

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

In the Matter of:)
)
 B. L. F.)
) OAH No. 09-0651-PFD
) Agency No. 2009-064-1140
2009 Permanent Fund Dividend)

DECISION

I. INTRODUCTION

B. F. applied for the 2009 Permanent Fund Dividend (PFD).¹ His application was denied by the Permanent Fund Dividend Division (Division) because the application indicated that Mr. F. had registered to vote in California.² Mr. F. requested an informal appeal. The Division upheld its original decision at the informal appeal level. Mr. F. requested a formal appeal of the denial of his 2009 PFD application.

A hearing was held on February 11, 2010. Mr. F. was represented by Dr. J. F. pursuant to a Power of Attorney.³ The Division was represented by Mr. Pete Scott.

Because Alaska regulations require the Division to deny a PFD application to an individual who registered to vote in another state, Mr. F.'s appeal is denied and the Division's decision is upheld.

II. FACTS

Mr. F. is a long time Alaska resident who has been eligible to receive PFDs every year since 1991.⁴ He was attending college in California in the fall of 2008.⁵ On his PFD application, Mr. F. indicated that he had voted in a local election in California. On appeal, he stated that this was a mistake in filling out the form and he voted only in the 2008 presidential election.⁶ Mr. F. did register to vote in California on September 21, 2008.⁷ This registration became effective on September 30, 2008, the date it was received by the county elections office.⁸

¹ Exhibit 1.
² Exhibit 4.
³ Exhibit 8.
⁴ Exhibit 10.
⁵ Exhibit 2, page 6.
⁶ Exhibit 8, page 2.
⁷ Exhibit 9, page 4.
⁸ See California Election Code §2102.

Mr. F.'s voter registration was solely for the purpose of voting in a presidential election.⁹ The other documents in the record demonstrate that, as of the date of his PFD application, Mr. F. maintained his status as an Alaska resident.

III. DISCUSSION

In order to qualify for a permanent fund dividend, the applicant must meet certain eligibility criteria, such as being a state resident. In addition, 15 AAC 23.143(d) contains a list of actions that, if taken during the qualifying year, will make an applicant ineligible the following year. Registering to vote in another state is one action that can result in becoming ineligible.

Alaska regulations provide, in part:

(d) 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.¹⁰

Mr. F., through his representative, made several arguments in favor of his eligibility. His registration was only a few days outside the 30 day time period allowed by 15 AAC 23.143(d). As a college student, there are limited opportunities to register to vote, and he is constrained by the date the registration drive happens to occur. He asserts that there is no rational basis to set a 30 day time limit instead of a slightly longer one, especially as it pertains to a presidential election. Mr. F. also argues that college students who clearly intend to return to Alaska should be treated differently than people who are in fact moving out of state. Mr. F. also asserts that the application of this strict 30 day time period penalizes individuals trying to exercise their constitutional right to vote in a federal election.

Mr. F.'s arguments are tempered by the fact that there is no reason he needs to register or vote in California at all. Alaskans who are out of state can easily download an application to vote and mail it in, and they may vote by mail using easily obtainable absentee ballots. Further, since Alaskans in the state must register to vote at least 30 days before an election, the 15-day

⁹ Exhibit 8, page 2.

¹⁰ Alaska Regulation 15 AAC 23.143(d).

period from 30 days to the election until 15 days before the election affords Mr. F. an opportunity to register that is not available to Alaskans living at home in Alaska.

Mr. F. may wish to suggest changes in the law but as the law is currently written, he is ineligible for a 2009 PFD.

IV. CONCLUSION

Mr. F. registered to vote solely for the purpose of voting in a presidential election, but he did so more than 30 days before that election. Accordingly, the Division correctly denied his PFD application and that determination is upheld on appeal.

DATED this 12th day of February, 2010.

By: Signed
Jeffrey A. Friedman
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 29th day of March, 2010.

By: Signed
Signature
Virginia Blaisdell
Name
Director, Administrative Services Division
Title

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