



INTERIOR BOARD OF INDIAN APPEALS

Julia Zatekaukaukomah Boettger v. Anadarko Area Director, Bureau of Indian Affairs

25 IBIA 250 (03/28/1994)



# United States Department of the Interior

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

JULIA ZATEKAUKAUKOMAH	:	Order Dismissing Appeal
BOETTGER,	:	
Appellant	:	
	:	
v.	:	Docket No. IBIA 94-20-A
	:	
ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 28, 1994

This is an appeal from an October 7, 1993, decision of the Anadarko Area Director, Bureau of Indian Affairs, declining to take a 2½-acre tract in Caddo County, Oklahoma, into trust status. After appellant's opening brief was filed, the Area Director moved to dismiss the appeal on the grounds that appellant's appeal to him, from the decision of the Acting Superintendent, Anadarko Agency, BIA, had been untimely.

On March 21, 1994, the Board denied the Area Director's motion, upon concluding that the administrative record contained no proof of the date appellant's notice of appeal from the Superintendent's decision was mailed or delivered to BIA.

On March 25, 1994, the Board received appellant's response to the Area Director's motion. In that response, appellant concedes that she filed her notice of appeal one day late. She contends, however, that BIA's appeal regulations are unclear with regard to the calculation of the appeal period.

The Superintendent's decision properly informed appellant that her notice of appeal must be mailed or delivered within 30 days of her receipt of the decision. The decision attached a copy of BIA's appeal regulations in 25 CFR Part 2. Further, it informed appellant that, if she was not represented by an attorney, she could request assistance from BIA. If appellant did not understand the appeal instructions and/or the regulations in 25 CFR Part 2, she could, and should, have requested assistance from BIA.

It is not clear why the Area Director did not dismiss appellant's appeal when it was pending before him. In light of appellant's present concession, the Board has no choice but to dismiss it at this time. E.g., Henderson v. Portland Area Director, 16 IBIA 169, 175 (1988), 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.

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Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge