

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of )  
 )  
 H J N ) OAH No. 16-0188-PER  
 ) Agency No. 2016-002  
\_\_\_\_\_)

**DECISION**

**I. Introduction**

H N appeals a decision by the public employees’ retirement system (PERS) to deny his application for a cost-of-living allowance (COLA). Mr. N spends much of his time each year outside the state, traveling and visiting family. He returned to the state in the summer of 2015 and applied for reinstatement of his Alaska cost-of-living allowance. The Division of Retirement and Benefits argues that Mr. N did not meet the eligibility requirements. However, the record supports Mr. N’s eligibility. Accordingly, the division’s decision denying Mr. N’s 2015 application for COLA is reversed.

**II. Facts**

H N worked as a civil engineer.<sup>1</sup> He retired in 2011 and began receiving retirement benefits from PERS.<sup>2</sup> He lived in No Name on B Street for 28 years. Since the summer of 2012, Mr. N and his wife have spent most of their time traveling and visiting relatives. Mr. N has had several extended visits with his mother.<sup>3</sup> Since 2012, Mr. N and his wife have traveled extensively internationally, visiting 23 different countries over the past four years.<sup>4</sup> They have also traveled around the United States, camping, biking, and visiting family. When they travel, they stay in various accommodations, including public and private campgrounds, and vacation rentals.

When Mr. N and his wife are in No Name, they rent two rooms in a house located on Example Avenue. The house is owned by a friend. When the friend needed to obtain bank financing to buy out the interest of his siblings in the house, Mr. N’s wife guaranteed the loan. In 2009, the friend refinanced the loan, and Mr. N and his wife executed quit claim deeds as part of

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<sup>1</sup> Test. of N.  
<sup>2</sup> R. at 33.  
<sup>3</sup> Ex. E at 16, 19.  
<sup>4</sup> Ex. E at 15.

that process to release Mr. N's wife from the loan guarantee.<sup>5</sup> Mr. N and his wife pay rent when they are living in the house.<sup>6</sup>

Mr. N uses a mail forwarding service based in Anchorage, so his mailing address is the address of that business.<sup>7</sup> However, he also receives packages and other deliveries at the Example Avenue house.<sup>8</sup> He uses the Anchorage address on his Alaska driver's license and his voter registration.

Mr. N applied for COLA payments when he retired in 2011.<sup>9</sup> He left the state in May 2012, and notified the division. He wrote on the form "I will be traveling extensively over the next few years. My home state is still Alaska but I will be in Alaska only in the summers."<sup>10</sup> He applied for reinstatement of COLA payments on May 21, 2013, and the request was granted.<sup>11</sup> He notified the division that he would be leaving again on August 28, 2013. He noted "I am not moving. I travel. I will return next summer. Alaska is my home. Please discontinue COLA for now."<sup>12</sup> On June 11, 2014, he again applied for reinstatement of COLA payments.<sup>13</sup> The same day, he filed an address change notice, indicating that he would be leaving Alaska on July 2, 2014, and would be gone for more than 90 days. He explained "I am spending more time in the lower 48 with my sick mother this year."<sup>14</sup> The division paid Mr. N the COLA benefit he requested in 2014.<sup>15</sup>

Mr. N returned to the state on June 12, 2015.<sup>16</sup> On June 13, 2015, Mr. N again filed a return to Alaska notification form with the division.<sup>17</sup> This time, the division requested that Mr. N document his eligibility.<sup>18</sup> Mr. N responded with an affidavit of residency signed by his landlord at the Example Avenue house, and copies of his Alaska driver's license, hunting and fishing license, and voter registration card. He completed a department form indicating that he had received permanent fund dividends in 2010 and 2011, and had not received dividends in

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<sup>5</sup> Test. of N; Ex. C.  
<sup>6</sup> Test. of N.  
<sup>7</sup> R. at 15; Ex. E at 21 - 22.  
<sup>8</sup> Test. of N.  
<sup>9</sup> R. at 33.  
<sup>10</sup> Aff. of Christenson, Ex. B.  
<sup>11</sup> Aff. of Christenson, Ex. C, p. 2-3.  
<sup>12</sup> Aff. of Christenson, Ex. C, p. 4.  
<sup>13</sup> Ex. G.  
<sup>14</sup> Ex. D.  
<sup>15</sup> Test. of Christenson.  
<sup>16</sup> Ex. E at 19.  
<sup>17</sup> R. at 23.  
<sup>18</sup> R. at 21.

2012-2014. He noted on the form that he started traveling in the summer of 2012 so he did not apply in 2012.<sup>19</sup>

Based on this information, the division rejected Mr. N's request for COLA. The division informed Mr. N:

Your intent at demonstrating Alaska residency has not been established based on:

- The amount of time spent in Alaska has been 19 months out of 48 months.
- That you acknowledge having not applied for the Permanent Fund Dividend for the last 5 years.
- You did not submit sufficient proof of a substantial ownership or leasehold interest in applicant's residence in Alaska.

The division determined that Mr. N's "principle [sic] domicile" was not in Alaska.<sup>20</sup> Mr. N protested to the division.<sup>21</sup> The division's Chief Pension Officer concluded that Mr. N had not demonstrated that he maintained his principal place of residence in Alaska.<sup>22</sup> Mr. N then filed this appeal.

The hearing in this matter was held on June 22, 2016. Mr. N represented himself. Assistant Attorney General Kevin Dilg represented the division. Marla Christenson, Benefits Processing Manager for the division, testified.

### **III. Discussion**

The monthly cost-of-living allowance under the PERS program is only available to a retiree "[w]hile residing in the state."<sup>23</sup> Under the statute, "residing in the state" means "domiciled and physically present in the state."<sup>24</sup> The division does not dispute that Mr. N has applied for COLA only when he was physically present in the state. The question in this case is whether Mr. N has maintained his domicile in Alaska, despite his extensive travels.

Under AS 39.35.480(d), a person's status as "residing in the state" does not change if the person is out of state for 90 days or less.<sup>25</sup> The division will continue to pay COLA without interruption. This case raises the issue of what happens when a PERS retiree is

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<sup>19</sup> R. at 16.

<sup>20</sup> R. at 11-13.

<sup>21</sup> R. at 9, 28-29.

<sup>22</sup> R. at 6-7.

<sup>23</sup> AS 39.35.480(a).

<sup>24</sup> AS 39.35.480(d).

<sup>25</sup> AS 39.35.480(d)(1).

repeatedly absent from the state for more than 90 days.<sup>26</sup> Mr. N spends his time traveling. He returns to Alaska on a regular basis although less frequently than every 90 days, and he views No Name as his home.

At the hearing, the division's Benefits Processing Manager explained that the division expects new retirees to travel, but that if a person is absent for more than 90 days, that person's COLA will lapse. The person can reapply for COLA when the person returns to Alaska.<sup>27</sup> This is what Mr. N did in 2015. He applied for reinstatement of COLA when he returned to the state. He seeks the COLA only for the time that he is actually in the state.

The COLA statute requires that a person be residing in the state, meaning domiciled and physically present in the state, in order to receive COLA.<sup>28</sup> The division gives applicants for COLA the following definition of "domicile":

That place where a person has his or her true, fixed, and permanent home and principal establishment, and to which whenever absent, he or she has the intention of returning.<sup>29</sup>

Every person has a domicile.<sup>30</sup> Even a traveler, migrant worker, or homeless person has a domicile.<sup>31</sup>

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<sup>26</sup> AS 39.35.480(a) permits a person to be absent for six months or less when ordered by a physician to be absent, or any length of time while the person is on active duty in the military. Neither of these situations applies to Mr. N.

<sup>27</sup> Test. of Christenson.

<sup>28</sup> AS 39.35.480(a) and (d).

<sup>29</sup> R. at 23 (COLA return to Alaska notification form). Similar language is included in the Retirement Application Instruction Booklet, R. at 36.

<sup>30</sup> *Schill v. Cincinnati Ins. Co.*, 24 N.E. 3d 1138, 1143 (Ohio 2014), quoting *Sturgeon v. Korte*, 34 Ohio St. 525, 534 (Ohio 1878) ("The law ascribes a domicile to every person, and no person can be without one."); *Tienda v. Integon Nat'l Ins. Co.*, 834 N.W.2d 908, 917 (Mich. Ct. App. 2013); *Ex parte Phillips*, 152 So.2d 144, 146 (Ala. 1963); *Irvin v. Irvin*, 322 P.2d 794, 797 (Kan. 1959); *Kurilla v. Roth*, 38 A.2d 862, 864 (N.J. 1944); *Reynolds v. Lloyd Cotton Mills*, 99 S.E. 240, 245 (N.C. 1919).

<sup>31</sup> For travelers: *Sanchez v. Comm'r of Revenue*, 770 N.W.2d 523 (Minn. 2009) (couple who sold home in Minnesota and began traveling in motor home failed to demonstrate that they intended to make their home in South Dakota and therefore retained domicile in Minnesota; court applied presumption that domicile continues until a new domicile is established); see also *Redmond v. Sirius Int'l Ins. Corp.*, 2014 WL 197909 (E.D. Wis.) (individual who traveled "frequently" and attended school in Vermont remained domiciled in Wisconsin).

For migrant workers: *Tienda*, 834 N.W.2d at 917-919 ("we cannot simply conclude that, because Lorenzo traveled a circuit of three states throughout the year, he has no domicile or place of residence" and holding that Lorenzo was a resident of Michigan as a matter of law, despite the fact that he spent more time each year in Florida).

For homeless: *O'Neal v. Atwal*, 425 F. Supp. 2d 944 (W.D. Wis. 2006) (giving homeless plaintiff additional time to provide information demonstrating that he was domiciled in a state other than Minnesota to support federal diversity jurisdiction). See also *McHenry v. Astrue*, 2012 WL 6561540 (D. Kansas) (citing *O'Neal*) ("[i]n determining the domicile of homeless individuals, the court should consider where the individual last lived before becoming homeless, place of prior employment, state of registration to vote, income tax returns, location of church or social organizations that he belonged to, and where he was licensed or had registered an automobile"); *Henning v. Day*, 2016 WL 1068482 (M.D. Fla., Orlando Div.) (homeless person attending law school in Florida remained domiciled in Arizona because, although physically present in Florida, he did not have the requisite intent to make it his new domicile).

One establishes domicile in Alaska “by an actual physical presence in the state coupled with a coincident intent to make the state one’s permanent place of abode.”<sup>32</sup> Mr. N established his domicile in Alaska in the early 1980s. He claimed Alaska domicile when he initially requested COLA in 2011, and the division did not dispute this claim. Mr. N has stayed in a number of different places since he retired and started traveling, including a three month stretch in a California vacation rental and several months in communities where his mother lives. However, he has not intended to make any of those places his permanent place of abode. Without this intent, physical presence does not establish a new domicile.<sup>33</sup>

The division has further defined domicile in 2 AAC 35.240(c). That regulation specifies that a person domiciled in the state is a person who

- (1) maintains his or her principal place of residence in the state of Alaska;
- (2) demonstrates at all times during an absence an intent to return to Alaska and remain a resident of Alaska; and
- (3) does not claim residency outside the state or obtain benefits of residency in another state or nation.

The division did not argue that Mr. N had claimed residency in another state or that he had obtained the benefits of residency outside Alaska, so this analysis will focus on principal place of residence and intent.

A. *2 AAC 35.240(c)(1): Principal place of residence*

The division denied Mr. N’s application in part because it found that he does not maintain his principal place of residence in Alaska. Under 2 AAC 35.240(c)(1), in order to be domiciled in Alaska under the regulation, a person must “maintain[] his or her principal place of residence in the state of Alaska.”<sup>34</sup> In arguing that Mr. N had not maintained his principal place of residence

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<sup>32</sup> *State v. Adams*, 522 P.2d 1125, 1131 (Alaska 1974); *Perito v. Perito*, 756 P.2d 895, 897 (Alaska 1988).

<sup>33</sup> *Adams v. Adams*, 432 S.W.3d 49, 56 (Ark. Ct. App. 2014) (“To effect a change of domicile, there must be actual abandonment of the first domicile, coupled with the intention not to return to it, and there must be a new domicile acquired in another jurisdiction with the intention of making it a permanent home. A party’s intention to abandon his domicile and take up another must be ascertained from all the facts and circumstances in a particular case.”) (citations omitted); *In re Makhija*, 136 A.3d 539, 542-547 (Pa. Commw. Ct. 2016); *Hubbell v. Comm’n*, 3 Or. Tax 468 (Or. T.C. 1969); *Catlett v. Catlett*, 869 N.W.2d 368, 377 (Neb. Ct. App. 2015) (“Domicile is obtained only through a person’s physical presence accompanied by the present intention to remain indefinitely at a location or site or by the present intention to make a location or site the person’s permanent or fixed home. The absence of either presence or intention thwarts the establishment of domicile.”) (citations omitted); *Frederickson v. Comm’r of Revenue*, 1984 WL 3014, at \*3 (Minn. Tax) (“The establishment of a new ‘domicile’ requires physical presence in a given jurisdiction coupled with an intention to make such place one’s home.”)

<sup>34</sup> R. at 3.

in Alaska, the division emphasized that he did not have an ownership or leasehold interest in a primary residence in Alaska. Owning or leasing a primary residence in Alaska is evidence of domicile under 2 AAC 35.240(d)(4) and (5), which refer to an “applicant’s residence in Alaska” and use of that residence as “a primary residence.” However, ownership or lease of a primary residence is not a mandatory requirement of domicile under 2 AAC 35.240(c)(1). Paragraph (c)(1) only requires that Alaska be the person’s “principal place of residence.”<sup>35</sup> Under 2 AAC 35.240(c)(1), a homeless person could still be domiciled in Alaska. The community where the person lives would be the person’s principal *place* of residence, even though the person does not own or lease a dwelling and may be couch-surfing, living in a car, or at a homeless shelter. Therefore, the fact that Mr. N does not own or lease a home in Alaska does not make him ineligible for the COLA under 2 AAC 35.240(c)(1).

Although 2 AAC 35.240(c)(1) does not require a person to own or lease a home in Alaska in order to be domiciled in the state, proof that a person’s primary residence is in Alaska is relevant evidence of domicile. Here, Mr. N claims that the Example Avenue house is his primary residence.

Mr. N does not own or lease a residence in Alaska or anywhere else for his own use. Instead, he relies on various short term rentals. Since he started traveling in July 2012, he has lived in only five places for more than one month. One of those places is his mother’s residence in Michigan.<sup>36</sup> Another is his mother’s trailer in Florida.<sup>37</sup> A third is a condo he rented near his mother’s trailer in Florida. The fourth is the condominium in Oceanside, California that he rented through vacation rental by owner for three months.<sup>38</sup> Mr. N clearly does not intend to remain in any of these places or make any of them his home.<sup>39</sup> He has not claimed residency in any of these places.<sup>40</sup> The fifth place where Mr. N had spent more than

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<sup>35</sup> 2 AAC 35.240(c)(1) (emphasis added).

<sup>36</sup> Mr. N, in his brief on the Motion for Summary Adjudication, did point out that he owns a 1/11th share of his mother's house in No Name, Michigan. However, he also wrote that “I declined to live at my mother's house” and “I have never thought of Mom's house in No Name as my home.” Mem. in Resp. to the Div.'s Mot. for Summ. Adjudication at 3-4. At the hearing, he testified that he stored some clothing at his mother's No Name house. He also testified that he had returned to Michigan repeatedly to help his mother, who is now 88 years old. He testified that he did not see the house in No Name as his primary residence, and that he viewed Example Avenue as his primary residence.

<sup>37</sup> Mr. N testified that he did not have an ownership interest in his mother's Florida home, and that it was owned by two of his brothers.

<sup>38</sup> Div. Ex. E at 4, 16.

<sup>39</sup> Test. of N; Mem. in Resp. to the Div.'s Mot. for Summ. Adjudication at 3-4.

<sup>40</sup> 2 AAC 35.240(c)(3) specifies that a person who is domiciled in the state “does not claim residency outside the state or obtain benefits of residency in another state or nation.” Mr. N testified that he had not claimed residency outside the state. Mr. N has not claimed the benefits of residency in another state or nation. He has camped in

one month was the Example Avenue house. He has spent more time at the Example Avenue house since July 2012 than any other single place.<sup>41</sup> He supplied an affidavit of residency from his No Name landlord.<sup>42</sup>

Given the history of Mr. N's wife helping the landlord obtain financing for the Example Avenue house, Mr. N's apparent expectation that he and his wife will be welcome back at the Example Avenue house when they are in No Name is reasonable. Mr. N testified that he does not have any furniture at the house, however, Mr. N has belongings stored at the house.<sup>43</sup> Mr. N has a long-standing relationship with the house and its owner, and he plans to keep coming back to the house. Mr. N established that he sees the house on Example Avenue as his home, and that the house is a place to which he has the intention of returning.

The division argued that Mr. N's reliance on the mailing service in Anchorage and use of the Anchorage mailing address on his driver's license and voter registration undermined Mr. N's claim that the Example Avenue house was his primary residence. Now that communication by email and other electronic means has become routine, however, a mailing address may have less value as evidence of domicile than it once did. Mr. N pointed out that he receives packages and other deliveries at the Example Avenue house, in addition to mail forwarded by the Anchorage mailing service.<sup>44</sup> Mr. N explained that he and his wife considered using a post office box in No Name as a mailing address, but the mail forwarding service in Anchorage came highly recommended and has proven quite reliable. Thus, use of a mailing service in Anchorage is consistent with Mr. N's claim that the Example Avenue house is his primary residence.

In sum, the factual record in this case supports Mr. N's claim that No Name is his principal place of residence and that the Example Avenue house is his primary residence.

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government parks throughout the U.S. and Canada, but these are available to nonresidents as well as residents. He had a short-term non-resident fishing license in British Columbia in 2012. Ex. E at 4, 14-15. The division did not argue that Mr. N has claimed residency in another state or obtained the benefits of residency elsewhere.

<sup>41</sup> Ex. E at 16.

<sup>42</sup> 2 AAC 35.240(d)(2); R. at 15. The affidavit was on a pre-printed division form, with the following certification: "I certify the above applicant is a resident of Alaska and intends to remain a resident of Alaska. I further certify the applicant resides in the above physical address which is his/her true, fixed, permanent home and principal residence. I have first hand knowledge the applicant's household goods are maintained in this residence and it is inhabited primarily by the applicant." At the hearing, Mr. N testified that the Example Avenue house was also occupied by the landlord.

<sup>43</sup> Mr. N testified that he had clothing, camping gear, a cook stove, and some pots and pans stored at the Example Avenue house.

<sup>44</sup> Test. of N.

*B. Physical presence*

The division argued that AS 39.35.480 “requires some amount of regular physical presence in the state” and that “[t]his regular presence is appropriately captured in 2 AAC 35.240(c)(1)’s inclusion of a principal residence requirement in interpreting the statutory use of the term domiciled.”<sup>45</sup> The division denied Mr. N’s application for COLA in part because he had spent only 19 out of the past 48 months in Alaska and was “out of the state more than in.”<sup>46</sup> At the hearing Mr. N testified “I have returned to Alaska each year in the summer. I wouldn’t rule out spending time in the winter, other times of the year. I admit that when I do come to Alaska I usually have an entrance date and a departure date in mind when I come.” Mr. N intends to continue to spend most of his time traveling, returning to Alaska periodically for limited stays. However, neither the statute nor the regulation specifies a minimum length of time that a person must be physically present in the state order to qualify for COLA.

In contrast, the permanent fund dividend program requires that an applicant be “at all times during the qualifying year, physically present in the state or, if absent, [] absent only as allowed in AS 43.23.008.”<sup>47</sup> AS 43.23.008 specifically allows absences for 16 different reasons, including education, medical treatment, and caring for a terminally ill family member. Absences for other reasons generally may not exceed 180 days under AS 43.23.008(a)(17)(A). If an individual is absent for more than 180 days in each of the five preceding years, the Department of Revenue will presume that individual is no longer a resident. The current PERS COLA statute and regulation do not include a similar requirement. The suggestion that 2 AAC 35.240(c)(1) contains an implied requirement that an applicant be physically present in Alaska a majority of the time in order to qualify is rejected.

The division acknowledges that Mr. N has only applied for COLA when physically present in Alaska, and that he was physically present when he applied for reinstatement of COLA in 2015. This suffices under the existing statute and regulation, provided the applicant remains domiciled in Alaska.

*C. Evidence of domicile and totality of the circumstances*

2 AAC 35.240(d) places the burden on the applicant to document the applicant’s continued eligibility for COLA, and provides a list of types of items that the applicant or the

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<sup>45</sup> Mot. for Summ. Adjudication at 13.

<sup>46</sup> R. at 6-7; Test. of Christenson.

<sup>47</sup> AS 43.23.005.



division can use as evidence of domicile. The regulation requires the division to determine an applicant's residency based on the totality of relevant circumstances.

