



INTERIOR BOARD OF INDIAN APPEALS

Allen Ross v. Aberdeen Area Director, Bureau of Indian Affairs

23 IBIA 136 (12/23/1992)



United States Department of the Interior

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

ALLEN ROSS,	:	Order Remanding Case
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 92-102-A
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 23, 1992

This is an appeal under 25 CFR 2.8, seeking to compel the Aberdeen Area Director, Bureau of Indian Affairs, to take action concerning the per capita distribution of gaming proceeds by the Flandreau Santee Sioux Tribe. Appellant alleges, inter alia, that per capita distributions are being made by the Tribe in violation of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721 (1988).

On December 11, 1992, the Board received a motion for remand from the Area Director. The Area Director seeks remand in order to take action on the Tribe's gaming revenue allocation ordinance under new guidelines which, he states, were approved by the Commissioner of Indian Affairs on November 23, 1992.

Appellant opposes the Area Director's motion, arguing, inter alia, that the Area Director's proposed action will not resolve the matter.

Although no signed copy of the new guidelines was furnished by the Area Director, the Board has now received a document entitled "Guidelines to Govern the Review and Approval of Per Capita Distribution Plans," which concerns the distribution of tribal gaming revenues. The document was signed by the Assistant Secretary - Indian Affairs on December 21, 1992.

The Board has considered appellant's objection but finds that this matter should be remanded to the Area Director so that he may act on the Tribe's ordinance under the newly approved guidelines. If appellant disagrees with the Area Director's decision approving or disapproving the Tribe's ordinance, he may appeal it under 25 CFR Part 2.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this matter is remanded to the Area Director for further action.

//original signed
Anita Vogt
Administrative Judge

//original signed
John H. Kelly
Administrative Judge
Alternate Member