



INTERIOR BOARD OF INDIAN APPEALS

Alvin Eugene Cole v. Acting Muskogee Area Director, Bureau of Indian Affairs

23 IBIA 295 (04/19/1993)

Denying reconsideration of:

23 IBIA 246

Further requests for reconsideration:

24 IBIA 12

24 IBIA 49



United States Department of the Interior

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

ALVIN EUGENE COLE,	:	Order Denying Reconsideration
Appellant	:	
v.	:	
	:	Docket No. IBIA 93-5-A
ACTING MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 19, 1993

On April 13, 1993, the Board of Indian Appeals (Board) received a filing from appellant Alvin Eugene Cole in the above case. The Board will treat this filing as a petition for reconsideration of its March 22, 1993, decision. 23 IBIA 246.

Reconsideration of cases before the Board is governed by 43 CFR 4.315, which provides in part that "[r]econsideration * * * will be granted only in extraordinary circumstances. The petition must * * * contain a detailed statement of the reasons why reconsideration should be granted."

In large part, appellant's filing raises the same arguments that the Board considered in its initial decision. The Board has consistently held that reconsideration is not appropriate when the petitioner merely repeats the same arguments that were previously considered. See, e.g., Estate of Seymour Senator, 23 IBIA 5 (1992); Hayes v. Acting Anadarko Area Director, 22 IBIA 175 (1992); Burchard v. Billings Area Director, 19 IBIA 276 (1991).

Appellant also objects that the Board denied him due process. It appears that this objection is based partly on the fact that the Muskogee Area Director did not file a brief. The filing of briefs with the Board by any party is permissive, not mandatory. The fact that the Area Director did not file a brief did not deny appellant due process. Furthermore, it did not constitute any form of admission by the Area Director, or mean that the Board was required to accept appellant's arguments.

Appellant's remaining due process arguments essentially object to the fact that the Board did not grant appellant the relief he requested. As the Board stated in its original decision, it considered appellant's arguments and claims, and determined that there was no authority to grant the relief he requested.

Therefore, pursuant to the authority granted to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1 and 4.315, this petition for reconsideration is denied. This decision is final for the Department of the Interior.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge