



INTERIOR BOARD OF INDIAN APPEALS

Lillie Butler v. Acting Portland Area Director, Bureau of Indian Affairs

22 IBIA 186 (07/22/1992)



# United States Department of the Interior

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

LILLIE BUTLER,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 92-196-A
ACTING PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 22, 1992

On July 14, 1992, the Board of Indian Appeals received a notice of appeal from Lillie Butler, by means of a transmittal from the Portland Area Director, Bureau of Indian Affairs. The notice of appeal is dated July 1, 1992, and is addressed to the Portland Area Director. It indicates that appellant is attempting to challenge a June 4, 1992, decision of the Acting Portland Area Director, declining to take land into trust status for appellant's benefit.

The appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

The Area Director's decision concluded:

This decision may be appealed to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. \* \* \* You must send copies of your notice of appeal to (1) the Assistant Secretary - Indian Affairs, \* \* \* (2) each interested party known to you, and (3) this Office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. \* \* \*

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal. [Emphasis in original.]

Appellant has failed to file a timely notice of appeal. The Area Director's decision clearly informed her that her notice of appeal was to be filed with the Board and provided the Board's address. Appellant chose,

however, to file her notice of appeal with the Area Director. The Board has consistently held that a notice of appeal is not timely when the appellant has been given the correct appeal information but files his/her notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board outside the time period specified in the regulations. E.g., Baumann v. Acting Aberdeen Area Director, 21 IBIA 279 (1992); Roach v. Acting Billings Area Director, 20 IBIA 166 (1991), and cases cited therein.

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 as not being timely filed.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge