

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
D. NORMAN,) OTA NO. 240416011
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APPELLANT.

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, January 22, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 3:30 p.m. and concluding at 3:46 p.m. on
Wednesday, January 22, 2025, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Administrative Law Judge: JUDGE SHERIENE RIDENOUR

For the Appellant: D. NORMAN

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

JEFFREY GATES
BRADLEY COUTINHO

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was previously received into evidence at the Prehearing Conference.)

(Department's Exhibits A-C were previously received into evidence at the Prehearing Conference.)

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

	<u>PAGE</u>
By Mr. Norman	7
By Mr. Gates	11

CLOSING STATEMENT

	<u>PAGE</u>
By Mr. Norman	14

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California; Wednesday, January 22, 2025
3:30 p.m.

JUDGE RIDENOUR: We are opening the record in the Office of Tax Appeals oral hearing for the Appeal of Dejuan Norman, OTA Case Number 240416011. Today's date is January 22nd, 2025, and the time is 3:30. This hearing is being conducted virtually with the agreement of the parties.

This appeal is being heard and decided by a single Administrative Law Judge under OTA's Small Case Program. My name is Sheriene Ridenour, and I will be conducting the hearing, reviewing the evidence, and reaching a determination in this appeal.

For the record, will the parties state their names and who they represent, starting with the representatives for FTB.

MR. GATES: My name is Jeffrey Gates. I'm an attorney with FTB.

MR. COUTINHO: Good afternoon. My name is Brad Coutinho, and I'm an attorney with the Franchise Tax Board.

JUDGE RIDENOUR: And, Mr. Norman, just state your name please.

MR. NORMAN: My name is Dejuan Norman.

1 JUDGE RIDENOUR: Thank you very much. Thanks.

2 As stated in my Minutes and Orders dated
3 January 7th, 2025, there is one issue in this appeal;
4 whether Appellant's claim for refund for the 2018 tax year
5 is barred by statute of limitations.

6 The exhibits are listed in an exhibit log, which
7 has been distributed to the parties.

8 During the prehearing conference, FTB raised no
9 objection to Appellant's Exhibit 1, and it was admitted
10 into evidence. During the prehearing conference,
11 Appellant raised no objections to FTB's Exhibits A through
12 C, and they were admitted into evidence.

13 As for witnesses, FTB previously indicated it
14 will not call any witnesses. Appellant indicated he will
15 be testifying today, and FTB raised no objections. As
16 such, Mr. Norman will be sworn in before his presentation.
17 There are no other witnesses today.

18 As a reminder to the parties, during a prehearing
19 conference, we decided that Appellant will have 15 minutes
20 to make his presentation, followed by FTB, who will have
21 10 minutes. Then Appellant will have 5 minutes to provide
22 closing remarks, should he choose. Each party is
23 encouraged to monitor their own time.

24 Does anyone have any questions before we move on
25 to presentations?

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Mr. Norman?

MR. NORMAN: No.

JUDGE RIDENOUR: Okay. Mr. Gates?

MR. GATES: No questions.

JUDGE RIDENOUR: Okay. Hearing none, before we proceed with presentations, Mr. Norman, I need to place you under oath so that we can consider your statements as testimony, and you will remain under oath until the closing of this hearing.

Will you please raise your right hand.

D. NORMAN,

produced as a witness, and having been first duly sworn by the Administrative Law Judge, was examined, and testified as follows:

JUDGE RIDENOUR: Okay. Thank you. Mr. Norman, the time is 3:33 p.m. When you're ready, please begin your presentation.

PRESENTATION

MR. NORMAN: Well, back in 2018 at this time, my -- I was -- I was having a lot of life stuff going on at this time. This is my first time even being associated with something like this. So back then I was trying to --

1 at that time, I was trying to get to -- I had a lot of
2 deaths going on, and I was abusing alcohol. So to be
3 really honest, this -- this situation, handling my tax
4 business, wasn't my first choice to even start handling
5 this business.

6 So as time progressed and went on and on, the
7 years started going by, and it was time from -- I was
8 trying to get my life back in order, which I end up doing.
9 So the whole thing was that when I -- when I filed this,
10 I'm just not understanding because when -- when I recently
11 did reach out to FTB, the State, they asked -- they --
12 they told me that I can't go no further to clean up my
13 taxes without getting my prior years done to be in -- what
14 they call it? -- to be in good standings to be able to do
15 my future taxes. So I had to catch up. If you look at my
16 taxes now, I have caught up with all my taxes up to the
17 current year.

18 So with me not doing taxes -- and I don't know
19 the law, so I can't really state what, you know, what
20 statute of limitations is upon payment or anything like
21 that. That's why I'm here now. So I'm just a learning
22 experience. So now I know. But, you know, it's not
23 really no excuses. Like, the only thing I really have to
24 say is, like, I was going through a lot of life
25 situations, and filing my taxes was the last thing on my

1 mind at that time.

2 Yes, I know the State of California have laws,
3 but I don't do taxes, and I don't know the state laws. So
4 that's why I'm here right now trying to figure out -- you
5 know, I just don't understand this. The problem is if I
6 owed the State any funds, they would grant that. They
7 would grant that. Don't matter -- don't matter what year
8 you owe them, and they will want you to do some kind of
9 payment plan or something like that. But on the other
10 hand is when they owe you, now it's the statute of
11 limitations. See, it's -- it's as I said, make it make
12 sense to me. I just don't know. So I guess this is why
13 I'm here. So I'm just trying to get some understanding.

14 At least, you know, I -- I just figured that, you
15 know, I work for this -- these funds, and I'm -- I'm
16 getting held accountable for a law of statute of
17 limitations. So if this was the reason why I'm not
18 getting my funds, why I was instructed to catch up -- to
19 catch back up on my -- on my taxes?

20 Hello?

21 JUDGE RIDENOUR: Yeah, I can hear you. I'm just
22 taking notes.

23 MR. NORMAN: Oh, okay. My screen where some kind
24 of -- somehow my screen is -- some type of screen.

25 JUDGE RIDENOUR: Are you okay, Mr. Norman?

1 MR. NORMAN: Yeah, my screen, something had
2 happened to my screen.

3 Okay. Well, I'm -- I'm just not understanding,
4 so that's -- this is where I'm at with the whole process,
5 and this is all new to me. And like I say, at the time,
6 my taxes and stuff wasn't really the big issue at the
7 time. I had to get myself together. I was going through
8 a lot of family's deaths, and -- and it -- it was just
9 some bad stuff going on at the time. So, and that's --
10 the -- that's where I stand.

11 JUDGE RIDENOUR: Thank you, Mr. Norman.

12 FTB, do you have any questions for Mr. Norman as
13 a witness?

14 MR. GATES: No questions.

15 JUDGE RIDENOUR: Okay. At this time, I don't
16 have any questions either. I do want to commend you,
17 Mr. Norman, for getting your life where you want it. That
18 must have been an uphill battle, so congratulations and be
19 proud of yourself.

20 MR. NORMAN: Yeah.

21 JUDGE RIDENOUR: Okay. The time is 3:37. When
22 you're ready, Mr. Gates, please begin your presentation.

23 MR. GATES: Thank you.

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1 deemed paid for the purposes of the statute of limitations
2 on the return due date. So because of that, again, the
3 return due date was in 2019, and the claim for refund was
4 filed, you know, more than one year beyond that date.

5 Now, as far as the case law is concerned, there
6 is no equitable tolling for the statute of limitations.
7 And that was said under the McFeaters case, and this was
8 State Board of Equalization case from 1994. Now, there is
9 however, a statutory ability to extend that -- or toll
10 that statute of limitations, and this is under
11 section 19316 of the Code. It's also discussed in the
12 Case of Gillespie, which is an Office of Tax Appeals
13 opinion from 2018. Now, the statute will be tolled if the
14 person is financially disabled, which means that they have
15 an impairment that is either terminal or is expected to
16 last longer than 12 months. So in those cases, as long as
17 it overlaps with the limitation period for the claim that
18 the statute can be tolled.

