



INTERIOR BOARD OF INDIAN APPEALS

Boston Indian Council, Inc. v. Deputy Assistant Secretary - Indian Affairs (Operations)

12 IBIA 213 (03/26/1984)



United States Department of the Interior

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

BOSTON INDIAN COUNCIL, INC.,	:	Order Dismissing Appeal as Moot
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 83-36-A
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS),	:	
Appellee	:	March 26, 1984

On July 6, 1983, the Board of Indian Appeals (Board) received a notice of appeal from the Boston Indian Council, Inc. (appellant), seeking review of a May 3, 1983, decision of the Deputy Assistant Secretary--Indian Affairs (Operations) (appellee). Appellee affirmed the denial of fiscal year 1983 grant funding to appellant under the Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1931-1934 (Supp. II 1978). The basis of the affirmance was that the appeal from the decision of the Eastern Area Director, Bureau of Indian Affairs (BIA), was not timely filed.

Upon reviewing the record, the Board determined that the appeal might be moot. On February 1, 1984, the Board received a settlement agreement in Phoenix Indian Center v. Deputy Assistant Secretary--Indian Affairs (Operations), 12 IBIA 163 (1983), indicating that all fiscal year 1983 ICWA funds had been committed to other projects. If all fiscal year 1983 funds were obligated, a decision for appellant in this appeal would be to no avail. ^{1/} See Aleutian/Pribilof Islands Ass'n, Inc. v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 10 IBIA 23 (1982). Accordingly, on February 14, 1984, the Board issued an order requesting information from BIA on the availability of fiscal year 1983 ICWA funds. The same order gave appellant an opportunity to submit arguments opposing the potential dismissal of the case as moot.

On March 2, 1984, the Board received information from BIA that all fiscal year 1983 grant funds have been obligated. Appellant filed no opposition to dismissal.

^{1/} The only issue raised in the appeal was the timeliness of the notice of appeal to appellee. Consequently, no questions relating to the general administration of the ICWA grant process were at issue. See Aleutian/Pribilof Islands Ass'n, Inc. v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 9 IBIA 254, 89 I.D. 196 (1982).

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 as moot.

//original signed

Bernard V. Parrette
Chief Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge

//original signed

Anne Poindexter Lewis
Administrative Judge