

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

In the Matter of)	
)	
E T)	
)	
<u>2013 Permanent Fund Dividend</u>)	OAH No. 13-1832-PFD Agency No. 2013-018-1830

DECISION & CORRECTED ORDER

I. Introduction

E T's 2013¹ Permanent Fund Dividend (PFD) was denied because the Permanent Fund Dividend Division (Division) determined that he was incarcerated during the qualifying year under circumstances that render him ineligible. Following an unsuccessful informal appeal, Mr. T requested a formal hearing. The hearing took place on April 8, 2014, in No Name, with Mr. T appearing in person and representing himself.

The Division's denial of Mr. T's application is affirmed because he had a disqualifying incarceration.

II. Facts

E T timely applied for a 2013 PFD.² The Division denied his application because he was incarcerated during 2012, the qualifying year.³ Mr. T requested an informal appeal.⁴ The Division upheld its original decision in the informal appeal, based on verification from the Department of Corrections that Mr. T was incarcerated during a portion of 2012.⁵ Mr. T requested a formal hearing by correspondence.⁶

An in person hearing in No Name was scheduled by the Administrative Law Judge due to notes in the file which indicated Mr. T had some hearing loss as well as difficulties understanding written and oral communication.⁷

¹ The proposed decision inaccurately listed 2012, not 2013. The Division noticed and requested the correction to 2013, as authorized under 2 AAC 64.350.

² Exhibit 1.

³ Ex. 2.

⁴ Ex. 3.

⁵ Ex. 5.

⁶ Ex. 7.

⁷ Mr. T's mother, C D, participated in a portion of the hearing and was informed of Mr. T's statements regarding his release date, the Department of Correction's verification, and the statutory prohibition against PFD approval in such a case.

During the hearing, Mr. T stated that he was released from jail on February 4, 2012. However, Mr. T also stated that he was not in jail in 2012. Each time Mr. T was asked his release date, he responded, “February 4, 2012.” The Department of Corrections’ incarceration verification also lists February 4, 2012, as Mr. T’s release date.⁸

III. Discussion

The Alaska legislature has directed that “an individual is not eligible for a permanent fund dividend for a dividend year when . . . during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a felony.”⁹ The qualifying year for a 2013 dividend was 2012.¹⁰ Mr. T was convicted of assault three, a felony, in 2010.¹¹ He was incarcerated from December 1, 2010 through February 4, 2012.¹² Mr. T appears to argue that because he was released on February 2, 2012, he was not incarcerated in 2012. However, the evidence clearly shows that Mr. T was incarcerated during January and part of February 2012. Therefore, he is not eligible to receive a 2013 dividend.

IV. Conclusion

The Division’s decision to deny Mr. T’s 2013 PFD application is affirmed.

DATED May 5, 2014.

By: Signed
Bride Seifert
Administrative Law Judge

⁸ Ex. 4.
⁹ AS 43.23.005(d)(2)(A).
¹⁰ AS 43.23.095(6).
¹¹ Ex. 4; Ex. 5.
¹² Ex. 4.

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 5th day of May, 2014.

By: Signed
Signature
Bride A. Seifert
Name
Administrative Law Judge
Title

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