



INTERIOR BOARD OF INDIAN APPEALS

Estate of Jesse James Lahr Kellerher

36 IBIA 175 (06/11/2001)

Reconsideration denied:

36 IBIA 206

36 IBIA 294



## United States Department of the Interior

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

ESTATE OF JESSE JAMES LAHR : Order Dismissing Appeal  
KELLERHER :  
: Docket No. IBIA 01-113  
:  
: June 11, 2001

On April 26, 2001, the Board of Indian Appeals received a notice of appeal from Shirley Lahr Lappier (Appellant), in which she sought review of a February 26, 2001, order denying rehearing issued in the Estate of Jesse James Lahr Kellerher (Decedent) by Administrative Law Judge Robert G. Holt.

Appellant stated that she was appealing in her capacity as a witness to Decedent's October 21, 1993, will. That will was disapproved by Administrative Law Judge Keith L. Burrowes on September 17, 1996, in an order which also approved Decedent's earlier will dated April 4, 1991. Judge Holt's order denying rehearing let stand Judge Burrowes' September 17, 1996, order.

Appellant did not contend in her notice of appeal that she was a devisee under either of Decedent's wills. Nor did she allege any other facts that would give her standing to bring this appeal. She stated only that she "question[ed] all of the decedent[s] land going to his niece and not his children." Notice of Appeal at 1. The Board therefore ordered her to show that she had standing to bring this appeal. The Board's order stated: "In order to show standing, Appellant must show that she has an actual or presumptive interest in Decedent's estate. It is not sufficient for standing purposes that she was a witness to Decedent's October 21, 1993, will."

In her response, Appellant states that she is appealing on behalf of Theodore Lappier and Daniel Kellerher. She attaches a power of attorney from Theodore Lappier dated May 16, 2001. She states that Daniel Kellerher has also executed a power of attorney but that she has not yet received it.

Theodore Lappier, who is Appellant's son, was a devisee under Decedent's October 21, 1993, will. Daniel Kellerher is Decedent's son. Both would have standing to appeal Judge Holt's order denying rehearing. However, neither filed a timely notice of appeal.

Appellant's notice of appeal gave no indication that she was representing either or both of these individuals. The only document that could be construed as a notice of appeal filed on

their behalf is Appellant's response to the Board's order to show standing. That response was postmarked June 4, 2001, and is clearly untimely as a notice of appeal from Judge Holt's February 26, 2001, order.

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 dismissed for lack of standing. Further, to the extent Appellant's filing postmarked June 4, 2001, may be deemed to be a notice of appeal on behalf of Theodore Lappier and Daniel Kellerher, the appeal is dismissed as untimely.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge