

**BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

IN THE MATTER OF:

K.G. and her children

K.A., C. and T. G.

Case No. OAH 05-0319-PFD

2000 Permanent Fund Dividend

DECISION & ORDER

I. Introduction

K.G. timely applied for 2000 permanent fund dividends for herself and her three children. The Permanent Fund Dividend Division initially granted the applications, but later determined that the applicants were not eligible. The division then denied the applications and affirmed its decision at the informal appeal level. Ms. G. requested a formal hearing by written correspondence only. The administrative law judge affirms the division's decision.

II. Facts

Ms. G. left Alaska in 1996. In 2004 this administrative law judge, sitting in the capacity of revenue hearing examiner, heard Ms. G.'s appeal of the division's decision to deny applications for her and her child K. for 2003 dividends. In that decision, I found that when she left the state in 1996,

Ms. G. left Alaska to take a permanent full-time job in another state for an indefinite period of time. She lived in another state for a considerable period of time, and her return to Alaska was contingent upon obtaining an assignment from the PHS, something beyond her immediate control. It appears that Ms. G. was not an Alaska resident until she moved back to the state in 2002.¹

In this case, Ms. G. asks that the following additional information be considered:

First, I am an Alaska resident since 1992. When I departed in 1996 besides accepting a Federal job with the USPHS I also departed to take care of my ill mother. If you would like I can submit the doctor's notes, etc. regarding my mother's condition. But I failed to write this information when filing out the PFD in the year 2000 & 1996 when I left. There were no jobs for me in Alaska when I left in 1996.

I have always gone back to Alaska every year for a period of 2-3 weeks, except for the year 2001, when I was mobilized to NY for the WTC tragedy. I was not able to travel.

¹ Exhibit 7.

I just returned from Iraq after serving with the US Army. I am medically discharged from the Army & returning to Alaska this summer permanently, my residence is in Anchorage. My goal is to start a restaurant business in Anchorage & permanently stay in Alaska.

Yes, I failed to write down that I left to take care of an ill parent which I took care of until 2003.

I am determined not to fill out the year dividend due to all these confusion, but I am an Alaska qualifying resident.

The year 2000 was not a different year from the other years. One exception was that my son C. did not come with me to Alaska.

Please reconsider my case, and if I do have to return any money, please consider that I am a disabled veteran and unemployed. Perhaps the fact that I served in the U.S. Armed Forces & went to war will make some sense to the PFD.

I put my life on the line for Democracy. I was fortunate to come back alive!

III. Discussion

In order to qualify for a permanent fund dividend, a person must be an Alaska resident.²

Ms. G. has not presented any evidence showing that the previous determination that she ceased to be an Alaska resident in 1996 was incorrect. There being no jobs in Alaska, Ms. G. left to take a job in another state. The fact that one of her reasons for leaving was to take care of her mother during a time of illness does suggest a temporary absence. But considering that Ms. G. was caring for her mother for an indefinite period that lasted approximately seven years and that she did not maintain significant ties to Alaska other than visiting for a few weeks per year, her move to Texas is best regarded as a change in residency.

The evidence is not clear, but it appears that some time after leaving Alaska Ms. G. either joined the Army or was detailed to the Army by the Public Health Service. Such service would be an allowable absence under AS 32.23.008 if it were the reason that Ms. G. left Alaska. But Ms. G. severed her Alaska residency before her affiliation with the Army, and she therefore cannot claim an allowable absence.³ Because she was not a resident of Alaska during 1999 and at the time she applied, Ms. G. is not eligible for a 2000 dividend. The same is true of her children.

² AS 43.23.005(a)(2)-(3).

IV. Conclusion

Ms. G. and her children were not Alaska residents in 1999, the qualifying year for a 2000 dividend. The division's decision to deny the applications for 2000 dividends in this case should be affirmed.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the applications of K.E., K.A., T. and C. G. for 2000 permanent fund dividends be AFFIRMED.

DATED this 7th day of December, 2005.

By: DALE WHITNEY
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010.1, Dale Whitney, Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the eligibility of K.E., K.A., T. and C. G. for 2000 permanent fund dividends be adopted and entered in their file as the final administrative determination in this appeal.

Reconsideration of this decision may be obtained by filing a written motion for reconsideration within 10 days after the date of this decision, pursuant to 15 A A C 05.035(a). The motion must state specific grounds for relief, and, if mailed, should be addressed to: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 within 30 days of the date of this decision.

DATED this 7th day of December, 2005.

The undersigned certifies that this date an exact copy of the foregoing was provided to the following individuals:

By: DALE WHITNEY
Administrative Law Judge

Case Parties
12/7/05

³ AS 43.23.008(a)(allowable absences only available to an "otherwise eligible individual").