



INTERIOR BOARD OF INDIAN APPEALS

Ethel H. Not Afraid v. Billings Area Director, Bureau of Indian Affairs

3 IBIA 268 (02/28/1975)

Denying reconsideration of:

3 IBIA 235

Further request for reconsideration:

3 IBIA 273



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ADMINISTRATIVE APPEAL OF
ETHEL H. NOT AFRAID
v.
AREA DIRECTOR, BILLINGS, ET AL.

IBIA 74-45-A (Supp.)

Decided February 28, 1975

Petition for rehearing.

Denied.

APPEARANCES: Stanton, Hovland & Torske for appellant, Ethel H. Not Afraid.

OPINION BY ADMINISTRATIVE JUDGE WILSON

Under date of January 31, 1975, an order was issued by the Board whereby the Area Director's denial of March 13, 1974, of appellant's application for patent in fee was affirmed and her appeal dismissed.

A petition for rehearing has now been filed by the appellant through her attorneys so that she may have an opportunity of answering the seven points of competency set forth by the Bureau of Indian Affairs in its denial and upon which the Board relied on in its order of January 31, 1975.

Existing regulations do not provide for rehearing. However, the Board may, in extraordinary cases, exercise the Secretary's inherent authority and reconsider such cases. However, this case does not appear to warrant the exercise of the Secretary's authority for the reasons hereinafter set forth.

The record indicates that subsequent to the issuance of the notice of docketing of June 28, 1974, the appellant's attorneys were advised on September 20, 1974, by certified mail return receipt requested, that the entire record was being sent to the Crow Agency where it would be available for examination by the parties. The record, among other things, included a copy of the

Area Director's letter of March 13, 1974, addressed to Harold G. Stanton, Attorney at Law, setting forth the points of competency in question. Accordingly, we find the appellant's attorneys had notice of the points of competency raised by the Bureau of Indian Affairs. We further find that the appellant's attorneys had ample opportunity to answer the points raised. Accordingly, they cannot now complain.

In view of the foregoing reasons, the petition to rehear dated February 18, 1975, filed by the law firm of Stanton, Hovland & Torske, should be denied and the order of January 31, 1975, reaffirmed.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 211 DM 13.7 and 43 CFR 4.1(2), the petition to rehear filed by the law firm of Stanton, Hovland & Torske is hereby DENIED and the order of January 31, 1975, is REAFFIRMED.

Done at Arlington, Virginia.

//original signed

Alexander H. Wilson
Administrative Judge

I concur:

//original signed

Mitchell J. Sabagh
Administrative Judge