



INTERIOR BOARD OF INDIAN APPEALS

Darryl J. Williams, Clarence A. Laiti, and Katherine Miyasato
v. Alaska Regional Director, Bureau of Indian Affairs

39 IBIA 140 (09/26/2003)

Related Board case:
39 IBIA 113



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

DARRYL J. WILLIAMS, CLARENCE A. LAITI, and KATHERINE MIYASATO, Appellants	:	Order Dismissing Appeal
	:	
	:	
	:	
v.	:	Docket No. IBIA 01-107-A
	:	
ALASKA REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	September 26, 2003

This is an appeal concerning a tribal governmental dispute within the Douglas Indian Association (Association). The matter first came before the Board of Indian Appeals (Board) on March 21, 2001, when the Board received a January 25, 2001, notice of appeal filed by Appellants Darryl J. Williams, Clarence A. Laiti, and Katherine Miyasato. The notice of appeal, and an administrative record, were transmitted to the Board by the Alaska Regional Director, Bureau of Indian Affairs (Regional Director; BIA).

The record transmitted did not include a copy of any decision issued by a BIA official. Nor did Appellants' notice of appeal specifically identify the decision appealed from or attach a copy of any decision. The Board therefore ordered both Appellants and the Regional Director to furnish copies of the decision being appealed.

Both parties submitted responses which made it apparent that no written decision had been issued prior to the time Appellants filed their notice of appeal. However, both Appellants and the Regional Director furnished copies of a March 1, 2001, letter from the Regional Director to Dorothy Owen, President, Douglas Indian Association, stating that, pending tribal resolution of an election dispute, BIA recognized as the Association's governing body the Council that was in office prior to January 8, 2001. Because this letter clearly appeared to address the issue about which Appellants were concerned, the Board concluded that no purpose would be served by requiring Appellants to file another notice of appeal, and therefore accepted the March 1, 2001, letter as the decision under appeal.

This particular controversy apparently arises from the December 27, 2000, enactment of Resolution 12-03-2000, which censured Appellants and required that they resign as Council members. A tribal election was scheduled for January 8, 2001. Between December 27, 2000, and January 8, 2001, the two groups within the Council were at odds. One group attempted to cancel the January 8, 2001, election, while the other group went ahead and held the election. Although one group attempted to invalidate the results of the January 8, 2001, election, the other transmitted the results to BIA.

The Regional Director's March 1, 2001, letter stated:

[BIA] cannot resolve and does not intervene in internal tribal disputes. Having said that, however, we do have an obligation to maintain the government to government relationship and, in order that the tribe is able to be represented by a single voice while your internal processes are allowed to do their job, please be advised that we presently recognize that body which was in place prior to January 8, 2001. We understand that it was/is the body presided over by [Owen] as president.

We understand too that you have scheduled a new election within the next several weeks that will, hopefully resolve the dispute currently plaguing the tribe. We wish the tribe success with the new election and hope the tribal government will become stabilized as quickly as possible.

The Board issued a notice of docketing for this appeal on April 30, 2001. In that notice it stated: "If, during the course of this appeal, a new election is held by the Association, the Regional Director is requested to advise the Board." (Emphasis omitted.)

The case was fully briefed by the two disputing groups. When it began review of the appeal, the Board discovered that Article III, sec. 2, of the Association's Constitution called for annual elections in January of each year. Accordingly, by order dated March 7, 2002, it asked the Regional Director to file a report on whether the Association held its regular election in January 2002 and, if so, whether BIA had recognized the results of that election.

The Regional Director's response indicated that no election was held in January 2002, but that he was actively working with the Association to assist it in conducting a new election which was scheduled for May 2002. Based on this information, the Board stayed further proceedings in this appeal pending the results of the May 2002 election.

Through periodic status reports, the Board was informed that problems continued with the holding of a new election. However, the Board extended its stay based on the fact that the Association was working with the Regional Director in an attempt to hold a new election.

An election was finally held on March 3, 2003. Although by the time this election was held, new members should have been elected to all nine Council seats, only four of the seats were listed on the ballot. Despite this, the Regional Director recognized the four new Council members and started working with the new Council to hold an election to fill all nine seats. An election for all nine seats was held on May 27, 2003, and the nine newly elected Council members were sworn into office on June 2, 2003. The Association notified the Regional Director of the results of the election. ^{1/} By letter dated June 10, 2003, the Regional Director acknowledged the results of the election, but asked for information as to which Council members had been elected for 1-year terms, and which for 2-year terms, as provided for under the Association's Constitution. This information was furnished on July 18, 2003.

On July 10, 2003, the Board received a notice of appeal from the Regional Director's June 10, 2003, letter from Michael Dunlap, Henry Stevens, Tom Paddock, Dorothy Zura, and Helen Loescher. By order dated July 17, 2003, the Board gave the new appellants an opportunity to show that they had standing to appeal from the Regional Director's letter. The Board did not receive a response and, consequently, on September 9, 2003, it dismissed the appeal for failure to prosecute. Dunlap v. Alaska Regional Director, 39 IBIA 113. ^{2/}

With the dismissal of Dunlap, there do not appear to be any outstanding challenges to the May 27, 2003, election. The Board has previously held that the holding of a subsequent valid election moots issues relating to earlier governmental disputes. See, e.g., Rosales v. Pacific Regional Director, 39 IBIA 12, 14 (2003); Hamilton v. Acting Sacramento Area Director, 29 IBIA 122, 123 (1996). Under the circumstances here, the Board finds that this appeal is moot.

The Board congratulates the Association on the holding of its election.

^{1/} The Board notes that two of the present Appellants were elected to the Council at this election.

^{2/} The Board did not have a complete record before it in Dunlap. In that decision, it indicated that the election was held on June 2, 2003. It is now apparent that the election was held on May 27, 2003, and that the new Council members were sworn into office on June 2, 2003.

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 the Regional Director's March 1, 2001, letter is dismissed as moot. 3/

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Kathleen R. Supernaw
Acting Administrative Judge

3/ On Sept. 22, 2003, the Board received a request from Appellants for an extension of time to provide "a thorough and comprehensive" response to the Regional Director's most recent status report. Sept. 17, 2003, Motion at 2. The Regional Director's status report provided information beyond what was strictly necessary for a determination on the Tribal government issue that is the subject of this appeal. The Board does not need a response from Appellants in regard to each statement made by the Regional Director in order to address this appeal. The additional information which the Regional Director provided highlights some of the issues that the new Tribal government will have to address. However, the Board believes that a decision in this appeal should be issued as soon as possible so that the new government can begin to work on those, and other, issues and begin to build some stability in the Tribal government for the good of the Tribal members. Therefore, the Board denies Appellants' request for an extension of time to file a response to the Regional Director's most recent status report.