



INTERIOR BOARD OF INDIAN APPEALS

Kimberly Amundsen, et al. v. Minneapolis Area Director, Bureau of Indian Affairs

28 IBIA 1 (05/10/1995)



United States Department of the Interior

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

KIMBERLY AMUNDSEN, et al., Appellant	: Order Docketing and Dismissing : Appeal : :
v.	:
MINNEAPOLIS AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	: Docket No. IBIA 95-92-A : : : May 10, 1995

This is an appeal from a February 17, 1995, decision of the Minneapolis Area Director, Bureau of Indian Affairs, approving Shakopee Mdewakanton Sioux Enrollment Ordinance 12-28-94-005. The appeal was filed by a number of individuals, some of whom are applicants for membership in the Shakopee Mdewakanton Sioux Community, 1/ and others of whom are presently members of the Community. 2/

Because it appeared that the appellants lacked standing to bring this appeal under Feezor v. Minneapolis Area Director, 25 IBIA 296 (1994), the Board ordered them to show why their appeal should not be dismissed. Appellants' response was received by the Board on April 27, 1995. The Community filed a reply, which was received by the Board on May 8, 1995.

Appellants contend that their appeal is not controlled by Feezor because "[i]n that case, the IBIA held that a tribal member does not have standing to challenge an action of the Area Director simply because he or she believes the approved Ordinance is not in the best interest of the tribe" (Appellants' response at 5). This case is distinguishable, appellants contend, because "each appellant can demonstrate that he or she has suffered injury in fact, and is not merely concerned with the best interest of the tribe" (Id.).

Appellants read Feezor too narrowly. The Board there dismissed appeals filed by individuals, both members and non-members of the Community, who alleged that they had suffered personal injury as a result of the approval

1/ These are: Kimberly Amundsen, John Bluestone, Brian Hester, David Hester, Kaye Hester, Teresa Johnson, Beverly Kosin, Kirk Leith, Forest Leith, Shahn Leith, Gary Prescott, Jacqueline Prescott, Jerome Prescott, Stacy Prescott, Kathleen Rykus, Terri Schmitt, Richard Scott, Robert Scott, Karen Swann, and Dorothy Whipple.

2/ These are: Louise Smith, Winifred Feezor, Cecilia Stout, Todd Brooks, Mary Jo Gustafson, Jay Hove, Tina Hove, Alan Prescott, Cynthia Prescott, Denise Prescott, Leonard Prescott, Patricia Prescott, Robert Prescott, and Tanya Prescott.

or disapproval of various Community ordinances. The Board stated that "the guiding principle of [its decisions in this area] is the Federal policy of respect for tribal self-government, which counsels that the Department refrain from interfering in intra-tribal matters." 25 IBIA at 298. Further, it stated that, "[w]here a tribal forum is available, as it is here, it is particularly inappropriate for the Board to intrude." Id. The Board continues to be guided by the principles discussed in Feezor. See, e.g., Hunt v. Aberdeen Area Director, 27 IBIA 173 (1995). The fact that appellants allege personal injury is not sufficient to give them standing before the Board in a matter where they would not otherwise have standing.

Appellants also appear to be contending that they have standing here because they are alleging violations of the Indian Civil Rights Act (ICRA), 25 U.S.C. § 1302 (1988). As with their other challenges to the ordinance, this allegation belongs in tribal court. See Santa Clara Pueblo v. Martinez, 436 U.S. 49, 65 (1978) ("Tribal forums are available to vindicate rights created by the ICRA * * *. Tribal courts have repeatedly been recognized as appropriate forums for the exclusive adjudication of disputes affecting important personal and property interests of both Indians and non-Indians"). Cf. Mosay v. Minneapolis Area Director, 27 IBIA 126 (1995) (Appellants may not bypass a tribal forum in order to allege violations of ICRA before BIA).

This appeal is controlled by Feezor. Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is docketed and dismissed for lack of standing.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge