



INTERIOR BOARD OF INDIAN APPEALS

Michael J. James v. Rocky Mountain Regional Director, Bureau of Indian Affairs

35 IBIA 220 (10/24/2000)

Reconsideration denied:
35 IBIA 253



United States Department of the Interior

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

MICHAEL J. JAMES, Appellant	:	Order Docketing Appeal and Affirming Decision
	:	
v.	:	
	:	Docket No. IBIA 01-7-A
ROCKY MOUNTAIN REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	
	:	October 24, 2000

On October 10, 2000, the Board of Indian Appeals (Board) received a notice of appeal from Michael J. James (Appellant). Appellant seeks review of a September 14, 2000, decision issued by the Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning the estate of Appellant's mother, Nel R. Miller (decedent). For the reasons discussed below, the Board affirms the Regional Director's decision.

Appellant apparently sought an "administrative remedy" from the Superintendent, Fort Peck Agency, BIA, in regard to the distribution of the trust assets in decedent's estate. He appealed the Superintendent's response to the Regional Director on or about June 28, 2000.

According to the Regional Director's September 14, 2000, decision, Administrative Law Judge Vernon J. Rausch issued an order determining decedent's heirs on May 28, 1992. TC 100R 87. Appellant asked BIA to reclaim and redistribute the trust assets in decedent's estate in a manner that differs from the distribution ordered by Judge Rausch.

The Regional Director informed Appellant that BIA lacks authority to distribute the trust assets of an estate in a way that differs from the distribution ordered by the Administrative Law Judge. In essence, the Regional Director held that he lacks authority to grant the relief Appellant was requesting. The Board agrees.

Appellant cannot obtain the relief he seeks through this proceeding, or any other proceeding before BIA. If Appellant wishes to challenge the distribution of decedent's estate, he must do so in accordance with 43 C.F.R. § 4.242(h), which provides procedures for seeking to reopen the probate of a Indian estate after more than 3 years.

If Appellant wishes to attempt to reopen this estate, he should file his petition to reopen with Administrative Law Judge Robert Holt, who has probate jurisdiction over the Fort Peck Reservation. Judge Holt's address is 301 North 27th Street, Suite 300, Billings, MT 59101-1260.

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 is docketed, and the Regional Director's decision is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge