

Federal Court



Cour fédérale

Date: 20260422

Docket: T-2235-25

Citation: 2026 FC 535

Ottawa, Ontario, April 22, 2026

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

**RANDOLPH EDWARD TALBOT**

**Applicant**

and

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Randolph Edward Talbot seeks judicial review of a decision of the Minister of National Revenue [Minister] made pursuant to s 220(3.1) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA] and s 281.1 of the *Excise Tax Act*, RSC 1985, c E-15 [ETA]. The Minister's delegate refused to grant him additional relief from interest and penalties on unpaid taxes.

[2] Mr. Talbot requested relief concerning the taxation years 2005 to 2011, 2015, and 2019 for his personal tax account; 2009 to 2015 for his payroll account; and several quarterly periods from 2009 to 2015 and 2019 for his Goods and Services Tax/Harmonized Sales Tax [GST/HST] account.

[3] It is not the role of this Court to re-weigh the evidence or undertake its own assessment. The CRA's decision not to grant Mr. Talbot additional relief was justified, intelligible and transparent. It was therefore reasonable.

[4] The application for judicial review must be dismissed.

## II. Background

[5] Mr. Talbot has faced considerable personal and health-related challenges over the past three decades. He was involved in motor-vehicle accidents in 1996 and 1997. In 2005, a motorcycle accident left him with serious injuries, including several broken bones and a concussion for which he was hospitalized for 18 months.

[6] Mr. Talbot and his wife divorced in 2008. The same year, he formed a romantic relationship with a woman who also served as his bookkeeper. He says that she stole almost \$1 million from his construction business over a period of more than three years. The woman was criminally charged, but the prosecution did not proceed. Mr. Talbot received legal advice that he

was unlikely to gain anything from a civil action, and the cost of the proceeding would likely exceed any recovery of funds.

[7] In 2013, Mr. Talbot's mother-in-law passed away from cancer after living with him for over a year. In 2014, he was diagnosed with non-Hodgkin lymphoma. Finally, in 2019, he was involved in another motor vehicle accident and suffered a brain injury.

[8] Throughout this time, Mr. Talbot operated his construction company as a sole proprietorship and maintained payroll and GST/HST accounts with the Canada Revenue Agency [CRA]. He repeatedly failed to remit taxes in respect of his personal, payroll, and GST/HST accounts.

[9] On August 3, 2021, Mr. Talbot sought waivers of interest and penalties pursuant to s 220(3.1) of the ITA and s 281.1 of the ETA. He requested relief for the taxation years 2009 to 2015 for his payroll account; 2009 to 2015 and 2019 for his GST/HST account; and 2005 to 2011, 2013 to 2016, and 2019 for his personal account.

[10] On September 23, 2022, the Minister's delegate granted Mr. Talbot only partial relief [First Review]. The CRA concluded that he could not be relieved of penalties and interest for the 2010 taxation year and earlier, because the ITA and ETA permit the Minister to grant relief for only the 10 calendar years preceding the request (ITA, s 220(3.1); ETA, s 281.1). The CRA also noted that no penalties or interest had been levied against Mr. Talbot in 2011 (third quarter), 2012 (first and third quarters), 2013 (third and fourth quarter), 2014 (second and third quarters),

2015 (second quarter), 2016 (second quarter), 2017 (second and fourth quarters), 2018 (first and third quarters), and 2019 (third and fourth quarter) for his GST/HST account; 2010 for his payroll account; and 2012, 2017, and 2018 for his personal account.

[11] The CRA did grant Mr. Talbot relief from penalties for his payroll account between February 1, 2015, and February 28, 2015, due to his cancer diagnosis. Proactive relief was also granted to cancel arrears interest for his personal tax account for 2011, 2013 to 2016, and 2019, from February 7, 2022, until the date of the decision letter (September 23, 2022), due to the CRA's delay in processing the request. Neither party was able to inform the Court of the amount of indebtedness that was waived.

[12] The CRA declined to grant relief for the remainder of the interest and penalties. The Minister's delegate acknowledged that Mr. Talbot's circumstances had been personally challenging, but concluded that these did not prevent him from meeting his tax obligations.

[13] On October 10, 2022, Mr. Talbot request a second review of his request for relief. On July 12, 2024, a different CRA officer completed a second review [Second Review].

[14] The officer who conducted the Second Review applied the same 10-year limitation period that was applied in the First Review. Mr. Talbot was granted relief from the late-filing penalty for the 2015 taxation year for his personal account and the remitting period ending March 31, 2015 for his payroll account due to his cancer diagnosis in March 2015.

[15] The Second Review, like the First Review, found that Mr. Talbot's motor vehicle accidents and bookkeeper's theft did not prevent him from meeting his tax obligations. The Second Review also determined that his history of non-compliance militated against granting further relief from penalties and interest.

[16] On October 8, 2024, Mr. Talbot requested a third review of his request for relief. The Minister's delegate rendered his decision on the Third Review on June 13, 2025, declining to grant any additional relief. This is the decision that Mr. Talbot challenges in this application for judicial review.

### III. Decision under Review

[17] As in the previous reviews, the Minister's delegate who conducted the Third Review found that he could not waive penalties and interest that had been imposed more than 10 years before the request was made. The Third Review also found that the bookkeeper's theft did not warrant relief, because Mr. Talbot's choice of bookkeeper was not a circumstance beyond his control and he had not demonstrated diligence in maintaining his books and records.

[18] Mr. Talbot informed the CRA several years before his divorce in 2008 that he had separated from his spouse. The Minister's delegate therefore concluded that the divorce did not prevent him from filing or remitting taxes during the taxation years in issue. Similarly, the death of Mr. Talbot's mother-in-law in November 2013 did not prevent him from filing his personal

tax return by the due date of June 15, 2014, nor the GST/HST fourth quarter reporting period, which was due on January 31, 2014.

[19] The Third Review found that the motor vehicle accidents in 1996 and 1997 did not affect Mr. Talbot's ability to remit taxes in any of the taxation years in issue. With respect to the accident that occurred in 2005, the Minister's delegate found as follows:

I have considered your motor vehicle accident in 2005 which may have affected your ability to file the 2005 tax year by the due date. However, you engaged in activities of comparable complexity as filing and paying your taxes such as planning a move to another country and setting up for your recovery, I must conclude that you were also capable of filing and remitting your personal and business accounts or having someone act on your behalf.

[20] The Third Review found that the motor vehicle accident in 2019 occurred after the filing and remitting dates for Mr. Talbot's personal account, payroll account, and reporting periods up to the second quarter of 2019 for his GST/HST account. Moreover, Mr. Talbot had retained the same authorized representative for his GST/HST account since 2013, and nothing prevented the representative from filing and remitting taxes on his behalf. Mr. Talbot filed GST/HST returns for the third and fourth quarters of 2019, and the CRA therefore concluded that he was not prevented from filing his 2019 personal return.

[21] The Third Review declined to provide further relief based upon Mr. Talbot's cancer diagnosis for any period before 2015. The CRA noted that Mr. Talbot was expected to make arrangements to meet his tax obligations despite his ongoing medical conditions. Mr. Talbot claimed that he had been unable to work since the 2019 accident, but the Third Review noted

that he continued to operate a business, increasing business revenues from 2019 to 2021, and increasing his household income in 2020.

[22] The Third Review also noted that Mr. Talbot had several assets, including Guaranteed Investment Certificates [GICs], home equity, a 2019 Chevrolet Corvette, and a 2022 Chevrolet Silverado. The CRA found that Mr. Talbot should have sold non-essential assets to pay his debts.

The Third Review concluded as follows:

Where circumstances beyond a taxpayer's control or an inability to pay or financial hardship has [*sic*] prevented a taxpayer from filing and remitting as required we also consider the history of past compliance. Although you may have had periods where there was an inability to pay, I have determined that it would be inappropriate to grant relief based on a review of your compliance history.

#### IV. Issue

[23] The sole issue raised by this application for judicial review is whether the decision of the Minister's delegate on the Third Review was reasonable.

#### V. Analysis

[24] The decision of the Minister's delegate is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[25] Mr. Talbot was not represented by counsel in this application. He made the following submissions regarding the Third Review:

- (a) the CRA should not have applied a 10-year limitation period to his request for relief;
- (b) the CRA should not have held his history of non-compliance against him, given that he has been in full compliance since 2022;
- (c) the CRA unreasonably found that he did not make sufficient efforts to pay his tax debts;
- (d) the CRA minimized the findings of a doctor's report following the 2019 vehicle accident;
- (e) the CRA unreasonably found that the bookkeeper's theft was a matter within his control; and
- (f) the CRA unreasonably required him to continue paying his debts, although he is in receipt of a disability pension and is incapable of earning an income.

[26] The Respondent says that the Minister's delegate considered and meaningfully engaged with all relevant facts. It was reasonable for the Minister to grant only partial relief and conclude

that Mr. Talbot's personal circumstances did not prevent him from complying with his tax obligations during most of the relevant time periods.

[27] Notwithstanding the challenging circumstances faced by Mr. Talbot, he has not demonstrated a basis upon which this Court can intervene.

[28] The 10-year limitation period for waiving penalties and interest is imposed by s 220(3.1) of the ITA and s 281.1 of the ETA. The time runs from the end of the taxation year in question, not the date of a subsequent assessment or settlement. The Minister's delegates had no choice but to apply the limitation period.

