



INTERIOR BOARD OF INDIAN APPEALS

Tyrone Johnson v. Aberdeen Area Director, Bureau of Indian Affairs

12 IBIA 179 (02/29/1984)



United States Department of the Interior

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

TYRONE JOHNSON,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	Docket No. IBIA 79-36-A
	:	
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 29, 1984

On September 24, 1979, the Acting Deputy Commissioner, Bureau of Indian Affairs (BIA), referred the above appeal to the Board of Indian Appeals (Board) under the provisions of 25 CFR 2.19(a)(2). Appellant sought review of the propriety of a series of judgments, including personal money judgments, entered against him by the Cheyenne River Tribal Court in proceedings extending from 1963 through 1979. Satisfaction of these judgments was obtained from appellant's Individual Indian Money account with the concurrence of the Superintendent of the Cheyenne River Agency, BIA, as affirmed by the Aberdeen Area Director.

While recognizing that it did not exercise general review authority over decisions of tribal courts, the Board, on June 30, 1980, referred the case to an Administrative Law Judge of the Office of Hearings and Appeals for an evidentiary hearing and recommended decision relating to BIA's involvement in the payment of these judgments from appellant's Indian trust funds. Although the Administrative Law Judge to whom the case was assigned attempted to gather the documentary information requested by the Board and to set a time for an evidentiary hearing, appellant failed to prosecute the appeal. Consequently, on July 26, 1983, counsel for the Department informed appellant that she would seek a dismissal of the appeal on the grounds of failure to prosecute.

The Administrative Law Judge issued an order to show cause why the appeal should not be dismissed on October 25, 1983. The only response to this order was filed by an attorney who was no longer representing the Cheyenne River Tribe. Consequently, by order dated December 15, 1983, and received by the Board on January 6, 1984, the Administrative Law Judge returned the case to the Board with the recommendation that it be dismissed.

On January 10, 1984, the Board issued an order advising the parties of their right under 43 CFR 4.339 to file exceptions to the recommended decision and giving them 30 days from receipt of the order in which to file any such exceptions. No party filed a response to this order.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed for lack of prosecution.

//original signed

Bernard V. Parrette
Chief Administrative Judge

//original signed

Franklin D. Arness
Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge