



INTERIOR BOARD OF INDIAN APPEALS

Peter Trevino, Jr. v. Sacramento Area Director, Bureau of Indian Affairs

28 IBIA 129 (08/01/1995)

Reconsideration denied:
28 IBIA 140



United States Department of the Interior

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

PETER TREVINO, JR.,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	Docket No. IBIA 95-93-A
	:	
ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 1, 1995

Appellant Peter Trevino, Jr., sought review of a March 10, 1995, decision issued by the Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), revoking Certificates of Eligibility for Indian Allotment on Public Domain Land which had previously been issued to appellant and to his grandmother, Hilaria Olivarria Lopez. Appellant's notice of appeal states in its entirety:

I would like to Appeal the decision made on March 10, 1995. A copy of the decision is enclosed. I would like to request assistance from the [BIA] to aid me in the appeal process.

I hereby certify that I have mailed a copy of this letter to the parties identified on the enclosed "List of Interested Parties."

In its March 24, 1995, predocketing notice, the Board addressed appellant's request for BIA assistance:

[A]ppellant states that he is requesting assistance from BIA in the appeal process. The Board has previously held that the BIA assistance contemplated in the regulations is limited to providing access to BIA records and other relevant Government documents and to serving the appellant's filings on other interested parties. The assistance does not include preparing the appellant's filings, or providing an attorney. Any questions which appellant has with appeal procedures should be addressed to the Board. [Emphasis in original.]

See also Evans v. Sacramento Area Director, 28 IBIA 124, 127 (1995).

Although the Board advised appellant of his right to file a brief and of the fact that he bore the burden of proving the error in the Area Director's decision, appellant made no further filings.

The Board has frequently stated that an appellant bears the burden of proving the error in the decision being appealed. An appellant who fails to make any allegation concerning how the Area Director's decision is in error, let alone any argument in support of such an allegation, has not carried his burden of proof. See, e.g., Fort McDermitt Paiute-Shoshone Tribe v. Acting Phoenix Area Director, 27 IBIA 162 (1995), and cases cited therein. Appellant has failed to carry his burden of proof here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Anadarko Area Director's March 10, 1995, decision is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge