

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

IN THE MATTER OF)
)
 B. B.)
) Case No. OAH 09-0642-PFD
)
2009 Permanent Fund Dividend)

DECISION

I. Introduction

B. B. timely applied for a 2009 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Ms. B. was not eligible, and it denied the application initially and at the informal appeal level.

II. Facts

Ms. B. is a long-time Alaska resident who has been receiving dividends since 1982. In January of 2009, Ms. B. and her daughter, a college student, were on a vacation of several months in California. Believing that, because the length of her stay in that state, she needed a California driver’s license to legally drive, Ms. B. applied for and received a California driver’s license on January 5, 2009.

At the same time she applied for a driver’s license, Ms. B. filled out a voter registration form.¹ This form was titled at the top “**STATE OF CALIFORNIA, VOTER REGISTRATION FORM**” in bold letters. The largest bold lettering at the top of the page read, “**IMPORTANT! SEE INSTRUCTIONS ON REVERSE.**” Ms. B. testified that in spite of this warning, she did not bother to turn the page over to see what was written on the back.

Ms. B. filled out the front of the form, supplying a San Francisco street address for the “address where you live” and a San Francisco P.O. box address for a mailing address. Below the identifying information is a space for providing party affiliation, with bubbles to fill in for six political parties and a bubble for “other” with a space to specify the other party. Ms. B. filled in the remaining bubble for “I Decline to State a Political Party.” The next questions asks, “have you ever been registered to vote?” and states that “If you have previously been registered to vote, you must provide your prior voter registration information in item 10 below.” Ms. B. filled in the bubble for “yes” and in the space for Item 10 she provided her Anchorage address and her Alaska political party affiliation information. Item 13 on the form is “**VOTER DECLARATION** – Read, sign, and

¹ Exhibit 7, page 4.

date below.” The declaration reads that “I am a U.S. citizen, will be at least 18 years old on or before the next election, and am not imprisoned or on parole for a felony conviction. I certify under penalty of perjury under the laws of the State of California that all the information on this form is true and correct.” Ms. B. signed and dated the form.

Ms. B. never voted in California, and after her long vacation with her daughter she returned to Alaska. Ms. B.’s daughter also obtained a California drivers license at the same time as Ms. B., and filled out a voter registration form.² Ms. B. testified that neither she nor her daughter remember filling out a voter registration form, and that registering to vote is not why they were at the California Department of Motor Vehicles; they were both there to get California driver’s licenses.

Ms. B. applied for a 2009 dividend on March 28, 2009.

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;

The above language is clear that a person who registered to vote in another state during the qualifying year, or during the dividend year before the date of application, is not eligible for a dividend, subject to two exceptions that do not apply to this case. The regulation does not mean that a person who has registered to vote in another state has necessarily terminated his Alaska residency. It simply states that a person who registers to vote in another state is ineligible for a dividend.

Ms. B. testified that she did not knowingly register to vote. She testified that the signature on the registration form was hers, but she did not intend to register to vote and had no recollection of doing so.

² Exhibit 7, page 7.
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Ms. B. did not appear to be testifying untruthfully, but it is more likely than not that she did know she was registering to vote at the time she completed the form on January 5, 2009. Ms. B. was thinking about getting a driver's license at the time, and it appears she gave very little thought to the voter registration form, and what the consequences of completing it might be. It is therefore not surprising that Ms. B. has no memory of ever filling the form out. But the form clearly represents what it is for, even though it was attached to a driver's license application form. Ms. B. had to choose which political party to affiliate with or whether not to declare an affiliation. She had to read the words "political party" before entering the word "undeclared" in her own handwriting. These are questions one would not normally expect to find on a form for any other purpose. The words "voter," "vote", and "election" appear prominently and enough times on this one-page form that it would be very difficult for anyone to fill out the form without knowing what it was. Though she did not give it much thought at the time and probably forgot about the matter entirely shortly afterwards, Ms. B. did knowingly register to vote in another state on January 5, 2009.

IV. Conclusion

Because she registered to vote in another state between the beginning of the qualifying year and her date of application on March 28, 2009, Ms. B. is not eligible for a 2009 permanent fund dividend.

DATED this 12th day of February, 2010.

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 11th day of March, 2010.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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