who will then also have an  
18 additional five minutes to provide a closing argument, if  
19 he so chooses.

20 Does anyone have any questions before we move  
21 onto presentations?

22 Mr. Quezada Rodriguez?

23 MR. QUEZADA RODRIGUEZ: No, I'm ready to go.

24 JUDGE RIDENOUR: Perfect.

25 Mr. Brown?

1 MR. BROWN: No questions.

2 JUDGE RIDENOUR: Perfect.

3 Okay. So Mr. Quezada Rodriguez, we are ready for  
4 your presentation, but before that I need to place you  
5 under oath so that we can consider your statements as  
6 testimony. And you will remain under oath until the close  
7 of this hearing. Will you please raise your right hand.  
8 Perfect. Thank you.

9  
10 R. QUEZADA RODRIGUEZ,  
11 produced as a witness, and having been first duly sworn by  
12 the Administrative Law Judge, was examined and testified  
13 as follows:

14  
15 JUDGE RIDENOUR: Thank you very much. When  
16 you're ready, Mr. Quezada Rodriguez, you may begin your  
17 presentation.

18  
19 PRESENTATION

20 MR. QUEZADA RODRIGUEZ: Thank you.

21 And thank you for this opportunity to everyone in  
22 here and to the Judges also.

23 I received everything from the, you know,  
24 Mr. Brown's office and, of course, I was -- I will appeal.  
25 And even though I know that the statute of limitation, I



1 mean, almost no one, you know, is able to win those cases.  
2 And I was also advised by several friends that are in the  
3 law profession that, you know, it's -- it's like a waste  
4 of time. That's what they -- they told me.

5 But I wanted to make my point. Even though you  
6 judges consider this as another no but I really have a no  
7 from Mr. Brown but that -- I understand that that's his  
8 job as, you know, the company that he represents, which I  
9 know is not a company. It is, you know, State. Anyway I  
10 want to be clear that I never was notified, not by mail,  
11 not by email, not by phone number, not in any way, not to  
12 my home where I was living at that time in California.  
13 And I left a forwarding address. I received many mails  
14 during all these years.

15 I had to depart the country with all my family  
16 because our visas, immigration status, they were expiring.  
17 So I was advised by our immigration lawyer, friend of  
18 ours, that it will be in our best interest to just leave  
19 the country and get the, you know, our residence cards  
20 once we are in our country. And then we're gonna be able  
21 to come back to this great nation, and that's exactly what  
22 we did.

23 We left in the year of 2007. We went back to my  
24 original country, and that's in Guatemala in Central  
25 America. And I have never received nothing from this

1 company, from Mr. Brown or Coutinho or associates. I  
2 never received nothing from them, and I was able to  
3 receive some other mail. So bottom line, just like I  
4 stated before, there were two -- ten different bank and  
5 loan lender companies involved, and I paid them.

6 They subtracted money from myself and my family.  
7 And then they kept that money and the total amount that  
8 they kept and have in their banks earning interest since  
9 those years. The total amount was \$17,436.05, and that's  
10 everything before your eyes, and that's this appeal. I'm  
11 not appealing the interest that Mr. Brown and company  
12 gained during those years. I'm not appealing that.

13 I just want the right thing to be done, and that  
14 is to return my family money back to me as quickly as  
15 possible. I know that statute of limitations, and I am  
16 against that allegation. I cannot do anything about it.  
17 But I was notified, for the record, last year. I was  
18 notified around this time, like, around August of 2022  
19 that I had, you know, from the taxes and IRS I was  
20 notified.

21 I came back at the beginning of 2022 with my  
22 resident card, with my family. We're back in this  
23 country, and that's all I have to say. So on our part we  
24 were notified last year. We never received notifications  
25 from this company that Mr. Brown represents. That's what

1 I'm saying right now at this moment.

2 JUDGE RIDENOUR: Thank you very much.

3 Mr. Brown, do you have any questions for  
4 Mr. Quezada Rodriguez as a witness?

5 MR. BROWN: No questions.

6 JUDGE RIDENOUR: Thank you.

7 Judge Vassigh, do you have any questions?

8 JUDGE VASSIGH: I do not have any questions at  
9 this time.

10 JUDGE RIDENOUR: Thank you.

11 Judge Kletter, do you have any questions?

12 JUDGE KLETTER: This is Judge Kletter. I do not  
13 have any questions. Thank you.

14 JUDGE RIDENOUR: Thank you.

15 I do have a couple of questions real quick. You  
16 mentioned you didn't receive anything, and you gave out  
17 your forwarding address. Are you speaking about before  
18 you moved from the Tracy address that's on file? Is that  
19 the original address you had before you went -- you left  
20 for Guatemala?

