



INTERIOR BOARD OF INDIAN APPEALS

B. B. v. Rocky Mountain Regional Director, Bureau of Indian Affairs

39 IBIA 48 (05/21/2003)

This decision has been redacted under 5 U.S.C. § 552(b)(6) by substituting initials for certain names.

Reconsideration denied:

39 IBIA 66



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

B. B.,	:	Order Docketing and Dismissing
Appellant	:	Appeal and Remanding Matter
	:	to the Regional Director for
v.	:	Clarification of Intent
	:	
ROCKY MOUNTAIN REGIONAL	:	Docket No. IBIA 03-93-A
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	May 21, 2003

On May 5, 2003, the Board of Indian Appeals (Board) received a notice of appeal from B. B. (Appellant). The appeal was filed with the Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director; BIA), who transmitted it to the Board. For the reasons discussed below, the Board docketed this appeal but dismisses it for lack of jurisdiction. It also remands the matter to the Regional Director for clarification of his intent as to the finality of his decision.

Appellant seeks review of a decision which the Regional Director issued on March 20, 2003. The Regional Director affirmed a decision issued by the Superintendent, Fort Belknap Agency, BIA, involving Appellant's request for payment from judgment funds awarded to the Gros Ventre Tribe of the Fort Belknap Indian Community in Pub. Law No. 97-408. The reason Appellant was denied a share in the judgment fund involved, at least in part, the calculation of her blood quantum.

The Regional Director informed Appellant that she could appeal his decision to the Board. However, as noted above, Appellant filed her appeal with the Regional Director, indicating that the appeal was to the Assistant Secretary - Indian Affairs (Assistant Secretary).

Appellant provided a statement of reasons with her notice of appeal. The statement shows that she has issues relating to the initial calculation of her blood quantum, a possible change to that calculation by BIA, and actions taken by the Gros Ventre Treaty Committee, perhaps at least in part based on BIA's calculation of her blood quantum.

Appeals concerning Indian blood quantum determinations are governed by 25 C.F.R. Part 62. Section 62.4(a) sets out those circumstances under which an individual has a right of appeal within the Department:

(a) A person who is the subject of an adverse enrollment action may file or have filed on his/her behalf an appeal. An adverse enrollment action is:

(1) The rejection of an application for enrollment by a Bureau official incident to the preparation of a roll for Secretarial approval;

(2) The removal of a name from a tribal roll by a Bureau official incident to review of the roll for Secretarial approval;

(3) The rejection of an application for enrollment or the disenrollment of a tribal member by a tribal committee when the tribal governing document provides for an appeal of the action to the Secretary;

(4) The change in degree of Indian blood by a tribal committee which affects a tribal member when the tribal governing document provides for an appeal of the action to the Secretary;

(5) The change in degree of Indian blood by a Bureau official which affects an individual;

(6) The certification of degree of Indian blood by a Bureau official which affects an individual.

It is possible that Appellant's appeal falls under one or more of these provisions. The Board does not have sufficient information before it to make such a determination. However, for purposes of this decision, the Board presumes that the Regional Director's decision falls under one or more of these provisions and that it was not based on a tribal decision which the Department lacks authority to review.

Appeal procedures for adverse enrollment actions are found in 25 C.F.R. § 62.10. Subsection 62.10(a) provides that when a Superintendent has taken an adverse enrollment action, any appeal is to the Regional Director. The subsection further states: "The [Regional] Director shall make a decision on the appeal which shall be final for the Department [of the Interior] and shall so state in the decision. * * * Provided that, the [Regional] Director may waive his/her authority to make a final decision and forward the appeal to the Assistant Secretary for final action." See Stogsdill v. Southern Plains Regional Director, 35 IBIA 157, 158 (2000), and cases cited there.

