



INTERIOR BOARD OF INDIAN APPEALS

Ralph Dawson v. Muskogee Area Director, Bureau of Indian Affairs

21 IBIA 136 (01/07/1992)



United States Department of the Interior

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

RALPH DAWSON,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 92-106-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 7, 1992

On December 27, 1991, the Board of Indian Appeals received a notice of appeal from Ralph Dawson, pro se. Appellant seeks review of an October 21, decision of the Muskogee Area Director, Bureau of Indian Affairs, assessing additional royalties under an Osage oil and gas lease.

Appellant received the Area Director's decision on October 22, 1991, as shown by the certified mail return receipt. His notice of appeal is postmarked December 20, 1991. Accordingly, his appeal is untimely under 43 CFR 4.332(a), which requires that a notice of appeal be mailed "within 30 days after receipt by the appellant of the decision from which the appeal is taken." ^{1/} 43 CFR 4.332(a) further provides that "a notice of appeal not timely filed shall be dismissed for lack of jurisdiction."

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 for lack of jurisdiction.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge

^{1/} The Area Director purported to modify this provision of the Board's regulations; his decision stated that a notice of appeal "must be mailed within thirty days of the effective date of this decision (15 days from the date of this letter)." Although the Area Director has no authority to modify Board regulations, the Board normally accepts appeals filed in accordance with an Area Director's instructions, even where those instructions are incorrect. In this case, however, appellant's appeal is untimely under the Area Director's instructions as well as under the Board's regulations.