21 MR. QUEZADA RODRIGUEZ: Exactly. We were living  
22 at [REDACTED].

23 JUDGE RIDENOUR: Okay. No need for the exact  
24 address at this time. But okay, so that was the address  
25 and you said you did forward. Did you by chance notify

1 the FTB of your change of address?

2 MR. QUEZADA RODRIGUEZ: No notifications from any  
3 tax companies or anyone.

4 JUDGE RIDENOUR: No. I'm asking you. Did you  
5 notify FTB that you would be moving and have a change of  
6 address?

7 MR. QUEZADA RODRIGUEZ: No. To be honest with  
8 you, no. I was just in the middle of a lot of moving and,  
9 I mean, transition for my family. And this came kind of  
10 like in an abrupt and a very quick thing for us as a  
11 family. Because this was just a call from this lawyer,  
12 and he said I cannot do anything else, and if you don't  
13 depart before the end of September of last year then, you  
14 know, you will have consequences. We didn't want that to  
15 happen. So, basically, we only had like less than a month  
16 to pack everything and send everything back home.

17 JUDGE RIDENOUR: Okay. Thank you very much. I  
18 appreciate the explanation.

19 Mr. Brown, when you're ready, you may begin your  
20 presentation.

21 MR. BROWN: Thank you.

22 JUDGE RIDENOUR: You may begin, please.

23 MR. BROWN: Yes.

24 JUDGE RIDENOUR: Oh, wait. Hold on. We have  
25 lost someone. Oh and he's back. Never mind. I was about

1 to go on recess. Okay. By all means, go ahead.

2 PRESENTATION

3 MR. BROWN: Good morning. I'm Eric Brown tax  
4 counsel with the Franchise Tax Board.

5 In this appeal, Appellant has failed to show that  
6 the Franchise Tax Board erred in denying his claim for  
7 refund for the 2007 tax year based on the expiration of  
8 the statute of limitations. For the 2007 tax year,  
9 Appellant had not filed a return. FTB undertook  
10 collection activities, which included wage garnishment.  
11 The single and only payment made on Appellant's behalf was  
12 in September 2014. Appellant did not file his tax return  
13 until 2022 in which he claimed a refund. FTB denied the  
14 refund because the statute of limitations had expired by  
15 the time, he filed his claim.

16 The law provides that a claim for refund must be  
17 filed within the four years of the initial filing  
18 deadline. For 2007 the filing deadline was April 2008,  
19 and the four-year statute of limitations expired in  
20 April 2012. The one-year provision of the statute looks  
21 back to payments made within one year of the date a claim  
22 for refund is filed. A claim for refund is timely with  
23 respect to payments made within the year, but payments  
24 made more than a year beyond the date when the claim for  
25 refund is filed are barred.

1           Since the last payment was in 2014 and Appellant  
2       did not file his claim for refund until 2022, the claim  
3       for refund is untimely. In his appeal, Appellant argues  
4       that there were difficult circumstances in his life and  
5       implies he was unable to file a claim for refund before  
6       2022. While Respondent is sympathetic to Appellant's  
7       circumstances, there is no reasonable cause exception to  
8       the statute of limitations. And accordingly, Mr. Quezada  
9       Rodriguez didn't -- or the Franchise Tax Board's denial of  
10      his claim for refund should be sustained.

11           And I will be happy to respond any questions the  
12      Panel may have.

13           JUDGE RIDENOUR: Thank you, Mr. Brown.

14           Judge Vassigh, do you have any questions?

15           JUDGE VASSIGH: I do not. Thank you.

16           JUDGE RIDENOUR: Thank you.

17           Judge Kletter, do you have any questions?

18           JUDGE KLETTER: This is Judge Kletter. I do not  
19      have any questions.

20           JUDGE RIDENOUR: Okay. Thank you.

21           Mr. Brown, I do have a question. The Tracy  
22      address that the notices were sent to that we spoke about  
23      earlier, was that the last known address that FTB had on  
24      file as of that date?

25           MR. BROWN: Yes, that was the last known address.

1 JUDGE RIDENOUR: Okay. Thank you very much.

2 Mr. Quezada Rodriguez, if you would like, you may  
3 make a brief statement in response to FTB's argument or  
4 further address any of the questions asked thus far but is  
5 not required. Would you like to make a final statement?

6 MR. QUEZADA RODRIGUEZ: Yes, I would like to do  
7 that. Thank you.

8 JUDGE RIDENOUR: Of course. You have five  
9 minutes. Please begin.

10 MR. QUEZADA RODRIGUEZ: Okay. Thank you so much.

11

12 CLOSING STATEMENT

13 MR. QUEZADA RODRIGUEZ: For Mr. Brown's, you  
14 know, argument, I wanted to have proof that he or his  
15 office tried to contact me, try at least to notice -- or  
16 notify me. So I would like for this, Judges and everybody  
17 here, if there is a proof that what he is saying. Is  
18 there a proof? Like, I mean, we have proof of the money  
19 that was -- that, you know, taken and they have in their  
20 possession from all these ten banks and lenders from my  
21 family.

22 You have many other proofs, but where is the  
23 proof from Mr. Brown's company and associates trying to  
24 reach me or sending me information, forwarding  
25 information, or letters, or anything going to that Tracy

1 address because I never received nothing. That's my final  
2 statement to all of you.

3 JUDGE RIDENOUR: Thank you very much.

4 I'm going to ask my co-Panelists if they have any  
5 final questions.

6 Judge Vassigh --

7 JUDGE VASSIGH: I'm sorry, Judge Ridenour. We  
8 cannot hear you right now very well.

9 JUDGE RIDENOUR: Oh, okay.

10 JUDGE VASSIGH: That's better.

11 JUDGE RIDENOUR: Thank you. Do have any  
12 questions?

13 JUDGE VASSIGH: I do not have any questions other  
14 than I just want to make sure that Appellant has seen  
15 Franchise Tax Board's Exhibits A and B.

16 Mr. Quezada Rodriguez, have you seen those  
17 exhibits?

18 MR. QUEZADA RODRIGUEZ: The Exhibit A. I mean,  
19 there is many things that you sent. I mean, I don't know  
20 if it was you, but you're referring to Exhibit A?

21 JUDGE VASSIGH: No. It was -- yeah. It was the  
22 Franchise Tax Board. I'm just making sure that you  
23 received Exhibits A and B. They were sent.

24 MR. QUEZADA RODRIGUEZ: Like I'm saying, I'm  
25 trying to -- I mean, I have an old stack of things right



1       here. I'm sorry. I'm not in the legal --

2               JUDGE VASSIGH: Okay. Yeah, I'm just bringing  
3       your attention to it. No problem. I'll just let you know  
4       that they were sent with the Franchise Tax Board's opening  
5       brief in this matter, so if you could look at that.  
6       That's all. No questions. Thank you.

7               JUDGE RIDENOUR: And I will clarify that further.

8               MR. QUEZADA RODRIGUEZ: Okay.

9               MR. COUTINHO: Judge Ridenour, we're having the  
10      same issues. Sorry.

11              JUDGE RIDENOUR: How is this?

12              MR. BROWN: Much better.

13              JUDGE RIDENOUR: All right. I changed my  
14      speaker. So let's -- let's keep it on this one -- my  
15      apologies -- my microphone, I mean.

16              I just want to state for the record that both  
17      parties got the exhibit binder with the minutes and  
18      orders, and that they were included in that. So both  
19      parties do have that, just for the record.

20              Having said that, Judge Kletter, do you have any  
21      questions?

22              JUDGE KLETTER: This is Judge Kletter. I do not  
23      have any questions. But thank you to the parties for  
24      their presentations today.

25              JUDGE RIDENOUR: Yes. Yes. Thank you everybody.

1       Okay. Thank you.

2               That's it. Thank you everyone for participating  
3 today. The Judges will deliberate and decide this case.  
4 We will send a written opinion within 100 days from today.

5               Today's hearing in the Appeal of Roberto Quezada  
6 Rodriguez is now closed, and the next hearing is at  
7 10:20 a.m.

8               Thank you, everybody. Goodbye.

9               (Proceedings adjourned at 10:03 a.m.)

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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 25th day  
of August, 2023.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER