

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

In the Matter of)	
)	
C. M. K.)	OAH No. 24-0572-PFD
)	
<u>2024 Permanent Fund Dividend</u>)	

DECISION

I. Introduction

C. M. K.’s application for a 2024 Permanent Fund Dividend (PFD) was denied because the PFD Division determined he had been incarcerated during the qualifying year under circumstances that would render him ineligible. Following an unsuccessful informal appeal, Mr. K. requested a formal appeal hearing by correspondence before this tribunal.¹

The Division’s denial of Mr. K.’s application is affirmed because Mr. K. was incarcerated during the qualifying year of 2023 for a probation or parole violation of his original felony conviction. This incarceration disqualifies him from the 2024 dividend.

II. Facts

C. K. timely applied for his 2024 PFD.² There are no issues regarding his eligibility apart from his incarceration during the qualifying year. Mr. K. was initially and continuously incarcerated on a probation or parole violation starting November 11, 2022, with a conviction date for that violation of December 15, 2023.³ The original felony conviction from which the violation stems is case number 1JU-06-00000 CR. Mr. K.’s sentence on this violation conviction runs until a projected release date of September 25, 2026.⁴

After the PFD Division denied his application for a 2024 dividend and maintained that decision throughout the formal appeal process, Mr. K. initiated a formal appeal. On his Request for Formal Hearing form, he checked the box indicating that his preference for a hearing was by written correspondence only.⁵

¹ Div. Ex. 6, p. 1.
² Div. Ex. 1, pp. 1-4.
³ Div. Ex. 5.
⁴ *Id.*
⁵ Div. Ex. 6, p.1.

By notice dated September 10, 2024, Mr. K. and the Division were given until October 10, 2024, to send any additional documents or correspondence to the Office of Administrative Hearings for consideration and a deadline of October 24, 2024, to submit a response to any materials the other side submitted.

The Division filed a position statement and Exhibits 1-6 with OAH on October 9, 2024. The Division's filing was accompanied by a Certification of Mailing certifying that the same filing was mailed to Mr. K. at his provided address on October 9, 2024. A letter dated October 7, 2024, was sent by Mr. K. to the Division and forwarded to OAH on October 10, 2024. The letter requested the OAH number—presumably the case number given the context of the letter. No additional documents were sent in by Mr. K., nor did he submit any response to the materials the Division submitted.

As part of the documentation Mr. K. submitted with his informal appeal, he included a document labeled “Non-Negotiable Notice of Demand & Performance Within 3 Days Of Receipt Failure To Fully Perform Will Lead To Liens Without Limit,” directed to the “Dept. of Revenue, Peter Scott, et al.”⁶

As the basis of his formal appeal, Mr. K. cited the following as his informal appeal decision facts: obstruction of justice; “I don’t need permission/consent from the state because I have secured party status”; that the laws of the State of Alaska statutes and codes are void since the state has no jurisdiction; and that the PFD is unconstitutional – a civil rights violation.⁷ Mr. K. also cited to AS 44.17.005 and AS 44.23.010.

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;”⁸ In enacting this provision, the legislature made the lookback period for prior convictions extend back to January 1, 1997.⁹ Mr. K.’s original felony conviction from which the

⁶ Div. Ex. 3, pp. 3-4.

⁷ Div. Ex. 6, p. 2.

⁸ AS 43.23.005(d).

⁹ Sec. 6, ch. 46, SLA 1996.

violation stems is more recent than that, in or about 2006 with his felony violation conviction in 2023.¹⁰

As the individual challenging the Division’s decision, it is Mr. K.’s burden to establish that it is more likely than not that he is eligible for a 2024 PFD. In order to receive the 2024 PFD, Mr. K. must demonstrate he was not incarcerated as the result of a felony conviction during any part of 2023. Reviewing Mr. K.’s incarceration record as provided by DOC¹¹, an argument could be made that some of his incarceration in 2023 occurred before his felony conviction occurred, and hence may not have been “as a result of the conviction.” Giving him the full benefit of an argument that his incarceration for the felony violation should not count until after his conviction date of December 15, 2023, however, the fact remains that he still would have been incarcerated on a felony conviction during part of 2023 – from December 15, 2023, through December 31, 2023. The eligibility limitation of AS 43.23.005(d) would remain applicable to his eligibility determination, and Mr. K. would not be able to meet his burden.

Let us turn next to the claims and arguments Mr. K. has submitted to this tribunal. They are consistent with the expressed belief system of a group that has come to be known as “sovereign citizens”.¹² Mr. K.’s arguments appear to assert that the Alaska courts have no jurisdiction over him without his consent Alaska laws and codes do not apply to him. Many courts around the country have rejected this argument and found that regardless of an individual’s claimed status as a sovereign citizen or a secured party, or having secured party status, that person is not beyond the jurisdiction of the courts.¹³

Mr. K. also appears to be challenging, without argument or factual support, the constitutionality of the PFD. With only a conclusory statement that “the whole PFD is unconstitutional,” it is impossible to understand the basis of Mr. K.’s constitutional claim. Regardless, this administrative tribunal has no jurisdiction to make any findings regarding the constitutionality of the PFD.¹⁴

¹⁰ Div. Ex. 5.

¹¹ *Id.*

¹² *See Hout v. Office of the Governor*, 538 P.3d 702 (Alaska 2023).

¹³ *See Bourdon v. State*, 370 P.3d 1116, 1117 (Alaska App. 2016), *citing United States v. Benabe*, 654 F.3d 753, 767 (7th Cir. 2011).

¹⁴ Alaska Statutes 44.64.010 – 44.64.200.

Despite the arguments and documents submitted in and with his informal and formal appeal, and even considering sua sponte¹⁵ an argument that Mr. K.'s incarceration on the felony violation should not count until after his conviction date of December 15, 2023, there is no evidence contesting the factual finding that he was incarcerated during at least part of the 2023 qualifying year as a result of a felony conviction.

IV. Conclusion

Mr. K.'s incarceration as a result of a felony conviction during the 2023 qualifying year disqualifies him from his 2024 PFD. Therefore, the decision of the Permanent Fund Dividend Division to deny his 2024 Permanent Fund Dividend is AFFIRMED.

Dated: November 15, 2024

By: Signed
Signature
Beth Goldstein
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.]

¹⁵ “Sua sponte” means “on the tribunal’s own initiative.”

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 15 day of December, 2024.

By: Signed
Signature
Adam Crum
Name
Commissioner of Revenue
Title

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