



INTERIOR BOARD OF INDIAN APPEALS

Cliv Dore v. Eastern Area Director, Bureau of Indian Affairs

32 IBIA 187 (06/02/1998)

Related Board cases:

31 IBIA 173

32 IBIA 264



United States Department of the Interior

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

CLIV DORE,	:	Order Docketing Appeal, Vacating
Appellant	:	Decision, and Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 98-78-A
EASTERN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 2, 1998

Appellant Cliv Dore sought review of a February 18, 1998, decision of the Eastern Area Director, Bureau of Indian Affairs (Area Director), concerning recognition of the tribal leadership for the Passamaquoddy Tribe, Pleasant Point Reservation. The primary contention raised in Appellant's Notice of Appeal was that the Area Director's decision was premature because the matter was pending before the Passamaquoddy Appellate Court. Based on this assertion, the Board of Indian Appeals (Board) requested position statements from the parties.

Statements have been received from the Sipayik Tribal Council, the Area Director, and Appellant. The Sipayik Tribal Council and the Area Director contend that the Passamaquoddy Appellate Court should be permitted to decide the case before it. Appellant argues:

Probably, the most sensible and expeditious way to resolve this case is to ask the Tribal Appellate Court whether it intends to take jurisdiction of the merits of this dispute within the Passamaquoddy Tribal Court System.

If the Passamaquoddy Appellate Court is not going to approve jurisdiction, then the most sensible course to follow is to leave this case before the [Board] to be resolved as soon as possible for the good of the tribe.

Accordingly, the Appellant requests that the [Board] inquire of the Appellate Court, whether this case should stay before the [Board] for final resolution.

Appellant's Position Statement at 1.

The Board agrees with the Sipayik Tribal Council and the Area Director that this matter should be initially addressed by the Passamaquoddy Appellate Court. The Board believes that this is the proper procedure to follow regardless of whether the Appellate Court's decision addresses the merits of Appellant's appeal or holds that the tribal court system lacks subject matter jurisdiction.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Eastern Area Director's February 18, 1998, decision is docketed and the decision is vacated. This matter is remanded to the Area Director for further action as appropriate following the entry of a decision by the Passamaquoddy Appellate Court.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge