



INTERIOR BOARD OF INDIAN APPEALS

Estate of Richard G. Kihega, Sr.

28 IBIA 195 (09/13/1995)



United States Department of the Interior

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

ESTATE OF RICHARD G. : Order Affirming Decision
KIHEGA, SR. :
: Docket No. IBIA 95-108
:
: September 13, 1995

Appellant Charles Kihega sought review of a March 17, 1995, order denying rehearing issued by Administrative Law Judge Richard L. Reeh in the estate of Richard G. Kihega, Sr., IP OK 54 P 94-1. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant's notice of appeal states in its entirety:

This letter shall constitute my Notice of Appeal of the March 17th, 1995, decision of Richard L. Reeh, Administrative Law Judge, Oklahoma City, ordering that my Petition for Rehearing be Denied. This is in the Matter of the Estate of Richard G. Kihega, Sr., deceased Pawnee, IP OK 54 P 94-1.

I urge that Judge Reeh's Order Denying the Petition for Rehearing be reversed, that this probate be reopened and that the Order Approving Will and Decree of Distribution issued in this case on March 18, 1994, be re-examined in light of the evidence. A statement of the errors of fact and the law upon which this appeal is based will be filed with my arguments at a later date after I receive your Pre-Docketing Notice.

A copy of the March 17, 1995, Order Denying Petition for Rehearing is enclosed.

The Board issued a notice of docketing in this appeal on July 5, 1995. The notice informed appellant that his opening brief was due 30 days from his receipt of the notice of docketing and that he bore the burden of proving the error in the decision being appealed. The return receipt card for appellant's copy of the notice of docketing shows that appellant received the notice on July 20, 1995.

Appellant did not file an opening brief.

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 Administrative Law Judge'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., Estate of Grace American

Horse Tallbird, 26 IBIA 87 (1994); Estate of Thomas Sun Goes Slow, 23 IBIA 99 (1992), and cases cited therein. Appellant has failed to allege any error in Judge Reeh's decision and has therefore failed to carry his burden of proof.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, Administrative Law Judge Reeh's order of March 17, 1995, is affirmed.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge