

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

IN THE MATTER OF)
)
 K. D.)
) Case No. OAH 08-0254-PFD
)
2007 Permanent Fund Dividend)

DECISION

I. Introduction

K. D. timely applied for a 2007 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Ms. D. was not eligible, and it denied the application initially and at the informal appeal level. Ms. D. requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on July 8, 2008. Ms. D. appeared by telephone. PFD Specialist Kim Colby represented the division. Though she has remained an Alaska resident, Ms. D. is not eligible for a 2007 dividend.

II. Facts

Ms. D. is a long-time Alaska resident. In 2006 Ms. D. left Alaska to attend college full-time at The Evergreen State College in Olympia, Washington, where she pays non-resident tuition. Ms. D. returns to Alaska between terms and intends to return to Alaska to live after she graduates in 2010.

After she began college, Ms. D. became interested in a local political issue in Washington. On September 22, 2006, Ms. D. registered to vote in Thurston County, Washington, during a campus voter registration drive, unaware that this act might affect her dividend eligibility. When she realized that registering in Washington affected her dividend eligibility, Ms. D. immediately registered to vote in Alaska.

III. Discussion

This case is governed by 15 Alaska Administrative Code 23.143(d), which states:

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 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;

(13) voted in another state's or country's state, country, or local election, except if the individual voted in an election described in this paragraph and the individual was not required to claim residency in order to vote....

There is no provision of law that allows an applicant to “undo” registration in another state, or that allows the division or the administrative law judge to consider unusual or extenuating circumstances. The law is clear that a person who registers to vote in another state, unless registering within 30 days of a presidential election, is not eligible for the next year’s dividend.

IV. Conclusion

Because Ms. D. registered to vote in another state in 2006, she is not eligible for a 2007 dividend. Ms. D. has since registered to vote in Alaska, and has remained an Alaska resident. There is nothing in the record of this case that would prevent Ms. D. from qualifying for 2008 or subsequent dividends.

DATED this 1st day of August, 2008.

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 27th day of August, 2008.

By: Signed _____
Signature
Dale Whitney _____
Name
Administrative Law Judge _____
Title

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