INTERIOR BOARD OF INDIAN APPEALS

Clifford Owl v. Eastern Area Director, Bureau of Indian Affairs

21 IBIA 172 (1992)

United States Department of the Interior

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

CLIFFORD OWL, Appellant	:	Order Dismissing Appeal as Moot
v.	:	
	:	Docket No. IBIA 92-9-A
EASTERN AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	February 5, 1992

Appellant Clifford Owl sought review of a September 20, 1991, decision of the Eastern Area Director, Bureau of Indian Affairs (BIA; Area Director), denying the renewal of appellant's Deputy Special Officer Commission (DSOC). At the time the appeal was filed, appellant was the Chief of Police for the Eastern Band of Cherokee Indians. The DSOC was necessary for appellant to continue in this position.

On January 3, 1992, the Area Director filed an answer and motion to dismiss this case. The motion to dismiss stated that by letter dated October 10, 1991, the Chairman of the tribal Community Services Committee informed appellant that he had been removed from his position as Chief of Police by vote of the Committee. The Area Director stated that under 68 Bureau of Indian Affairs Manual Supplement 1, 9.7(A), 1/ a DSOC must be returned to BIA if the person's employment is terminated. He concluded that because appellant was no longer qualified to hold a DSOC, his appeal from BIA's denial of the renewal of his DSOC was moot. The Area Director's motion to dismiss is supported in an answer brief filed by the Tribe.

Appellant did not respond to the motion to dismiss his appeal as moot. The Board finds that, inasmuch as appellant is not presently qualified to hold a DSOC, this appeal is moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Eastern Area Director's September 20, 1991, decision is dismissed as moot.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge

1/ This section states:

"Commissions shall be issued through the Chief Officer of the enforcement agency for which the applicant is a full time officer who shall agree in writing to assume responsibility for returning the commission to the issuing BIA Officer when one of the following Conditions exists:

"A. Holder terminates his employment as a full time peace officer for any reason."