

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

IN THE MATTER OF )  
 )  
 S. T. D. )  
 ) Case No. OAH 08-0696-PFD  
 )  
2007 Permanent Fund Dividend )

**ORDER GRANTING MOTION TO DISMISS**

**I. Introduction**

S. T. D.’s mother L. D. timely applied for a 2007 permanent fund dividend for Mr. D. Mr. D. was born on August XX, 1989. Mr. D. is now an adult, but he was still 17 years old when Ms. D. applied for his 2007 PFD.<sup>1</sup> The Permanent Fund Dividend Division (“the division”) determined that Mr. D. was not eligible, and it denied the application initially and then denied Ms. D.’s request for an informal appeal because that request was not timely filed. Ms. D. requested a formal hearing by written correspondence. The record closed on February 9, 2009. The division moved to dismiss the case. The administrative law judge grants the motion.

**II. Facts**

Ms. D. signed Mr. D.’s application on February 14, 2007.<sup>2</sup> On the application she certified that she was with Mr. D. for most of 2006, and she indicated that she was present in Alaska at the time, but the envelope she mailed the application in was postmarked in Portland, Oregon.<sup>3</sup> The division sent Ms. D. a request for information asking her to explain why she mailed the application from outside Alaska.<sup>4</sup> Ms. D. responded on July 11, 2008 asserting that Mr. D. lives in Ketchikan, AK with his grandparents.<sup>5</sup> Ms. D. claimed that she mailed the application from Seattle, Washington, while on a medical absence.<sup>6</sup>

The Division found a copy of an Oregon court record of a citation issued to Mr. D., dated April 12, 2007, which gives Mr. D.’s birth date, Alaska driver’s license number, and his address in Vancouver, Washington, just across the state border from Portland, Oregon.<sup>7</sup> The Division found an internet database record of this address listed as Mr. D.’s address from March 2007 through

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<sup>1</sup> Apparently Mr. D’s. grandparents, who Ms. D. asserts had custody of Mr. D. in 2006, did not file a 2007 PFD application for him, nor has Mr. D. himself filed a claim for a 2007 PFD under 15 AAC 23.133(b).

<sup>2</sup> Ex. 1, page 1.

<sup>3</sup> Ex. 1, page 1 & 3.

<sup>4</sup> Ex. 2.

<sup>5</sup> Ex. 3, page1.

<sup>6</sup> Ex. 3, page1.

November 2007.<sup>8</sup> On a form received December 8, 2008, Ms. D. asserted that she had filed Mr. D.'s 2007 PFD application from Vancouver, Washington, and also asserted that Mr. D. did not leave Alaska in 2006 or 2007.<sup>9</sup>

Ms. D.'s 2007 application for herself was denied.<sup>10</sup> On July 26, 2007 the division denied her application for Mr. D., stating that Ms. D. was not an eligible sponsor.<sup>11</sup> The denial letter stated that if Ms. D. disagreed with the decision, she had 30 days from the date of the letter to file a request for an informal appeal. Enclosed with the denial letter was a form to request an informal appeal notifying her that she had until August 27, 2008. Ms. D. did not file a request to appeal the denial of her 2007 PFD application for Mr. D. until November 6, 2008.<sup>12</sup>

In the appeal request, Ms. D. did not explain why her appeal was late. Ms. D. argues that Mr. D. should get his 2007 and 2008 PFDs.<sup>13</sup> In her request for a formal hearing, Ms. D. asserts that she has been homeless since 2005, but that Mr. D. remained in Alaska with his grandparents.<sup>14</sup>

### **III. Discussion**

A person who wishes to appeal the denial of a permanent fund dividend must file a request for a hearing within thirty days of the day the division denies the application.<sup>15</sup> This deadline may be waived if strict adherence to the normal appeal deadlines would work an injustice.<sup>16</sup>

The division issued its denial letter on July 26, 2007. Ms. D.'s appeal request was not filed until more than a year after the passing of the 30-day appeal deadline. Ms. D. did not provide a complete explanation for the delay or credible evidence that the Division's finding that Mr. D. is not eligible for a 2007 PFD was incorrect. Under these circumstances, there is no apparent injustice that would be worked by strict adherence to the normal appeal deadlines.

### **IV. Conclusion**

Ms. D. did not appeal the denial of her application for Mr. D.'s 2007 permanent fund dividend within the appeal period established by law. Normal application of the appeal deadline

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<sup>7</sup> Ex. 3, page 2 & 3.

<sup>8</sup> Ex. 5, page 6.

<sup>9</sup> Ex. 7.

<sup>10</sup> Ex. 4 & 5.

<sup>11</sup> Ex. 4.

<sup>12</sup> Ex. 5.

<sup>13</sup> Ex. 5.

<sup>14</sup> Ex. 9.

<sup>15</sup> 15 AAC 05.010(b)(5).

<sup>16</sup> 15 AAC 05.030(k).

will not work an injustice in this case. The division's motion to dismiss the appeal should be granted.

**V. Order**

IT IS HEREBY ORDERED that the motion of the Permanent Fund Dividend Division to dismiss this case be GRANTED, and that no further proceedings be scheduled in this matter.

DATED this 13th day of February, 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 13th day of March, 2009.

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

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