

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

IN THE MATTER OF )  
 )  
D. W. A. K. )  
 )  
 ) Case No. OAH 08-0653-PFD  
2008 Permanent Fund Dividend )

**DECISION**

**I. Introduction**

D. W. A. K. timely applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Mr. K. was not eligible, and it denied the application initially and at the informal appeal level. Mr. K. requested a formal hearing by correspondence. The record closed on January 19, 2009. PFD Specialist Pete Scott represented the PFD, and filed a position statement. Mr. K. did not file any documents after his request for a formal hearing.

Because Mr. K. was incarcerated during part of the qualifying year and had been convicted of two prior misdemeanors, the division was correctly applying the law when it denied Mr. K.’s application for a 2008 dividend.

**II. Facts**

The Department of Corrections (DOC) asserts that Mr. K. was incarcerated in 2007 for twenty days, from August 30, 2007 to September 18, 2007, for a misdemeanor conviction in criminal case number 2NO-S06-0047CR.<sup>1</sup>

According to DOC’s printed records, Mr. K. also had more than two prior misdemeanor convictions in other cases since 1996.<sup>2</sup>

Mr. K. admitted in his request for an informal appeal that the division’s findings are correct.<sup>3</sup> In his request for an informal appeal and his request for a formal hearing, Mr. K. explained that his family needs his 2008 PFD to pay for the high cost of fuel and other expenses. Mr. K. also explained that he has an addiction that is being treated.<sup>4</sup>

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<sup>1</sup> Exhibit 4, page 6.

<sup>2</sup> Exhibit 4, pages 6-24.

<sup>3</sup> Exhibit 3, page 2.

<sup>4</sup> Exhibit 3 & 5.

### III. Discussion

For a 2008 dividend, the qualifying year was 2007. If a person was incarcerated at any time in the qualifying year for conviction of a misdemeanor, and the person has previously been convicted of two or more misdemeanors at any time since 1996, that person will not be eligible for a 2008 dividend.<sup>5</sup> Mr. K. admits that he was incarcerated for part of 2007. There is no dispute that Mr. K. has previously been convicted of at least two misdemeanors between 1996 and 2007. Because he served some time in 2007, and had been convicted of at least two misdemeanors, the division is correct that Mr. K. is not eligible for a dividend in 2008.

### IV. Conclusion

The division was correct to conclude that Mr. K. was incarcerated during 2007 as the result of a misdemeanor conviction, and that before 2007 he had been convicted of two or more misdemeanors. Mr. K. is therefore not eligible for a 2008 dividend. The division's decision to deny the application of D. W. A. K. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 28th day of January, 2009.

By: Signed  
Mark T. Handley  
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 25th day of February, 2009.

By: Signed  
Signature  
Mark T. Handley  
Name  
Administrative Law Judge  
Title

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

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<sup>5</sup> AS 43.23.005(d)(2).  
OAH 08-0653-PFD