

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

In the Matter of:)
)
S T) OAH No. 13-0139-PFD
) PFD No. 2012-060-1254
PFD Year 2012)

DECISION

I. Introduction

The Permanent Fund Dividend Division denied S T's application for a 2012 Alaska Permanent Fund dividend (PFD) on the grounds that he was incarcerated for a misdemeanor during the qualifying year, 2011, after having previously been convicted of two or more misdemeanors. Because the only facts in the record confirm that Mr. T was in jail for a misdemeanor during some of 2011, and that he had prior misdemeanor convictions, the Division's decision is affirmed.

II. Facts

The appellant, Mr. T, was denied a PFD in 2012, and, after the denial was affirmed in informal conference, requested a formal hearing by correspondence.¹ He did not, however, file a brief or a reply brief with this office.² The only evidence in the record is the exhibits filed by Bethany Thorsteinson, representing the Division. The only argument made by Mr. T is a statement in his formal hearing request that "I [have] been in the State all my life. 51 yrs."³ Mr. T checked "not true" for all facts alleged by the Division in its denial, but he did not explain what he believed to be the correct facts.⁴

This evidence shows that Mr. T pleaded guilty to a Class B Misdemeanor in 2011 and was incarcerated for that offense during 2011.⁵ In addition, the Department of Corrections verified that Mr. T had two misdemeanor convictions already on his record.⁶

¹ Division Exhibits 2, 3, 5,

² Opening briefs were due on March 4, 2013. Reply briefs were due on March 14, 2013.

³ Exhibit 5 at 2.

⁴ Exhibit 5 at 2.

⁵ Exhibit 4 at 8; Exhibit 6.

⁶ Exhibit 6.

III. Discussion

A person is not eligible for a PFD in the year after the person was incarcerated for a misdemeanor, if the person already had been convicted of two or more prior misdemeanors.⁷ Therefore, on the facts in this record, Mr. T is not eligible for a 2012 PFD. Although Mr. T did not provide any input in this hearing process, if he thinks this decision is wrong, he has another opportunity to be heard in that he may file a “proposal for action” describing any mistakes that he believes have been made.⁸

IV. Conclusion

Because Mr. T was incarcerated during the qualifying year, 2011, and because he had two prior misdemeanor convictions on his record, the Division’s decision denying his 2012 PFD is affirmed.

DATED March 28, 2013

Signed

Stephen C. (Neil) Slotnick
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 1st day of May, 2013.

By: Signed

Signature
Stephen C. Slotnick

Name
Administrative Law Judge

Title

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

⁷ AS 43.23.005(d)(2)(B)(ii).
⁸ 15 AAC 05.035