

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

In the Matter of )  
 )  
K. F. C. (minor) )  
 )  
2023 Permanent Fund Dividend ) OAH No. 24-0321-PFD  
 Agency No. 2023-052-7201

**NOTICE TRANSMITTING FINAL DECISION**

Attached is the administrative law judge’s decision in this matter, which became the final agency decision on August 13, 2024 by operation of AS 44.64.060(f).

Judicial review of the decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the decision is mailed or otherwise distributed.

DATED: August 13, 2024.

By: Signed  
Office of Administrative Hearings

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

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**DECISION**

**I. Introduction**

Through the sponsor listed on his 2023 application, middle school student K. F. C. appeals the denial of his 2023 Permanent Fund Dividend (PFD). K. spent the majority of the qualifying year in another state, where he was living with his grandmother and attending middle school. The Permanent Fund Dividend Division found his absence unallowable and denied eligibility.

This case went to formal hearing on June 17, 2024. The sponsor (his father, D. F.-C.) had requested and been granted an in-person hearing, but he did not appear at the hearing. Repeated efforts were made to reach him on the telephone number he had provided, but the number was “not accepting calls.” After the hearing began, Mr. F.-C. called in and provided the same number so he could be added to the hearing by teleconference, but the number still was not accepting calls. However, the child’s adoptive mother, G. F., was reached and she provided brief testimony at the hearing. The PFD Division then submitted the case for decision on the written record as supplemented by that testimony.<sup>2</sup>

D. F.-C. then asked that a supplemental hearing be scheduled so he could add his input. His request was granted. A telephonic hearing was scheduled at a time he agreed to, and he promised by email that he would call in for the conference call. In the 15 minutes after the scheduled start of the hearing, he did not do so. After a brief session on the record, the PFD Division again submitted the case for decision on the written record and existing testimony.

This decision concludes that K. was out of state for too long in 2022 to be eligible for a 2023 dividend.

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<sup>1</sup> The caption has been reformed based on the name on K.’s 2021 reissued birth certificate, found in the record at Ex. 11, p. 3. K. has previously been known as K.-J. C. P. Q. T. F.-C. (2009 birth certificate, in the record at Ex. 8, p. 1) and K.-J. C. P. Q. T. F.-C. (PFD application, in the record at Ex. 1).

<sup>2</sup> Under 15 AAC 05.030(j), if the person requesting a hearing fails to participate, a decision may be made on the remaining evidence.

## II. Facts

K.F. C. spent the first five months of 2022 in Alaska, attending No Name Middle School. His adoptive mother then took him to Hawaii, where he lived with his non-Alaskan grandmother, L. F. N. , and attended public school there.<sup>3</sup> He was absent from Alaska for 206 days in 2022.<sup>4</sup> He recently returned to Alaska and is expected to attend high school here.<sup>5</sup>

## III. Discussion

D. F.-C., as the person requesting this hearing, had the burden of proof to show that the Division’s denial was mistaken.<sup>6</sup>

The qualifying year for the 2023 dividend was 2022.<sup>7</sup> In order to qualify for a PFD in 2023, the applicant had to have been legally a resident of Alaska throughout the year and to have been physically present in Alaska all through the qualifying year, or only have been absent for one of the 17 allowable reasons listed in a statutory section under the title “Allowable Absences,” AS 43.23.008(a).<sup>8</sup>

In applying on his son’s behalf, his sponsor listed the reason for his absence as membership on the Olympic Team,<sup>9</sup> but this is plainly not applicable to young K.

A category of allowable absences that could conceivably apply to K. is the first one in AS 43.23.008(a), an absence for the purpose of “receiving secondary or postsecondary education on a full-time basis.” The “purpose” requirement is not expressly written into the statute, but is implied: one does not qualify for the allowable absence merely because one is attending school out of state—the reason for being out of state must be to in order to attend school.<sup>10</sup>

There is no evidence in this case, however, that K. was absent for the *purpose* of attending a Hawaiian public school. Instead, he seems to have been absent for the purpose of living with his grandmother.

The other allowable absence that could apply to K. is the so-called catch-all absence in AS 43.23.008(a)(17), the absence for “any reason consistent with the individual’s intent to remain a

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<sup>3</sup> Testimony of G. F.; Ex. 11, p. 2.

<sup>4</sup> Ex. 1, p. 4.

<sup>5</sup> Testimony of Ms. F.

<sup>6</sup> 15 AAC 05.030(h).

<sup>7</sup> AS 43.23.095(5).

<sup>8</sup> AS 43.23.005(a)(6).

<sup>9</sup> Ex. 1, p. 4.

<sup>10</sup> *See, e.g., In re B.M.*, OAH No. 08-0062-PFD (Comm’r of Revenue 2008).

state resident.” But this absence is limited to 180 days out of the qualifying year, and K. was absent for 206.

Since no category of allowable absence applies to K.’s extended absence in 2022, he was not eligible for the 2023 PFD.

**IV. Conclusion**

Because he was absent for 206 days during the qualifying year and does not fit within any allowable absence, K. became ineligible for the next year’s dividend. The denial is affirmed.

DATED this 26<sup>th</sup> day of June, 2024.

By: *Signed* \_\_\_\_\_  
Christopher Kennedy  
Administrative Law Judge

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