



INTERIOR BOARD OF INDIAN APPEALS

Estate of George Yellow Wolf

5 IBIA 70 (04/13/1976)



United States Department of the Interior

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

ESTATE OF GEORGE YELLOW WOLF

IBIA 76-5

Decided April 13, 1976

Appeal from an order after rehearing approving the will of the decedent.

Dismissed

1. Indian Probate: Wills: Failure to Mention Child and Spouse

The failure of a testator to provide for his wife or child or children in a will does not invalidate the will.

APPEARANCES: Lundberg & Nodland by Irvin B. Nodland, Esq., for appellant Doreen Reinke.

OPINION BY ADMINISTRATIVE JUDGE SABAGH

This matter comes before the Board on appeal from Administrative Law Judge Daniel S. Boos' order after rehearing approving the will of the decedent.

An order disapproving will and determining heirs was entered in the estate of George Yellow Wolf on December 13, 1973. On January 21, 1974, a petition for rehearing was timely filed. A rehearing was held at Omaha, Nebraska, on November 18, 1974, and an order was issued on March 26, 1975, approving the will. Not included in the will were Agnes C. Yellow Wolf, decedent's fourth wife, and decedent's children, Thomas A. Yellow Wolf and Doreen Reinke, children from the third marriage.

Doreen Reinke appealed. In substance the appellant contends that North Dakota law governs the interpretation of decedent's will and that under North Dakota law an omitted child, under a will receives his or her share as though the decedent died intestate.

The appellant's contention was duly considered and rejected in the Judge's order after rehearing approving decedent's will, for reasons fully set forth therein.

Having reviewed the record and considered the brief of the appellant and appellees, the Board finds that the appellant has shown no reason why the findings of fact, conclusions of law, and order of the Administrative Law Judge should not be affirmed. We hold that there is substantial evidence in the record to support the order and decision of the Judge.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is DISMISSED and the order of the Administrative Law Judge approving the Will and Decreeing Distribution dated March 26, 1975, is hereby AFFIRMED.

This decision is final for the Department.

Done at Arlington, Virginia.

//original signed
Mitchell J. Sabagh
Administrative Judge

I concur:

//original signed
Alexander H. Wilson
Administrative Judge