



INTERIOR BOARD OF INDIAN APPEALS

Pete Dennis v. Acting Albuquerque Area Director, Bureau of Indian Affairs

32 IBIA 128 (04/14/1998)



# United States Department of the Interior

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

PETE DENNIS,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	Docket No. IBIA 98-54-A
	:	
ACTING ALBUQUERQUE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 14, 1998

Appellant Pete Dennis sought review of a December 9, 1997, decision issued by the Acting Albuquerque Area Director, Bureau of Indian Affairs (Area Director), concerning an order to vacate land owned by the Santo Domingo Pueblo. The Board of Indian Appeals (Board) received Appellant's Notice of Appeal on January 12, 1998. In its January 13, 1998, Predocketing Notice, the Board informed the parties that the Area Director's decision had improperly stated that the appeal to the Board was to be taken under 25 C.F.R. Part 2. The Board clarified that the appeal was under 43 C.F.R. Part 4.

The Board received a telefax (fax) copy of a Statement of Reasons from Appellant on February 9, 1998. The Statement indicated that it was filed under 25 C.F.R. §§ 2.9(b) and 2.12(a).

In a February 10, 1998, Notice of Docketing, the Board repeated that this appeal was governed by regulations in 43 C.F.R. Part 4. It also noted that the fax copy of the Statement of Reasons did not show service on interested parties. <sup>1/</sup> The Board informed Appellant that 43 C.F.R. §§ 4.310(b) and 4.333(a) require service of all documents filed with the Board on all interested parties, and stated:

Appellant must \* \* \* serve interested parties with a copy of his Statement of Reasons and must certify to the Board that he has done so. Those interested parties of whom the Board is aware are listed on the attached Distribution List. Appellant is advised that failure to serve interested parties may result in the dismissal of this appeal for failure to prosecute.

Notice of Docketing at page 2.

On February 12, 1998, the Board received the original of Appellant's Statement of Reasons. That document also fails to show service on interested parties.

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<sup>1/</sup> The Board does not accept filings by fax without prior permission. Appellant was so advised in the Notice of Docketing.

The Board's Notice of Docketing was sent to Appellant's counsel by return receipt mail. The return receipt (green card) shows that the Notice was received on February 17, 1998.

Appellant has not certified to the Board that he served copies of his Statement of Reasons on interested parties.

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 the Acting Albuquerque Area Director's December 9, 1997, decision is dismissed for failure to prosecute.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge