

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

In the Matter of	)	
	)	
M.K	)	OAH No. 25-2909-PFD
	)	
2025 Permanent Fund Dividend	)	

DECISION

I. Introduction

M. N. K. was found ineligible for the 2025 Permanent Fund Dividend (PFD) because the PFD Division (the “Division”) determined that he had been incarcerated during calendar year 2024 for a felony offense.¹

Mr. K requested a hearing by correspondence.² A review of the parties’ written submissions and hearing exhibits establishes that Mr. M. was incarcerated for a felony offense during calendar year 2024.³ Therefore, for this reason, the Division’s denial of Mr. M’s 2025 PFD application is AFFIRMED.

II. Facts

In March 2025, Mr. K submitted an application for a 2025 PFD.⁴ On August 8, 2025, the Division denied Mr. K’s application on the basis that he had been incarcerated for a felony in Alaska during 2024, that being the qualifying calendar year for the 2025 Alaska PFD.⁵ The Division cited Mr. K’s conviction for the offense of third degree sexual assault and his incarceration for that offense between October 2022 and January 17, 2024 in case 4BE-21-00000 CR.⁶

¹ Division position statement, (October 22, 2025), at p. 1; see also Exhibit 2.

² Exhibit 6.

³ Exhibit 4.

⁴ Exhibit 1.

⁵ Exhibit 2; see also Division position statement, *id.*, at p. 2.

⁶ Exhibits 4. The Division did not submit a judgment from this case. Rather, it submitted an abstract from the Department of Corrections (DOC), reporting this conviction and Mr. K’s incarceration. The DOC abstract is corroborated by the Alaska Court System’s on-line *Courtview* database. Further, the Alaska Court System’s appellate database reflects Mr. K’s conviction in this case, as well as the Court of Appeals’s memorandum opinion reviewing his conditions of probation. See *John v. State*, 2025 WL 1392259 (Alaska App. May 14, 2025) (unpublished opinion)

On August 19, 2025, Mr. K timely requested an informal appeal.⁷ In his informal appeal, Mr. K disavowed any factual dispute with his denial letter. The informal appeal form posed this question, “Is there anything in the denial letter that is incorrect?” Mr. K checked the box which stated, “No.”⁸ On September 3, 2025, the division denied Mr. K’s informal appeal.⁹

On September 10, 2025, Mr. K timely requested a formal appeal before this office.¹⁰ Mr. K requested a hearing by correspondence.¹¹ In support of his appeal, Mr. K offered his statement that, “My charges were appealed & my appeal lawyer’s number is [redacted].”¹² Mr. K offered no other basis for this appeal.

In its formal position statement, the Division argues that Mr. K was incarcerated during calendar year 2024. The division asserts that Mr. K’s eligibility for the 2025 dividend is foreclosed by directive statute.¹³

III. Discussion

Alaska law provides that in PFD appeals such as this case, the person appealing a PFD denial bears the burden of proving, by a preponderance of the evidence, that the denial was incorrect.¹⁴ Statute further provides that, “[A]n 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...”¹⁵

(reviewing conditions of probation; “M. N. K. pleaded guilty to one count of third-degree sexual assault for engaging in sexual contact with his eighteen-year-old niece [] while she was sleeping. Pursuant to a plea agreement, K. received a sentence of five years with three years suspended, with a five-year term of probation.”) In other words, the Alaska Court System’s on-line records of his case corroborate the DOC record submitted here. Official administrative notice thereof is taken. 2 AAC 64.300; *see also* Alaska Court System *Courtview*, docket entry for case 4BE-21-00000 CR. Under Alaska law, third degree sexual assault is a class C felony offense. *See* AS 11.41.42 Exhibit 3.

⁸ Exhibit 3, p. 2.

⁹ Exhibit 5.

¹⁰ Exhibit 6.

¹¹ Exhibit 6.

¹² *Id.*

¹³ *Division position statement*, (October 22, 2025), at p. 2 (“Under Alaska Statute 43.23.005(d)(2)(A) Mr. K is not eligible for a 2025 dividend because the Alaska Department of Corrections verified M.K was incarcerated during calendar year 2024 as a result of a felony conviction, or a felony probation or parole violation, in this state under case number 4BE-21-00000CR.”)

¹⁴ 15 AAC 05.030(h).

¹⁵ AS 43.23.005(d)(2)(A).

In this appeal, Mr. K asserts that he appealed his case. While this statement is true as far as it goes, Mr. K does not mention that he pursued a *sentence appeal* – challenging only his probation conditions, not his conviction. But more importantly, Mr. K’s sentence appeal does not change the historical fact that he was incarcerated for a felony offense for 17 days in January 2024. Therefore, the Division’s denial of Mr. K’s 2025 PFD application was correct, and Mr. K has failed to sustain his burden to establish the contrary.

IV. Conclusion

The uncontradicted evidence in this case establishes that Mr. K was incarcerated for a felony during the qualifying year. The Division correctly denied Mr. K’s application for a 2025 PFD for this reason. His appeal is therefore denied.

DATED: January 12, 2026.

Signed

James Fayette
Administrative Law Judge

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 13th day of February, 2026.

By: Signed
James Fayette
Administrative Law Judge

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