Mr. N supplied the division with several of the types of evidence of domicile specified as acceptable in 2 AAC 35.240(d). He provided copies of his Alaska driver's license, Alaska hunting and fishing license, and Alaska voter registration card.<sup>48</sup> He supplied a telephone number with a 907 area code.<sup>49</sup> He cited his receipt of permanent fund dividends in 2010 and 2011, and explained why he had not applied for dividends in 2012-2014.<sup>50</sup> In response to the division's interrogatories, he provided information on the duration of his continuous residence in the state, employment, and details of his travels.<sup>51</sup> He reiterated much of this information in his testimony at the hearing. He also testified that he regards No Name as his home, he is not searching for a new home, and that No Name is the place to which he returns. Mr. N's evidence and testimony were credible and supported his claim that he is domiciled in Alaska for purposes of 2 AAC 35.240.

*D. 2 AAC 35.240(c)(2): Intent to return and remain*

To qualify for the COLA, a retiree must prove all three elements of 2 AAC 35.240(c). As discussed above, Mr. N meets elements (c)(1) and (c)(3). Element (c)(2) requires that an applicant "demonstrate[] at all times during an absence an intent to return to Alaska and remain a resident of Alaska." Under 2 AAC 35.240(d), "[i]ntent is demonstrated by establishing and maintaining customary ties indicative of Alaska residency." In addition to Mr. N's testimony at the hearing, in his memorandum in response to the division's motion for summary judgment he listed a number of customary ties indicative of residency. His general practitioner is a No Name doctor. His only bank account is at an Alaska credit union. He has ties to the community of No Name, having played on the No Name NS team at the Gold Medal tournament and been adopted into the No Name house. He owns property near No Name, and keeps his kayak at his sister's cabin which is next door to his property there. He owns a boat together with a partner, and the boat is in No Name.<sup>52</sup> Finally, Mr. N

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<sup>48</sup> 2 AAC 35.240(d)(1) and (3); R. at 17-18.

<sup>49</sup> 2 AAC 35.240(d)(6) lists "an Alaskan telephone listing in the applicant's or the applicant's spouse's name" as an acceptable form of evidence. Because under AS 42.05.145(b) the Regulatory Commission of Alaska may no longer require publication of telephone directories, it is not clear how this paragraph of the regulation should be applied. However, Mr. N made an effort to provide the requested information. R. at 16.

<sup>50</sup> 2 AAC 35.240(d)(9); R. at 16. He did not apply for a permanent fund dividend in 2012 or subsequent years because his extensive travel meant he did not meet the 180-day requirement.

<sup>51</sup> 2 AAC 35.240(d)(7), (8), and (10); Ex. E at 16 at 15-16, 18-19.

<sup>52</sup> Mem. in Resp. to the Div.'s Mot. for Summ. Adjudication at 5. Much of this information is also found in the email from N to division dated December 16, 2015. R. at 29.

testified clearly that Alaska is where his closest friends are and where he knows the most people.<sup>53</sup>

Mr. N provided ample evidence of customary ties indicative of residency to support his assertion that he intends to return to Alaska and remain a resident of Alaska. Mr. N has provided sufficient evidence to demonstrate that during his absences he intends to return to Alaska and remain a resident of Alaska, as required under 2 AAC 35.240.

#### **IV. Conclusion**

Mr. N submitted evidence showing that he meets the three pronged test for domicile set out in 2 AAC 35.240(c). He maintains his principal place of residence in Alaska, intends to return to Alaska and remain a resident of Alaska, and does not claim residency outside the state. Taken together, the evidence he submitted to the division to support his application and the hearing record support his claim that he remains domiciled in Alaska. He was physically present in Alaska when he applied for reinstatement of COLA in 2015. The totality of the circumstances indicates that Mr. N, when physically present in the state, is “residing in the state” for purposes of AS 39.35.480.

The division’s decision to deny Mr. N’s 2015 application for COLA is reversed.

DATED: August 5, 2016.

*Signed*  
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Kathryn L. Kurtz  
Administrative Law Judge

### **Adoption**

I adopt this Decision under the authority of AS 44.64.060(e)(1) as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 2<sup>nd</sup> day of September, 2016.

By: *Signed*  
\_\_\_\_\_  
Name: Kathryn L. Kurtz  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]

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<sup>53</sup> Test. of N.