

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

IN THE MATTER OF)
)
 P. A.)
) Case No. OAH 07-0192-PFD
 2006 Permanent Fund Dividend)

DECISION

I. Introduction

P. A. timely applied for a 2006 permanent fund dividend. The Permanent Fund Dividend Division determined that Mr. A. was not eligible, and it denied the application initially and at the informal appeal level. Mr. A. requested a formal hearing by written correspondence. Upon review of the entire record and due deliberation, the administrative law judge affirms the division’s decision.

II. Facts

Mr. A. was born in Alaska in 1986. After he graduated from No Name High School in 2005, Mr. A. went to Washington State to attend Green River Community College. On his application, Mr. A. properly disclosed that he was absent and completed a supplemental schedule as the application instructed. At the division’s request, Mr. A. submitted an education verification form confirming that Mr. A. was attending full time at Green River Community College and paying nonresident tuition.

On his supplemental schedule, Mr. A. checked a box stating that he had not registered to vote in another state or country at any time since December, 2004. The division later learned that Mr. A. had registered to vote in Washington, and it denied his application. In his informal appeal request, Mr. A. wrote, “I filled out a package of information when I began my freshman year at college. I was unaware that I would be registering to vote in another state.” Mr. A. stated that he did not change his driver’s license, and added, “I intend to remain an Alaska resident, even as I attend college in Washington State. I intend to re-file an application to the Division of Elections in Alaska to regain my voting status.” In his formal hearing request, Mr. A. agreed with the division’s conclusion that he had registered to vote in Washington, but pointed out that “If I had intended to change residency I would have changed to resident student for a lower tuition.”

III. Discussion

According to 15 AAC 23.143(d), “an individual is not eligible for a dividend if, at any time from January 1 of the qualifying year through the date of application, the individual has...(12)

registered to vote in another state....” The regulation contains exceptions for people who have registered to vote in another within 30 days of a presidential election for the sole purpose of voting in the national not state election.

The division correctly asserts that

The simple act of registering to vote in another state or country at any time during the qualifying year and through the date of application, unless the individual registers 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 for president of the United States, is sufficient to cause an individual to be ineligible to receive the dividend.¹

At the informal appeal level, Mr. A. appears to assert that his registration to vote was not done knowingly: “I filled out a packet of information when I began my freshman year of college. I was unaware that I would be registering to vote in another state.”² Mr. A. did not renew this assertion at the formal hearing level, and there is not sufficient evidence in the record to determine that Mr. A.’s registration was mere error and not a knowing registration to vote in another state.

Although Mr. A. is not eligible for a 2006 dividend, his appeal is understandable and appropriate. At the informal appeal level, the division went beyond merely denying Mr. A.’s 2006 dividend. Mr. A. was no doubt alarmed by the division’s conclusion that

it is more likely than not that you did not have the intent to remain an Alaska resident indefinitely or that you meet the definition of “state resident” as it applies to the Permanent Fund Dividend Program during all of calendar year 2005, the qualifying year for the 2006 dividend and your absence is not allowable.³

In many cases, registration to vote in another state might be considered along with other evidence to suggest that a person is no longer an Alaska resident. In this case it is evidence that Mr. A., like many other young adults, was unfortunately a bit careless about signing paperwork without considering all of the potential consequences. It is an expensive lesson, and it happens frequently enough to college freshmen that on its web page the division warns students to “beware of voter registration drives held on campus.”⁴

Mr. A.’s registration to vote in Washington appears to have a lot to do with youthful inexperience, but very little to do with his intent to return to Alaska to make his home, and thus his

¹ Exhibit 8, page 3.

² Exhibit 5, page 2.

³ Exhibit 6, page 2.

⁴ <http://www.pfd.state.ak.us/students/index.aspx> (accessed August 31, 2007). The division’s website actually contains the legally incorrect admonition that “If you register to vote in another state, you terminate your residency in Alaska.” The warning should state that “if you register to vote in another state, you will become ineligible for the next year’s dividend regardless of your residency.”

residency. It has nothing at all to do with the allowability of Mr. A.'s absence to attend college full-time. While Mr. A. is not eligible for a 2006 dividend, there is nothing in this record that indicates that Mr. A. would need to go through the lengthy process of reestablishing Alaska residency in order to qualify for future dividends. Nothing in this decision is intended to affect Mr. A.'s eligibility for 2007 and subsequent dividends.

IV. Conclusion

Because he registered to vote in another state during the qualifying year, Mr. A. is not eligible for a 2006 dividend. The division's decision should be affirmed.

V. Order

Upon adoption of this decision as the final administrative determination in this matter, the decision of the Permanent Fund Dividend Division to deny the application of P. A. for a 2006 permanent fund dividend shall be AFFIRMED.

DATED this 4th day of September, 2007.

By: Signed
DALE WHITNEY
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order 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 5th day of October, 2007.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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