



INTERIOR BOARD OF INDIAN APPEALS

Calvin C. Hackford v. Phoenix Area Director, Bureau of Indian Affairs

33 IBIA 274 (05/03/1999)

Denying reconsideration of:
33 IBIA 144

Related Board case:
30 IBIA 270



United States Department of the Interior

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

CALVIN C. HACKFORD,
Appellant

v.

ACTING PHOENIX AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Denying Reconsideration
:
:
:
: Docket No. IBIA 97-124-A
:
:
: May 3, 1999

Appellant Calvin C. Hackford filed a petition for reconsideration of the decision which the Board of Indian Appeals (Board) issued in the above case on January 27, 1999. 33 IBIA 144. For the reasons discussed below, the Board denies reconsideration.

Most of Appellant's petition shows general disagreement with the Board's decision. In part, Appellant attempts to remedy the fact that his arguments were not clearly set forth in his prior filings. Although not required to do so, the Board has considered Appellant's new statement of his arguments and finds nothing that causes it to reverse its prior decision.

Appellant also contends that his appeal was affected by a decision issued by the Assistant Secretary - Indian Affairs on October 2, 1998. Although this decision was issued several months before the Board's January 1999 decision, Appellant did not bring it to the Board's attention while his case was still pending before the Board. Despite this fact, the Board took Appellant's petition under advisement in order to review the Assistant Secretary's decision to determine if it had any impact on this matter.

Pursuant to a Board order, the Phoenix Area Director, Bureau of Indian Affairs (Area Director), provided the Board with a copy of the Assistant Secretary's decision. The Area Director and the Ute Indian Tribe both filed responses to Appellant's petition which argued that the Assistant Secretary's decision was not relevant to this appeal. In responding to the Area Director's filing, Appellant contested the suggestion that he had not properly served his petition on the Area Director, but did not address the substance of the Area Director's argument that the Assistant Secretary's decision was not relevant to this appeal.

The Assistant Secretary's decision was issued in the context of a remand from the United States District Court for the District of Utah in Ute Distribution Corp. v. Secretary of the Interior, Civil No. 2:95CV0376W. As stated by the Assistant Secretary, the issue before him was

“Whether the Ute Indian Tribe’s Water Rights Were Partitioned to the Mixed-Bloods Pursuant to” 25 U.S.C. § 677i (1994). Oct. 2, 1998, Decision at 5.

The Board has carefully read the Assistant Secretary’s decision, with special emphasis on the paragraph and footnote on page 19 which Appellant cites.

Appellant’s appeal was taken from a decision of the Acting Phoenix Area Director which held that Appellant was, for Federal purposes, a mixed-blood Ute. The issue which the Area Director addressed, and which was therefore before the Board, was Appellant’s assertion that the Department should declare him to be a member of the Uintah Band. The Board affirmed the Area Director’s holding. Nothing in the Assistant Secretary’s decision causes the Board to alter that conclusion.

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 petition for reconsideration is denied.

This decision is final for the Department of the Interior.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge