

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

IN THE MATTER OF)	
)	
M. S.)	
)	Case No. OAH 09-0234-PFD
<u>2008 Permanent Fund Dividend</u>)	Agency No. 2008-013-4986

DECISION

I. Introduction

M. 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. At Mr. S.’s request, a formal hearing was held on June 3, 2009. Mr. S. appeared by telephone. Peter Scott represented the division.

II. Facts

Mr. S. is an Alaska resident and has been receiving dividends continuously since 1987. In September of 2007 Mr. S. was serving at Dover Air Force Base in Dover, Delaware. In order to obtain a motorcycle endorsement to his driver’s license, Mr. S. took a three-day motorcycle safety class. Because he was not in Alaska, when he completed the class Mr. S. went to the local department of motor vehicles in Delaware and applied for a Delaware driver’s license, with motorcycle endorsement.

Although he does not remember it specifically, it appears that he when he obtained his Delaware driver’s license Mr. S. was given a form to sign to register to vote. Mr. S. signed the form, without giving it much thought. Mr. S. was under the impression that as a member of the military, where he was registered to vote would not affect his Alaska residency or PFD eligibility in any way. On August 15, 2008, Mr. S. canceled his registration to vote in Delaware. Although he was registered there, Mr. S. never voted in Delaware.

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....

While there is no dispute that Mr. S. is still an Alaska resident, there is no way to find Mr. S. eligible for a 2008 dividend under the law cited above. If Delaware's motor vehicles department had registered Mr. S. without his knowledge, it would be difficult to say that Mr. S. had taken a disqualifying action. But Mr. S.'s signature on the Delaware voter registration form (exhibit 9, page 3) shows it to be more likely than not that Mr. S. did knowingly register to vote in another state, even though he gave the matter little thought at the time. Unfortunately, Mr. S. is not eligible for a 2008 dividend.

Mr. S. has remained an Alaska resident, and although he was registered in Delaware during 2008, Mr. S. did not take the disqualifying act of registering in another state in 2008. Therefore, while he is not eligible for a 2008 dividend, nothing in this decision is intended to affect Mr. S.'s eligibility for 2009 or subsequent dividends.

IV. Conclusion

Because he registered to vote in another state during the qualifying year, Mr. S. is not eligible for a 2008 dividend. The decision of the Permanent Fund Dividend Division to deny the application of M. S. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 4th day of August, 2009.

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 3rd day of September, 2009.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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