19 Now, here Mr. Norman has provided us with a
20 physician's affidavit, and it states that he could not
21 manage his financial affairs between November 4th, 2019,
22 and January 10th, 2020, which is a period of about three
23 months. So, unfortunately, Mr. Norman's disability
24 because it was less than 12 months, and it was not a
25 terminal impairment, he wouldn't qualify for that tolling

1 period. And it's understandable, and it is sometimes
2 difficult to accept, but the law, other than this
3 financial disability section, doesn't allow for refunds
4 after the time limit for making the claim -- for when the
5 claim is expired.

6 And as much as we may sympathize with
7 Mr. Norman's past difficulties and respect his
8 determination for -- and growth that he's displayed to
9 improve his life, the law simply does not allow for a
10 refund claim to be outside of the statute of limitations
11 in this instance.

12 I'd like to thank you for your time and
13 attention, Judge Ridenour, and we'll be happy to answer
14 any questions you may have for us.

15 JUDGE RIDENOUR: Thank you very much, Mr. Gates.
16 At this time, I don't have any questions.

17 Mr. Norman, just to clarify on the record, there
18 is a statute of limitations for FTB to make assessments as
19 well. I know that's not at issue, but I did hear you say
20 about owing money. So I just want to clarify there are
21 statute of limitations for that as well. Having said
22 that -- oh, would you like to say something, Mr. Norman?

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15 And when I just -- I just felt is that -- is
16 because I paid before the statement, they garnish on my
17 check. But it's I just feels that when they owe me, now
18 we have a problem. So you see whereas -- you know, I had
19 to go through all this to get my funds. Yes, I do pay
20 into the taxes. I pay taxes when I'm working. Yes, you
21 are correct about that. But I know the law is the law,
22 but I'm not -- you know, like I said before, this was the
23 last thing I was thinking about even doing. That's why
24 I'm catching back up and getting all my business handled
25 because I was -- like I said, I was in the dark for a

1 while. And I know it's the law people. You know, it's --
2 it's not no problem. I mean, stuff happens in people's
3 lives, you know.

4 And, you know, I just didn't know. I -- I still
5 don't do taxing. I still don't know the law. So I'm --
6 I'm still kind of in the rut, but I -- my mother would --
7 my mother does taxes. And she stated to me, she said,
8 well, you ask them what is the -- when they told you to do
9 your taxes, why they didn't state that this could happen
10 from the get. She -- I had to be -- like I said, I had
11 to -- for me to get to where I'm at now, everything had to
12 be filed. Or I couldn't file my regular taxes because
13 they would want the recent -- the past ones done first and
14 then go -- then I could go to my present. So this is
15 where I'm -- I'm at -- I'm stuck at. Yes, I know it's the
16 law and -- but I thought it was, you know -- I --

17 JUDGE RIDENOUR: No. Okay. I will include some
18 information in my opinion as to the statute of limitations
19 for assessments just to kind of clarify a little bit for
20 you because I understand it can be confusing for someone
21 who doesn't understand taxes. It's completely
22 understandable. So I will include that information to
23 help clarify things for you in my opinion. And -- yeah.
24 So hopefully that will give you some light as to the
25 situation for that as well. Having said that, you have

1 time for closing remarks or statements, should you want to
2 speak more about the issue. You have up to --

3 MR. NORMAN: No. I'm -- that's -- it's, you
4 know, I'm fine. Just like I say, I got myself into this
5 situation and, you know, if it's the law, it's the law.
6 But, you know, I like -- at least I can try to fight
7 for -- you know, which I think I deserve to have. But
8 that's it.

9 JUDGE RIDENOUR: And you have every right to do
10 that. That's why we offer you this appeals process. And
11 hopefully my opinion, whichever way I should decide, will
12 help give clear -- light some knowledge into the issue for
13 you. Okay.

14 MR. NORMAN: All right.

15 JUDGE RIDENOUR: I want thank you for your
16 closing remarks and your presentation, Mr. Norman and
17 Mr. Gates.

18 I do not have any questions for either party at
19 this time. And so I want to thank everyone for
20 participating in today's hearing. I am now concluding the
21 hearing. The record is now closed.

22 I will issue a written opinion of my decision
23 within 100 days of today. That concludes today's hearing
24 in the Appeal of Dejuan Norman, and it is now closed.

25 (Proceedings adjourned at 3:46 p.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 19th day
of February, 2025.

ERNALYN M. ALONZO
HEARING REPORTER