

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

In the Matter of	)	
	)	
L. C. AND MINORS C., K., AND T. C. III	)	OAH No. 24-0093-PFD
	)	
2020 Permanent Fund Dividend	)	

---

**DECISION**

**I. Introduction**

A few months after departing Alaska with her children in April 2019, L. C. settled in Arizona with intentions of living there indefinitely. Despite having no intentions of moving back to Alaska, Ms. C. submitted applications for the 2020 PFD on behalf of herself and her children. After the Department of Revenue’s Permanent Fund Division (the “Division”) denied these applications, Ms. C. filed an informal appeal that was rejected by the Division in a notice which advised that any further appeal by Ms. C. would have to be within 30 days. Three years would pass before Ms. C. requested a formal appeal in response to that notice.

A telephonic hearing in this matter was held on March 14, 2024, at which Ms. C. represented herself and offered sworn testimony. PFD Specialist Peter Scott appeared on behalf of the Division. Nine exhibits offered by the Division were admitted into evidence during the hearing.

For the reasons covered below, the evidence shows that the Division properly denied the PFD applications filed by Ms. C., and that she waived the right to challenge the Division’s determination by failing to timely request a formal appeal. Accordingly, the Division’s denial of those applications is **AFFIRMED**.

**II. Facts<sup>1</sup>**

After many years of living in Alaska, Ms. C. left the state in April 2019 following the conclusion of a difficult divorce. As part of the settlement worked out with her ex-husband, Ms. C. quitclaimed her interest in the family home to him in January 2018.<sup>2</sup> However, Ms. C. and her children were still living there until they relocated to a small

---

<sup>1</sup> Except where otherwise noted, the facts outlined here are drawn from Ms. C.’s hearing testimony.  
<sup>2</sup> Exhibit 9.

community in Washington state in April 2019. Following the family's departure from Alaska, Ms. C.'s ex-husband rented the home out and had the rent sent to Ms. C. in lieu of paying child support. Ms. C. left a few belongings behind that were stored in a detached garage on this property.

While Ms. C. was living in Washington she secured a part-time job as a bartender, and later as a permanent full-time position as a sales representative for a cell phone provider.<sup>3</sup> Unhappy with her life there, in late 2020 Ms. C. and her children relocated again to the community of City A, Arizona. Hoping to make this her long-term home, Ms. C. entered into a lease-purchase agreement for a modular home and enrolled her children in local schools. Ms. C. was living in this home when she filed PFD applications for herself and her children on February 25, 2020.<sup>4</sup> In these applications Ms. C. acknowledged that she was filing from outside Alaska but denied being absent from the state for 180 days or more during 2019.<sup>5</sup>

The Division denied these applications on June 5, 2020, based on Ms. C.'s acknowledged departure from Alaska in 2019.<sup>6</sup> Ms. C. timely filed an informal appeal in response. The sole basis offered for this appeal was Ms. C.'s claim that, "We still own a home in Alaska, technically we are still [residents]."<sup>7</sup> The Division rejected this appeal in a notice dated September 4, 2020, that was mailed to Ms. C.'s residence in Arizona. This notice included an advisement that if Ms. C. wanted to further appeal the Division's determination, she must file a request for a formal appeal on or before October 4, 2020.

In this same timeframe Ms. C. had lost her job due to the onset of the COVID pandemic, and by October 2020 had relocated back to Alaska where she and her children were staying with a family member in the City B area. Unable to find suitable housing or employment, she again relocated with her children to Texas in January 2021. Ms. C. never advised the Division of the changes to her mailing address during this unsettled time.

Ms. C. did not provide the Division with an updated mailing address until, in November 2023, she contacted the Division to ask about the status of the PFD applications

---

<sup>3</sup> Exhibit 4 at p 2.

<sup>4</sup> Exhibit 1 at pp. 1-2.

<sup>5</sup> Ms. C. indicated that she left Alaska on April 1, 2019, which means she was absent from the state for 275 days during that year.

<sup>6</sup> Exhibit 2 at pp. 1-2.

<sup>7</sup> Exhibit 5 at p. 2. Ms. C. also offered the opinion that, "We are technically still residents because we rent our home out." See Exhibit 5 at p. 4.

she had filed back in 2020. After learning that her informal appeal had been denied in September 2020, Ms. C. filled out and submitted a “2020 Working Out of State Questionnaire” in which she added a handwritten note complaining the applications she filed should not have been denied.<sup>8</sup> After receiving this form on November 7, 2023, a Division representative sent Ms. C. an email on December 12, 2023, which advised that the 30-day deadline for her to request a formal appeal had passed on October 4, 2020. A form for requesting a formal appeal was attached to the email. Ms. C. was directed to provide an explanation as to why she missed the deadline back in 2020 if she decided to request a formal appeal.<sup>9</sup>

In a reply email message Ms. C. claimed that she had mailed a formal appeal request to the Division at an unspecified point in 2020, and speculated that the Division must have lost it during the turbulence of the COVID pandemic.<sup>10</sup> Ms. C. filled out the formal appeal form that had been emailed to her and mailed it back to the Division on January 6, 2024.<sup>11</sup> With this form she included a short letter in which she again claimed to have sent the Division a formal appeal request in 2020.<sup>12</sup> However, Ms. C. failed to offer any specifics as to when she mailed this request, or from where. Ms. C. did not offer any further details on these points during her hearing testimony.

Ms. C. was still living in Texas at the time of her hearing. During her testimony she mentioned having no plans to return to Alaska except for occasional visits.

### **III. Discussion**

#### *A. Overview of PFD Eligibility Requirements*

To receive an Alaska Permanent Fund dividend, applicants must demonstrate that they (1) meet the legal requirements for Alaska residency established by the legislature in AS 01.10.055; and (2) satisfy all eligibility requirements established by the Division in its regulations. It is Ms. C.’s burden to prove that she meets these criteria and is accordingly eligible for the 2022 PFD.<sup>13</sup>

---

<sup>8</sup> Exhibit 7 at pp. 1-2.

<sup>9</sup> Exhibit 7 at p. 7.

<sup>10</sup> Exhibit 7 at p. 8.

<sup>11</sup> Exhibit 8 at p. 3.

<sup>12</sup> Exhibit 8 at p. 2.

<sup>13</sup> 15 AAC 05.030(h).

To meet the definition of “state resident” for PFD purposes an applicant is required to have been a state resident beginning at the start of the qualifying year (which is 2019 for the 2020 PFD) up through the date the application is submitted to the Division.<sup>14</sup> A person establishes residency in Alaska by being physically present in the state with the intent to remain in Alaska indefinitely.<sup>15</sup> By regulation, the Department of Revenue has determined that an individual demonstrates the intent to remain in Alaska indefinitely “through the establishment and maintenance of customary ties indicative of Alaska residency and the absence of those ties elsewhere.”<sup>16</sup> Even if individuals meet the general criteria for being considered Alaska residents, they are ineligible for a PFD if, during the qualifying year, they were absent from Alaska for more than 180 days for reasons that are not deemed allowable by the legislature.<sup>17</sup>

Additionally, the Department of Revenue has promulgated regulations that provide guidance to the Division when evaluating applicant eligibility. These regulations identify seventeen different actions that are so typically indicative of residency in another state or country that any one of them renders the applicant ineligible for a PFD without further inquiry into the Alaska residency criteria.<sup>18</sup> Two of these disqualifying actions are implicated here. The first is maintaining a “principal home” in another state or country, unless the applicant was allowably absent from Alaska for reasons such as active-duty military service or pursuing full-time education.<sup>19</sup> Similarly, applicants who have accepted full-time permanent employment in another state or country are not eligible for a dividend unless they were absent for the same narrow range of allowable reasons.<sup>20</sup>

*B. Ms. C. was Absent From Alaska for More Than 180 Days in 2019*

Regardless of any arguments that Ms. C. might make regarding her ties to Alaska, under the circumstances presented here she is flatly ineligible for the 2020 PFD if she was

---

<sup>14</sup> See AS 43.23.095(6) (defining “qualifying year” to mean the “the year immediately preceding January 1 of the current dividend year”), and 15 AAC 23.143(d).

