



INTERIOR BOARD OF INDIAN APPEALS

Tohono O'odham Nation v. Phoenix Area Director, Bureau of Indian Affairs

14 IBIA 127 (05/30/1986)



United States Department of the Interior

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

TOHONO O'ODHAM NATION	:	Order Dismissing Appeal
(formerly PAPAGO TRIBE OF ARIZONA),	:	
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 85-39-A
AREA DIRECTOR, PHOENIX AREA	:	
OFFICE, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	May 30, 1986

On July 1, 1985, the Board of Indian Appeals (Board) received a notice of appeal from appellant Tohono O'odham Nation (formerly Papago Tribe of Arizona). Appellant sought review of a March 11, 1985 decision of the Phoenix Area Director, Bureau of Indian Affairs, rescinding the Papago Indian Agency Superintendent's approval of appellant's Transaction Privilege Taxes Ordinance No. 03-81. The ordinance was disapproved because appellant's constitution did not give it the general power to tax.

Appellant sought review by the Board under the provisions of 25 CFR 2.19, when the Deputy Assistant Secretary--Indian Affairs (Operations) did not issue a decision within 30 days from the date the matter was ripe for decision. By order dated July 3, 1985, the Board made a preliminary determination that it had jurisdiction over the matter and requested the administrative record.

In his answer brief, appellee indicated that a constitutional election had been scheduled for appellant, and that one issue to be decided at that election was whether or not the tribal members would grant the tribal government general taxation powers. Appellee suggested that the appeal might be moot based upon the outcome of this election. On March 7, 1986, appellee forwarded to the Board a copy of appellant's approved new constitution. Because the new constitution granted general taxation powers, appellee stated the appeal had been rendered moot.

On March 31, 1986, the Board received a response to appellee's assertion of mootness from appellant. Appellant indicated that one issue remained in the appeal. On May 1, 1986, appellee responded that the entire letter of March 11, 1985, was no longer applicable. On May 8, 1986, appellant agreed that, with appellee's clarification of his position, the appeal was moot.

Accordingly, 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
Jerry Muskrat
Administrative Judge

//original signed
Franklin D. Arness
Alternate Member