



INTERIOR BOARD OF INDIAN APPEALS

Estate of Orrin John

13 IBIA 92 (01/14/1985)



United States Department of the Interior

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

ESTATE OF ORRIN JOHN : Order Dismissing Appeal
:
: Docket No. IBIA 84-22
:
: January 14, 1985

On March 14, 1984, the Board of Indian Appeals (Board) received a notice of appeal from Peter and Elsie John (appellants). Appellants sought review of a January 11, 1984, order issued by Administrative Law Judge William E. Hammett that denied a petition to reopen the estate of Orrin John (decedent), a deceased Athabascan Indian, Probate No. IP SA 206N 78. The denial of reopening let stand a December 17, 1979, order determining decedent's heirs to be his natural parents, Mathew and Dorothy Titus (appellees), rather than appellants, who were his adoptive parents.

After a briefing schedule had been established, appellants informed the Board that they were requesting the Secretary of the Interior (Secretary) to assume jurisdiction over this matter under the provisions of 43 CFR 4.5(a). Section 4.5(a) states that the Secretary reserves his authority to take jurisdiction over any matter pending before a Board of the Office of Hearings and Appeals. Briefing was stayed until September 5, 1984, when the Board was notified that the Secretary had determined not to review the case.

On October 10, 1984, the Board received a letter from appellees in which they indicated that they wished to settle this matter by conveying decedent's Native allotment to appellants. Appellants accepted this proposed settlement. Although the Board is empowered by 43 CFR 4.207 to accept a settlement agreement in an Indian probate case, because the settlement involved the conveyance of an Alaska Native allotment, the Board referred the conveyance to the Bureau of Indian Affairs for approval.

On January 9, 1985, the Board received a copy of a memorandum from the Deputy Assistant Secretary--Indian Affairs (Operations) to the Juneau Area Director. That memorandum concludes: "You are authorized and directed to affect and approve the necessary conveyance documents to vest record title to Native Allotment F-034713, as Certified in 'Inventory and Appraisal of Restricted Lands of Orrin L. John,' dated July 20, 1978, to Peter and Elsie John."

The Board assumes that this directive will be carried out expeditiously and without problems. Therefore, pursuant to the authority delegated to the Board of Indian Affairs by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed on the basis of the settlement reached between the parties. However, if any problem does arise concerning the conveyance, appellants may request the Board to reopen the estate for the purpose of enforcing the settlement.

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Bernard V. Parrette
Chief Administrative Judge

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Jerry Muskrat
Administrative Judge

//original signed

Anne Poindexter Lewis
Administrative Judge