<sup>15</sup> AS 01.10.055(a).

<sup>16</sup> 15 AAC 23.143(a).

<sup>17</sup> AS 43.23.008(a)(17)(A)

<sup>18</sup> 15 AAC 23.143(d).

<sup>19</sup> The narrow list of approve absences where individuals can maintain their principal home outside Alaska without losing PFD eligibility is set out in 15 AAC 23.143(d)(1).

<sup>20</sup> 15 AAC 23.143(d)(4).

absent from Alaska from more than 180 days during 2019.<sup>21</sup> During her hearing, Ms. C. testified that she left Alaska in April 2019, and did not return to the state until October 2020. This is consistent with her PFD application in which she listed April 1, 2019, as the date she left Alaska.<sup>22</sup> Since Ms. C. did not claim that her time away from Alaska fit one of the categories of allowable absences created by the legislature,<sup>23</sup> her application must be denied on this basis.

*C. Ms. C. and Her Family Established a Principal Residence in Arizona*

There is no statutory or regulatory definition of the term “principal home” as used in the Division’s regulations. Thus, whether a PFD applicant maintained a principal home in another state is fact-specific analysis that must be determined on a case-by-case basis.<sup>24</sup> However, the mere fact that an applicant living outside Alaska has the subjective desire to return at some point in the future is largely irrelevant. Instead, the analysis focuses on the objective facts regarding an applicant’s living arrangements at the time a PFD application was submitted.<sup>25</sup>

Here, Ms. C. submitted PFD applications for herself and her children at a time when she was residing in Arizona with plans of remaining there in the future. Consistent with this she had obtained full-time employment, moved into a modular home that she hoped to purchase, and enrolled her children in local schools. These actions establish that the principal home for Ms. C. and her family was in Arizona.

Ms. C.’s insistence that she has some type of unspecified ownership interest in the house she vacated in April 2019 does not alter this analysis in the slightest. Having roots in Alaska, and earning rental income from property located here, does not make a person eligible to receive a PFD when she lives and works in another state with plans to remain there indefinitely.

The fact Ms. C. later moved back to Alaska in October 2020 did not restore her eligibility to receive a PFD that year. Questions of eligibility are determined as of the date

---

<sup>21</sup> AS 43.23.008(a)(17)(A).

<sup>22</sup> Exhibit 1 at p. 3.

<sup>23</sup> The various categories of “allowable absences” are set out at AS 43.23.008(a)(1) – (17).

<sup>24</sup> *In re B and M D*, OAH No. 13-1829-PFD (Comm. Dept. of Revenue 2013) (accessible at <https://aws.state.ak.us/OAH/Decision/Display?rec=5655>).

<sup>25</sup> *In re K S*, OAH No. 12-0478-PFD (Comm. Dept. of Revenue 2013) (accessible at <https://aws.state.ak.us/OAH/Decision/Display?rec=5604>).

of the application.<sup>26</sup> This means subsequent events cannot cure the fact that, when Ms. C. applied for these dividends, she had settled with her family into a home in Arizona where she planned to remain in the future. While those plans did not work out as Ms. C. hoped, that did not restore PFD eligibility she had lost through her actions up through the time she submitted the applications at issue here.

*D. Ms. C. Held Full-Time Permanent Jobs Outside Alaska*

Under 15 AAC 23.143(d)(4), an individual who has “accepted full-time, permanent employment in another state” is ineligible to receive a PFD unless they are living outside of Alaska for a narrow range of allowable reasons, such as accompanying a military spouse who is on a duty assignment.<sup>27</sup> Under this regulation a job is considered “permanent” if it has an indefinite term of employment, regardless of how long an applicant may have actually have worked prior to quitting or being terminated.<sup>28</sup> Here, Ms. C. stated in forms she sent to the Division that she had held full-time permanent jobs in Washington and Arizona at different points in 2019 and 2020.<sup>29</sup> Since Ms. C. does not claim to have been living outside Alaska for any of the allowable reasons set out in the Division’s regulations, the fact she held these jobs makes her ineligible to receive a PFD even though she did not hold these jobs for longer than a few months’ time.

*E. Ms. C.’s Formal Appeal Was Inexcusably Late*

The Division is also correct in its determination that Ms. C.’s appeal should be denied since she failed to timely request a formal appeal after the Division denied her informal appeal in September 2020. Under the Division’s regulations, such appeals must be filed by a PFD applicant within 30 days of the Division issuing a notice that the informal appeal has been denied.<sup>30</sup> Though this deadline is waivable by an administrative law judge if enforcement would work an injustice,<sup>31</sup> that typically requires evidence that the Division

---

<sup>26</sup> AS 43.23.005(a)(2).

<sup>27</sup> The narrow range of circumstances where a PFD recipient can hold a full-time permanent job outside Alaska are set out at AS 43.23.008(a)(1)-(3); (9)-(11), (13), and (16).

<sup>28</sup> *In re K R F*, OAH No. 09-0249-PFD (Comm. Dept. of Revenue 2009) (accessible at <https://aws.state.ak.us/OAH/Decision/Display?rec=5376>).

<sup>29</sup> See Exhibit 4, p. 2 (noting full-time permanent jobs Ms. C. held in Washington and Arizona).

<sup>30</sup> 15 AAC 05.010(b)(5).

<sup>31</sup> 15 AAC 05.030(k).

made some type of clerical or administrative mistake which impaired an applicant's ability to pursue a timely appeal.<sup>32</sup>

Though Ms. C. claims that she timely filed a request for a formal appeal in 2020 that was simply lost by the Division, she offered no testimony as to when and where she mailed this request. Nor did Ms. C. testify to seeing the Division's denial of her informal appeal prior to leaving Arizona. This is an odd omission since the formal appeal request form would have been sent in the same envelope as the Division's informal appeal decision.<sup>33</sup> The timing of Ms. C.'s relocation from Arizona to Alaska in 2020 is notable in this regard, since it appears she was in the midst of this move at the same approximate time that the Division would have mailed its informal appeal decision to her Arizona address. After leaving Arizona it is undisputed that Ms. C. did not provide the Division with updated mailing addresses in Alaska and Texas as required by the Division's regulations.<sup>34</sup>

Evaluating these facts together, a more plausible scenario is that Ms. C. never received the informal appeal decision before she and her children left Arizona. With the Division unaware that Ms. C. had moved, it had no way of sending that decision to an address where she was likely to receive it. If Ms. C. had in fact seen the informal appeal decision, and mailed the formal appeal request form, it would have been illogical for her to silently wait for three years (following two cross-country relocations, no less) while making no effort whatsoever to contact the Division regarding the scheduling of proceedings in her formal appeal.

Since these are not the type of circumstances where enforcement of the appeal deadline would work an injustice, Ms. C.'s appeal is subject to denial on this additional basis.

*G. The Applications for Ms. C.'s Children Must be Denied.*

Under the Division's regulations, a child cannot receive a PFD unless sponsored by a parent or custodian who is eligible to receive a dividend.<sup>35</sup> Since this decision concludes

---

<sup>32</sup> *In re T L J*, OAH11-0338-PFD (Comm. Dept. of Revenue 2011) (accessible at <https://aws.state.ak.us/OAH/Decision/Display?rec=5562>).

<sup>33</sup> Comments Ms. C. made in her email communications with the Division in December 2023 also suggest a lack of prior awareness on her part regarding the outcome of the informal appeal. *See* Exhibit 7 at pp. 7-9.

<sup>34</sup> 15 AAC 23.103(c).

<sup>35</sup> 15 AAC 23.113(b)(1).

that the Division properly denied Ms. C.'s application, the related denial of the applications she submitted on behalf of her three children must likewise be affirmed.

#### **IV. Conclusion**

Based upon the foregoing reasons, the Division's denial of the 2020 PFD applications that Ms. C. submitted on behalf of herself and her children is AFFIRMED.

Dated: April 18, 2024

By: Signed  
Signature  
Max Garner  
Name  
Administrative Law Judge  
Title

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



## 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 31<sup>st</sup> day of May, 2024.

By: Signed  
Signature  
Max Garner  
Name  
Administrative Law Judge  
Title