



INTERIOR BOARD OF INDIAN APPEALS

Jane Wyatt v. Acting Sacramento Area Director, Bureau of Indian Affairs

25 IBIA 37 (11/17/1993)



United States Department of the Interior

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

JANE WYATT,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 93-25-A
ACTING SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	November 17, 1993

Appellant Jane Wyatt 1/ seeks review of an October 20, 1992, decision issued by the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning an election controversy involving the Picayune Rancheria of the Chukchansi Tribe (Tribe). For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant was formerly the Chairperson of the Tribal Council. On April 3, 1992, a tribal election was held at which appellant was recalled from that position. The results of the recall election were recognized by the Superintendent of the Central California Agency, BIA (Superintendent), on May 28, 1992. Appellant appealed this decision to the Area Director, who affirmed it on October 20, 1992. Appellant then appealed to this Board.

A brief was filed on appeal by the Tribe. The Tribe argues that the appeal should be dismissed as moot because of valid subsequent tribal elections. The Board addresses this issue first.

Because the Tribe did not provide documentary evidence of subsequent elections and such evidence was not part of the administrative record, appellant replied that there was no proof that such elections occurred.

The Board contacted BIA and requested information relating to any subsequent tribal elections. It was informed that a tribal election was held on November 28, 1992. The information provided by BIA indicated that the election results had been recognized apparently on or about April 5, 1993, and that recognition was reaffirmed on October 8, 1993.

The Board takes official notice of these BIA records, which were not available to the Area Director at the time she made her decision. Accordingly, the Board finds that there has been a subsequent tribal election whose results have been recognized by BIA.

1/ Holly Wyatt was also named as an appellant in the notice of appeal. Appellant's opening brief indicates that this was an error.

Appellant argues, however, that dismissal is not supported by the Board's prior cases. Appellant contends that the Board's decisions in this area can be divided into three categories, none of which are applicable here.

Appellant reads the Board's prior cases too narrowly. The dispositive factor is that a valid tribal election was held subsequent to the disputed election. Regardless of the outcome of the subsequent election, or the identity of the persons who might have standing to contest it, the fact that a valid election was held renders moot questions relating to the prior election(s).

Here, a valid tribal election was held in November 1992, subsequent to the Area Director's decision. The Board concludes that this appeal was rendered moot by that election. See, e.g., Villegas v. Sacramento Area Director, 24 IBIA 150 (1993); Pinoleville Indian Community Governing Council v. Sacramento Area Director, 22 IBIA 176, 182 (1992), and cases cited therein.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. 4.1, this appeal from the Acting Sacramento Area Director's October 20, 1992, decision is dismissed as moot.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge