

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

In the Matter of:	)	
	)	
E. A. F.	)	
	)	OAH No. 10-0003-PFD
<u>2009 Permanent Fund Dividend</u>	)	Agency No. 2009-057-6271

**DECISION**

**I. INTRODUCTION**

E. F. applied for the 2009 Permanent Fund Dividend (PFD). The Permanent Fund Dividend Division (Division) denied his application because he had registered to vote in another state during the 2008 qualifying year. Mr. F. requested an informal appeal and his application was again denied. He then requested a formal appeal of the Division's denial of his application.

A hearing was held on February 8, 2010. Mr. F. testified by telephone. The Division was represented by Ms. Bethany Chase, who also appeared by phone. The record was held open for an additional ten days to allow the Division to submit additional documents concerning Mr. F.' travel outside of Alaska.

Mr. F. is not entitled to receive a 2009 PFD because he registered to vote in another state during 2008 and also because he was traveling outside of Alaska for more than 180 days during 2008.

**II. FACTS**

Mr. F. lives in No Name City, Alaska.<sup>1</sup> His PFD application indicates that he was out of Alaska from September 1, 2008 until February 17, 2009.<sup>2</sup> This absence totals 121 days during 2008.<sup>3</sup> Mr. F. did not disclose any other absence, but he did sign a voter registration form in Hawaii on March 20, 2008.<sup>4</sup> After the hearing, Mr. F. provided additional information

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<sup>1</sup> Exhibit 1, page 1.  
<sup>2</sup> Exhibit 1, page 2.  
<sup>3</sup> Exhibit 7, page 3.  
<sup>4</sup> Exhibit 2.

concerning his travels.<sup>5</sup> He was apparently also out of Alaska from late in 2007 through May 17, 2008. This is an additional 138 days outside of Alaska during 2008.<sup>6</sup>

### **III. DISCUSSION**

#### **a. Registering to vote in Hawaii**

Alaska regulations contain a list of activities which affect an applicant's eligibility to receive a PFD. This list includes:

(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.<sup>7</sup>

Mr. F. did register to vote in Hawaii on March 20, 2008.<sup>8</sup> During the hearing, Mr. F. confirmed that he register to vote in Hawaii, though he was not aware that this would cause him to lose his residency in Alaska. This is also confirmed in a written statement he made during the appeal process.<sup>9</sup> Registering to vote in Hawaii makes Mr. F. ineligible to receive a 2009 PFD.

#### **b. Absences from Alaska.**

In its original position statement, the Division noted that Mr. F. appeared to have been absent from Alaska for more than 180 days. During the hearing, Mr. F. acknowledged that in addition to the absence disclosed on his application, he was also absent from Alaska for several months during the beginning of the year. Mr. F. subsequently provided evidence that he was gone from Alaska from the end of 2007 through May 17, 2008.<sup>10</sup>

To receive a PFD, an individual must be present in Alaska during the entire qualifying year or, if not present, be on an allowable absence.<sup>11</sup> Alaska law contains a list of allowable absences including a catchall provision which permits up to 180 days of absence as long as the absence is not inconsistent with the individual's intent to remain an Alaska resident.<sup>12</sup> Mr. F. was out of Alaska for more than 180 days during 2008. None of the other allowable absences listed in statute are applicable to his situation.

There is nothing wrong about Mr. F.' decision to travel. He appears to have left for completely legitimate reasons related to bringing his family to Alaska to live with him. The

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<sup>5</sup> Exhibit 7, page 2.

<sup>6</sup> Exhibit 7, page 3.

<sup>7</sup> Alaska Regulation 15 AAC 23.143(d)(12). The exceptions to sub-paragraph 12 are not applicable here.

<sup>8</sup> Exhibit 2.

<sup>9</sup> Exhibit 4, page 3.

<sup>10</sup> Exhibit 7, page 2.

<sup>11</sup> Alaska Statute AS 43.23.005(a)(6).

length of his absence, however, does have legal consequences related to his PFD eligibility. Because he was out of Alaska for more than 180 days, Mr. F. is not eligible to receive the 2009 PFD.

#### IV. CONCLUSION

Mr. F. registered to vote in Hawaii during the 2008 qualifying year. Accordingly he is not eligible to receive a 2009 PFD. In addition, Mr. F. was out of Alaska for more than 180 days during the 2008 qualifying year. This is an independent basis for declaring Mr. F. ineligible to receive a 2009 PFD. Accordingly, the Division's determination that Mr. F. is not eligible to receive a 2009 PFD is affirmed.

DATED this 17th 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 16th day of March, 2010.

By: Signed  
Signature  
Jeffrey A. Friedman  
Name  
Administrative Law Judge  
Title

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

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<sup>12</sup> AS 43.23.008(a)(17).