

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

IN THE MATTER OF:

L.E.

Case No. OAH 05-0332-PFD

2004 Permanent Fund Dividend

**DECISION & ORDER**

**I. Introduction**

L.E. timely applied for a 2004 permanent fund dividend. The Permanent Fund Dividend Division determined that Ms. E. was not eligible, and it denied the application initially and at the informal appeal level. Ms. E. requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on June 22, 2005. Ms. E. appeared by telephone. Thomas Cote represented the PFD Division by telephone. The administrative law judge affirms the division's decision.

**II. Facts**

Ms. E. filed a refiled application for a 2004 dividend on October 10, 2004, providing an address in Moses Lake, Washington. On the application, Ms. E. wrote, "I was not absent from Alaska at any time in 2003. I came to Wn. July 8, 2004. I am not sure of my return date to Alaska." Ms. E. indicated on her application she was not in Alaska when filling out the form, but she did not provide Parts B and C of a supplemental schedule as the form directed. The division sent Ms. E. a letter requesting that she provide a completed supplemental schedule; Ms. E. complied, signing and mailing back the form on November 9, 2004. On the supplemental schedule, Ms. E. indicated that she registered to vote in the State of Washington in September, 2004.

At the hearing, Ms. E. testified that she registered to vote in Washington because the upcoming election, but that she never actually did vote in Washington. Ms. E. testified that if she had known that registering would affect her PFD eligibility, she would not have done it, and that it never occurred to her to vote absentee in Alaska. She stated that she merely registered out of the sense of civic duty that she has been taught.

Ms. E. testified that she went to Washington because her son had had a particularly difficult breakup with his girlfriend, and he had a young son of his own to raise. Ms. E. explained that her son has his situation under control now, and she is thinking about returning to Alaska, but she has not made any firm plans. Part of the reason Ms. E. has not returned to

Alaska is financial constraint, and she had hoped her dividend would help out with the costs of returning.

### **III. Discussion**

For purposes of statutes and regulations regarding PFD applications, the "date of application" for a permanent fund dividend is the last day on which all information supporting an application has been submitted.<sup>1</sup> In this case, Ms. E.'s date of application for a 2004 dividend was November 9, 2004.

The principal law governing this case is 15 A A C 143(d), which reads,

An individual is not eligible for a dividend if, any time from January 1 of the qualifying year through the date of application, the individual has

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(12) registered to vote in another state or country, except if the individual

(A) registered to vote in another state within 30 days of a presidential election solely for the purpose of voting in that election and voted in no other election in another state than that for president of the United States; or

(B) registered to vote in another country for which the individual was not required to claim residency of the country in order to register to vote....

This law makes an applicant who has registered to vote in another state ineligible for a dividend, even if the applicant is still an Alaska resident. The rule applies regardless of whether the person was aware that registering to vote in another state would affect PFD eligibility, and regardless of whether the person did actually vote in the other state.

Ms. E. has strong ties to Alaska and clearly hopes to return soon, but it is questionable whether she could technically still be considered an Alaska resident. Because she registered to vote in Washington before her date of application, it is unnecessary to examine whether or not Ms. E. is still an Alaska resident. Regardless of her residency, the only possible conclusion the law permits in this case is that Ms. E. is not eligible for a 2004 permanent fund dividend because she registered to vote in Washington State.

### **IV. Conclusion**

Ms. E. registered to vote in another state between the beginning of the qualifying year and her date of application. The division was correctly following the law when it made the decision to deny her application for a 2004 dividend.

<sup>1</sup> 15 A A C 23.993(b).

**V. Order**

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the application of L.E. for a 2004 permanent fund dividend be AFFIRMED.

DATED this 9th 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 L.E. for a 2004 permanent fund dividend be adopted and entered in her 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 9th 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  
12/9/05