[29] The taxpayer relief provisions of the ITA and ETA are exceptional and discretionary (*Banayot v Canada (Attorney General)*, 2025 FC 1593 [*Banayot*] at para 19). As the Federal Court of Appeal (*per* Stratas JA) held in *Canada (Attorney General) v Maloney*, 2025 FCA 165 at paragraph 6, they grant the Minister a "very wide, unconstrained discretion [...] to determine what is fair (itself a rather subjective and impressionistic concept that cannot be concretely defined)". Mr. Talbot's history of non-compliance was a relevant consideration in the determination of whether the Minister should grant him further relief.

[30] The Minister's delegate reasonably held that Mr. Talbot had continued to engage in discretionary spending rather than pay his taxes. In oral submissions, Mr. Talbot said that he bought the Chevrolet Corvette in the hope of selling it for a profit. He ultimately sold it at a loss. It is unclear whether this information was ever communicated to the CRA. In any event, the

Minister's delegate reasonably found that Mr. Talbot continued to hold funds in GICs, purchased a 2022 Chevrolet Silverado, and maintained home equity of approximately \$150,000. While the value of these assets may not be large compared to Mr. Talbot's indebtedness, their existence supports the CRA's conclusion that he did not prioritize payment of his taxes.

[31] The Fact Sheet prepared in relation to the Third Review acknowledged Mr. Talbot's motor vehicle accident in 2019 and his doctor's advice that he could not continue working. However, the Minister's delegate noted that the accident occurred after the filing and remittance due dates for the personal account, payroll account, and the second quarterly GST/HST account reporting periods. Despite the accident, Mr. Talbot filed GST/HST returns for the third and fourth quarters of 2019. The CRA did not improperly minimize the report prepared by Dr. Cameron on January 12, 2023.

[32] The Minister's delegate said the following regarding the bookkeeper's theft:

You stated that your previous bookkeeper committed fraud against your business. It was noted that you mentioned this began approximately in 2008 and occurred over nearly three years. The review of your account shows that you were advised early in the audit process of the importance of keeping your books and records in order and addressing any discrepancies in a timely manner. Although the event of the fraud is unfortunate, your choice of bookkeeper is not considered a circumstance beyond a taxpayer's control and you have not demonstrated diligence in meeting your tax obligations. Therefore, I have concluded that this event does not warrant relief.

[33] The Minister's delegate did not suggest that the bookkeeper's criminal behaviour was a matter within Mr. Talbot's control; only that he did not exercise sufficient diligence in maintaining his books and records, and addressing discrepancies in a timely manner.

[34] The Taxpayer Relief Sheets that accompanied the CRA's reviews noted that business owners are responsible for maintaining proper books and records, and Mr. Talbot had a history of neglecting this responsibility from 2005 onwards. Mr. Talbot did not demonstrate the diligence expected of a business owner, including by taking adequate steps to prevent theft or other fraud.

[35] Mr. Talbot points out that the Third Review did not acknowledge the magnitude of the theft (close to \$1 million). Furthermore, the observation of the Minister's delegate that he might have recourse in other forums turned out to be inaccurate. However, Mr. Talbot did not satisfactorily explain to the CRA how a theft of approximately \$1 million between 2008 and 2011 affected his financial circumstances generally, or why it prevented him from remitting taxes in a timely way.

[36] Mr. Talbot continued to operate his business for a period after the 2019 accident, and his business revenues and household income increased during that time. The CRA reasonably found that he was not wholly incapable of paying his tax debts.

[37] The Fact Sheet prepared in relation to the Third Review noted that Mr. Talbot had a negative net worth, with assets valued at \$479,450 and liabilities valued at \$760,391. But this

does not detract from the CRA's overall assessment that Mr. Talbot failed to remit taxes as required by law, and did not prioritize payment of his unpaid taxes.

[38] It is not for this Court to re-weigh the evidence or undertake its own assessment (*Banayot* at para 24, citing *Vavilov* at para 102). It was reasonable for the CRA not to grant Mr. Talbot relief in addition to the waivers of penalties and interest that he had received previously.

[39] It remains open to Mr. Talbot to continue his discussions with the CRA respecting a repayment plan, or to request additional relief should his financial circumstances deteriorate further.

## VI. Conclusion

[40] The application for judicial review is dismissed.

[41] The Attorney General of Canada advised the Court during oral submissions that the Respondent is no longer seeking costs.

[42] The proper Respondent in this proceeding is the Attorney General of Canada, rather than the Canada Revenue Agency (*Federal Court Rules*, SOR/98-106, s 303(2)). The style of cause will be amended accordingly.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No costs are awarded.
3. The style of cause is amended to name the Attorney General of Canada as the Respondent, with immediate effect.

"Simon Fothergill"  
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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-2235-25

**STYLE OF CAUSE:** RANDOLPH EDWARD TALBOT v ATTORNEY  
GENERAL OF CANADA

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** APRIL 9, 2026

**JUDGMENT AND REASONS:** FOTHERGILL J.

**DATED:** APRIL 22, 2026

**APPEARANCES:**

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FOR THE APPLICANT  
(ON THEIR OWN BEHALF)

Janice Liu

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENT