

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

In the Matter of)	
)	
K D)	OAH No. 17-0981-PFD
_____)	Agency No. 2017-018-3035

DECISION

I. Introduction

K D filed a timely application for the 2017 Permanent Fund dividend (PFD or dividend). The Permanent Fund Dividend Division (the Division) denied Mr. D’s application, and Mr. D appealed. The matter was referred to the Office of Administrative Hearings for a hearing.

Because Mr. D was incarcerated for a period of time during 2016 as a result of a misdemeanor conviction after two or more prior misdemeanor convictions, he is not eligible to receive a 2017 dividend. The Division’s decision is affirmed.

II. Facts

The relevant facts are not in dispute.¹ Mr. D applied for a 2017 Permanent Fund Dividend. Citing information received from the Alaska Department of Corrections, the Division denied the application, concluding that Mr. D was not eligible because he was incarcerated as a result of a misdemeanor during 2016 and he had two prior misdemeanor convictions. Mr. D requested an informal appeal. The Division upheld the decision, based on the information from the Department of Corrections, confirming that Mr. D was incarcerated during 2016 and that he had two prior misdemeanor convictions.

Although Mr. D expressed remorse for his past criminal convictions and indicated an intent to turn over a new leaf, there is no dispute that Mr. D has been convicted of three misdemeanor offenses: October 2011 (3AN-11-00000-CR); May 2014 (4SM-13-00000-CR); and March 2016 (3AN-16-00000-CR). And Mr. D was incarcerated for ten days in 2016—February 26-27, 2016; March 19-26, 2016; and June 29-30, 2016—as a result of the 2016 misdemeanor conviction.

¹ The relevant facts are contained in the Division’s exhibits and were confirmed by Mr. D during his testimony.

III. Discussion

Under AS 43.23.005(d)(2)(B), an individual is ineligible for an Alaska Permanent Fund dividend if during the qualifying year, “the individual was incarcerated as a result of the conviction in this state of a . . . misdemeanor if the individual has been convicted of . . . (ii) two or more prior misdemeanors as defined in AS 11.81.900.”² Alaska Statute 11.81.900 (b)(38) defines a misdemeanor as a crime “for which a sentence of imprisonment for a term of more than one year may not be imposed.”³

The qualifying year for the 2017 dividend was 2016.⁴ There is no dispute that Mr. D was incarcerated in 2016 as a result of a conviction in Alaska of a misdemeanor, and he had been convicted of two prior misdemeanors. Accordingly, he is disqualified from eligibility for the 2017 dividend.

IV. Conclusion

The undisputed evidence submitted by the Division establishes that Mr. D was incarcerated in 2016, the qualifying year for the 2017 Alaska Permanent Fund dividend, as a result of an Alaska misdemeanor conviction, and he had two misdemeanor convictions prior to 2016. He is therefore ineligible for the 2017 dividend. The division’s denial of his application is **AFFIRMED**.

Dated: December 6, 2017

Signed

Jessica Leeah
Administrative Law Judge

² AS 43.23.005(d)(2)(ii); Ex. 5 at 3.

³ AS 11.81.900(b)(38). A “crime” is defined as an offense for which a sentence of imprisonment is authorized. AS 11.81.900(b)(11).

⁴ AS 43.23.095(6).

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 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 8th day of January, 2018.

By: Signed
Signature
Jessica Leeah
Name
Administrative Law Judge
Title

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