



INTERIOR BOARD OF INDIAN APPEALS

Dana Cassadore v. Acting Phoenix Area Director, Bureau of Indian Affairs

29 IBIA 288 (08/20/1996)

Related Board case:
30 IBIA 100



United States Department of the Interior

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

DANA CASSADORE, : Order Docketing and Dismissing
Appellant : Appeal
: :
v. : :
: Docket No. IBIA 96-106-A
ACTING PHOENIX AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : August 20, 1996

This is an appeal from an April 9, 1996, memorandum appointing a magistrate for the Court of Indian Offenses for the Te-Moak Tribes (Tribe). The memorandum was signed by the Acting Phoenix Area Director, Bureau of Indian Affairs (Area Director; BIA), and addressed to the Superintendent, Eastern Nevada Agency, BIA.

The Board received appellant's notice of appeal on August 19, 1996. Appellant contends that his appeal is timely because the Area Director's memorandum failed to provide appeal information. He also contends that he has standing to bring the appeal because he is a member of the Tribe and is an advocate in the Court of Indian Offenses for the Tribe.

The Area Director's April 9, 1996, memorandum states:

Te-Moak Council Resolution No. 96-TM-26 requests the Assistant Secretary or designee to appoint Mr. Richard Pfeifer as the Magistrate for the Te-Moak Court of Indian Offenses. This action satisfies the requirements under 25 CFR §11.201 (a) which states that the selection of the magistrate is confirmed by a majority vote of the tribal governing body of the tribe occupying the Indian country over which the court has jurisdiction.

Pursuant to the delegated authority vested in this Office by 25 CFR §11.201, Mr. Richard Pfeifer is appointed Magistrate for the Trial Division of the Court of Indian Offenses for the Te-Moak Bands of Western Shoshone. Mr. Pfeifer shall serve a term of four years unless removed for cause or the office is abolished.

Appellant contends that the Area Director lacked the authority to appoint magistrates for the Te-Moak Court of Indian Offenses under Departmental delegations of authority. As relief, he requests:

1. THAT Mr. Richard Pfeifer be properly appointed magistrate through waiver by the Assistant Secretary - Indian Affairs,

2. THAT all prior cases heard by Mr. Pfeifer in the Court of Indian Offenses for the Te-Moak Tribe be dismissed,

3. THAT all previous cases heard by magistrates appointed by Phoenix Area Office personnel be dismissed,

4. THAT all Phoenix Area Office personnel who have appointed CFR Magistrates be terminated.

Assuming arguendo that the Board has jurisdiction over an appeal from the appointment of a magistrate for a Court of Indian Offenses, the Board finds that neither appellant's status as a member of the Tribe nor his position as an advocate in the Te-Moak Court of Indian Offenses vests him with a legal interest in the identity of the individual appointed as a magistrate or in the manner of appointment of magistrates by BIA. Accordingly, the Board finds that appellant lacks standing here.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed but is dismissed for lack of standing.

//original signed
Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge