



INTERIOR BOARD OF INDIAN APPEALS

Roger Williams v. Phoenix Area Director, Bureau of Indian Affairs

33 IBIA 22 (09/22/1998)

Related Board cases:

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United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ROGER WILLIAMS, Appellant v. PHOENIX AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	: Order Docketing and Dismissing Appeal : : : : Docket No. IBIA 98-121-A : : : September 22, 1998
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Appellant Roger Williams filed an appeal with the Board of Indian Appeals (Board) under 25 C.F.R. § 2.8, seeking review of the failure of the Phoenix Area Director, Bureau of Indian Affairs (Area Director; BIA), to respond to a June 29, 1998, request for decision. By order dated July 31, 1998, the Board requested that the Area Director provide it with information concerning the status of this matter before him.

The Area Director responded that he was addressing the appeal before him and, barring unforeseen circumstances, expected to issue a decision by October 1, 1998.

In Shaahook Group of Capitan Grande Band of Diegueno Mission Indians v. Director, Office of Tribal Services, 27 IBIA 43, 45 (1994), the Board stated:

[T]he information before the Board is that the Director is working on appellant's request, although [the Director's] * * * letter did not precisely meet the requirements of 25 CFR 2.8. Section 2.8 is an action-forcing mechanism. It has been the Board's experience that when BIA is working on a response to a request for action under section 2.8, even though BIA has not technically met all of the requirements of that section, it is more beneficial to the parties to allow BIA to complete its review, and issue a decision. [The Board] sees no reason to believe that this case is different.

See also Hackford v. Phoenix Area Director, 30 IBIA 270 (1997).

The Board sees no reason to believe that the present case is different. Therefore, the Board dismisses this appeal so that the Area Director may continue to address, and perhaps resolve, Appellant's concerns.

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 is docketed and dismissed without prejudice. If Appellant disagrees with the decision he receives from the Area Director, he may appeal that decision to the Board in accordance with the appeal instructions which the Area Director will include in his decision.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge