



INTERIOR BOARD OF INDIAN APPEALS

Estate of Annie Greencrow Whitehorse

27 IBIA 136 (01/24/1995)

Judicial review of this case:

Statute held constitutional, *Klauser v. Babbitt*, 918 F.Supp. 274  
(W.D. Wisc. 1996)



# United States Department of the Interior

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

ESTATE OF ANNIE GREENCROW : Order Docketing and Dismissing  
WHITEHORSE : Appeal  
:   
: Docket No. IBIA 95-67  
:   
: January 24, 1995

Appellant David Jams Whitehorse Klauser seeks review of a November 21, 1994, order denying rehearing issued by Administrative Law Judge Frederick Lambrecht in the estate of Annie Greencrow Whitehorse (decedent). The notice of appeal states:

[Appellant] hereby makes notice of appeal in this matter regarding escheating of decedent's real property, to the Tribe \* \* \* without compensation, under the provisions of the Indian Land Consolidation Act \* \* \* [25 U.S.C. § 2206 (1988)], on the grounds that such action constitutes a taking of property without due process of law and without just compensation in violation of the 5th Amendment to the United States Constitution.

No other grounds for appeal are raised.

Judge Lambrecht's office provided a copy of the November 21, 1994, order denying rehearing. That order shows that the constitutionality of section 2206 was the only issue raised on rehearing.

As part of the Executive Branch of government, the Board lacks jurisdiction to declare an act of Congress unconstitutional. Estate of William Youpee, 22 IBIA 248 (1992); Estate of Shonie Curley, 17 IBIA 115 (1989). No purpose would be served by delaying resolution of this matter when it is clear that the Board has no jurisdiction to address the issues appellant raises.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from Judge Lambrecht's November 21, 1994, order denying rehearing is docketed and dismissed for lack of jurisdiction.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge