



INTERIOR BOARD OF INDIAN APPEALS

Larry D. Cournoyer v. Deputy to the Assistant Secretary - Indian Affairs
(Tribal Services)

16 IBIA 30 (01/14/1988)



United States Department of the Interior

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

LARRY D. COURNOYER,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 88-5-A
DEPUTY TO THE ASSISTANT	:	
SECRETARY--INDIAN AFFAIRS	:	
(TRIBAL SERVICES),	:	
Appellee	:	January 14, 1988

On November 16, 1987, the above appeal was forwarded to the Board of Indian Appeals (Board) by the Deputy to the Assistant Secretary--Indian Affairs (Tribal Services) (Deputy Assistant Secretary). Appellant Larry D. Cournoyer apparently sought review by the Board of a decision or decisions made by the BIA in response to actions taken against him by the Yankton Sioux Tribe (tribe).

It was not clear from the notice of appeal precisely what BIA decision or decisions appellant was appealing. Therefore, the Board could not determine if the appeal was timely filed or within its jurisdiction. In a November 24, 1987 order to show cause, appellant was given an opportunity to further explain his appeal. The Board received appellant's response on January 4, 1988.

After extensive review of appellant's notice of appeal, response to the show-cause order, and supporting materials, the Board holds that appellant has not presented evidence sufficient to show he is appealing a final BIA decision within the Board's jurisdiction. The information appellant has submitted shows only two possible "decisions" from which appellant could appeal.

The first decision, which the Deputy Assistant Secretary indicated she believed was the decision under appeal, was issued by the Assistant Secretary--Indian Affairs (Assistant Secretary) on May 30, 1986. This decision concerned the validity of a May 1, 1985, special emergency meeting of the tribal council. The Board finds no evidence that appellant is attempting to appeal this decision.

The second "decision," which appellant indicated was the decision he was appealing, is an August 14, 1987 letter to appellant from the Deputy Assistant Secretary responding to letters from appellant to the Vice President and the Assistant Secretary. The August 14, 1987 letter concerns the jurisdiction of CFR courts and Federal enforcement of the Indian Civil Rights Act of 1968, 25 U.S.C. § 1302 (1982), in light of the Supreme Court's decision in Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978), and the general reluctance of the Federal government to intrude upon tribal self-government by intervening in intratribal disputes.

Appellant believes this letter represents the culmination of an administrative review process he began in 1985. He contends that he filed an administrative appeal with the agency Superintendent, who never responded. He then filed with the Assistant Secretary, who also did not respond. He states that his joint letter to the Vice President and Assistant Secretary was intended to force a response. Thus he argues that the August 14, 1987 letter from the Deputy Assistant Secretary is the response to this administrative appeal.

The Deputy Assistant Secretary apparently does not consider her August 14 letter to be part of an on-going administrative appeal, but rather a response to an inquiry, made on behalf of the Vice President.

The August 14 letter speaks in general terms about the creation and jurisdiction of CFR courts and the usual interaction between such courts and tribal autonomy. The general conclusion stated in the letter is that CFR courts do not have jurisdiction over intratribal disputes unless they are specifically given such authority by the tribe. This letter does not appear to have considered the specific jurisdiction of the Yankton Sioux CFR court.

The Board holds that the Deputy Assistant Secretary's August 14, 1987 letter to appellant merely discusses the general jurisdiction of CFR courts, and appellant has shown no final decision by BIA on which review can be granted.

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.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge