



INTERIOR BOARD OF INDIAN APPEALS

Estate of Charles Running Bird

21 IBIA 71 (12/03/1991)

Related Board case:  
24 IBIA 136



## United States Department of the Interior

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

ESTATE OF CHARLES RUNNING BIRD : Order Docketing and Dismissing  
: Appeal  
:  
: Docket No. IBIA 92-34  
:  
: December 3, 1991

On November 22, 1991, the Board of Indian Appeals received a notice of appeal from Phoebe Williams, through counsel, Krista H. Clark, Esq., Mission, South Dakota. Appellant stated that she was appealing an October 3, 1991, decision issued by Administrative Law Judge Elmer T. Nitzschke. The Board requested a copy of the October 3 decision from Judge Nitzschke's office; the copy was received on December 2, 1991. It is an order determining heirs and decree of distribution. The notice attached to the order correctly informed the parties that, if they were aggrieved by the decision, they were entitled to file a petition for rehearing with the Superintendent in accordance with 43 CFR 4.241.

Under 43 CFR 4.320, a party in interest may appeal to the Board from a "an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate." Because appellant has not sought rehearing from Judge Nitzschke, this appeal is premature.

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 without prejudice.

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//original signed

Anita Vogt  
Administrative Judge

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge