

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

IN THE MATTER OF )  
 )  
 N. K. S. )  
 ) Case No. OAH 08-0707-PFD  
 )  
2008 Permanent Fund Dividend )

**DECISION**

**I. Introduction**

N. K. S. timely applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Mr. S. was not eligible, and it denied the application initially and at the informal appeal level. Mr. S. requested a formal hearing by correspondence. Mr. S. did not submit any additional evidence for the formal hearing. PFD Specialist Peter F. Scott filed a position statement for the division. The record closed on February 11, 2009.

Because Mr. S. was incarcerated for a felony conviction during part of the qualifying year, the division was correctly applying the law when it denied Mr. S.’s application for a 2008 dividend. Mr. S. is not eligible for a 2008 PFD.

**II. Facts**

The Department of Corrections (DOC) records show that Mr. S. was incarcerated in 2007 for 90 days, from April 2, 2005 to May 8, 2007, for a felony conviction in criminal case number 3NO-04-00777CR.<sup>1</sup> The Division provided copies of DOC’s printed records, and a criminal history report, listing Mr. S.’s convictions and periods of incarceration since 1996.<sup>2</sup>

Mr. S. admitted in his request for a hearing that the division’s findings are correct.<sup>3</sup> In the space provided on the request form for Mr. S. to explain his concerns about the division’s denial of his 2008 PFD, Mr. S. wrote: “No Comment and No question Ask! thank you.”<sup>4</sup>

**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 felony, that person will not be eligible for a 2008 dividend.<sup>5</sup> Mr. S. admits that he was incarcerated for a felony for part of 2007. Because he served

---

<sup>1</sup> Exhibit 4, page 5.

<sup>2</sup> Exhibit 3 & 4.

<sup>3</sup> Exhibit 5, page 2.

<sup>4</sup> Exhibit 5, page 2.

<sup>5</sup> AS 43.23.005(d)(2).

some time in 2007 for a felony conviction, the division is correct that Mr. S. is not eligible for a dividend in 2008.

**IV. Conclusion**

The division's decision to deny the application of N. K. S. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 17th 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 16th 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.]