



INTERIOR BOARD OF INDIAN APPEALS

Estate of Gerald Leo Brown

39 IBIA 109 (08/28/2003)

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



## United States Department of the Interior

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

ESTATE OF GERALD LEO BROWN : Order Dismissing Appeal  
:   
: Docket No. IBIA 03-105  
:   
: August 28, 2003

Appellant Donita J. King sought review of a May 28, 2003, order denying reopening issued in the estate of Decedent Gerald Leo Brown by Administrative Law Judge Robert G. Holt. Probate BI-278-D-76. The Board of Indian Appeals (Board) dismisses this appeal for failure to prosecute.

In a June 16, 2003, order, the Board made both procedural and substantive observations about Appellant's notice of appeal. Substantively, it noted:

According to Judge Holt's order, Appellant sought reopening of Decedent's estate in order "to delete R. B. ("R. B.") as an heir of Decedent," May 28, 2003, Order at 1, because, Appellant alleged, R. B. was not Decedent's sister. The Judge found that an order determining Decedent's heirs was issued on December 15, 1976, and an order after reopening was issued on January 17, 1979. He further found that those orders determined that Decedent's heirs were his eight surviving children, and that they did not determine relationships to Decedent of persons other than his surviving children. Specifically, the Judge found that R. B. was not named as an heir of Decedent.

Judge Holt addressed Appellant's petition for reopening further by examining the question of whether the materials which Appellant submitted proved that R. B. was not Decedent's sister. He found that the materials did not make this showing. In fact, he found that, contrary to Appellant's allegations, R. B. had been found to have this relationship within the family in two prior probates for family members who died in 1959 and 1969.

Based on these findings, Judge Holt denied Appellant's petition for reopening. Appellant subsequently filed a large amount of material with the Board.

The materials which Appellant submitted to the Board primarily relate to her welfare assistance; her allegations that R. B. added her own name to the list of Decedent's heirs after Decedent's death; has victimized Appellant and her family for 40 years; and has stolen someone's, perhaps Appellant's, identity; and that Appellant's father had an oil well from which Appellant has not been receiving income, perhaps because of R. B.'s alleged identity theft. It appears from the materials Appellant submitted to the Board that all of these allegations have been addressed either in probate decisions or in communications with Appellant by BIA [the Bureau of Indian Affairs].

Procedurally, the Board noted that Appellant had failed to serve copies of her notice of appeal on the interested parties. It gave her until July 25, 2003, in which to serve interested parties and to certify to the Board that she had done so. The Board stated: "If Appellant fails to send copies of the materials she has filed with the Board to interested parties or fails to notify the Board that she has done so, the Board will dismiss this appeal for failure to prosecute." Order at 2.

The Board also gave Appellant until July 25, 2003, to tell it if she intended to appeal from decisions issued by BIA in addition to appealing Judge Holt's order.

The Board has received nothing further from Appellant.

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 from Judge Holt's May 28, 2003, order denying reopening is dismissed for failure to prosecute.

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge

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//original signed

Kathleen R. Supernaw  
Acting Administrative Judge