



INTERIOR BOARD OF INDIAN APPEALS

Viola Burgess v. Alaska Regional Director, Bureau of Indian Affairs

40 IBIA 103 (09/20/2004)



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

VIOLA BURGESS,	:	Order Dismissing Appeal
Appellant,	:	
	:	
v.	:	Docket No. IBIA 04-130-A
	:	
ALASKA REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee.	:	September 20, 2004

Appellant Viola Burgess sought review of a June 17, 2004, decision of the Alaska Regional Director, Bureau of Indian Affairs (Regional Director), retroactively approving a May 24, 1994, Quitclaim Deed signed by Esther Nix (now deceased) to Lot 8, Block 1, U.S. Survey 1570, Townsite of Hydaburg, Alaska.

On July 29, 2004, the Board issued a Pre-Docketing Notice and Order for Clarification and Concerning Service. In that Notice and Order, the Board noted that Appellant did not appear to be asserting her own legal rights or interests, but instead appeared to be asserting those of her granddaughter, Tanya Bitonti, from whom a separate appeal is pending before the Board in Docket No. IBIA 04-127-A. The Board also noted that Appellant did not appear to have served interested parties or, if she did, she did not provide a certification to that effect. Copies of all pleadings filed with the Board must be served on all interested parties. 43 C.F.R. §§ 4.310(b), 4.333(a).

The Board requested that Appellant file a statement clarifying her intent on or before August 30, 2004, specifically, whether she is challenging the Regional Director's decision in order to protect her own interests from an adverse effect of that decision, or whether she seeks only to support or protect the interests of her granddaughter, Tanya Bitonti. The Board also required Appellant, on or before August 30, 2004, to certify that she served interested parties.

The Board advised Appellant that if she failed to respond to the order, her appeal would be dismissed. In addition, in its August 16, 2004, Notice of Docketing, the Board reminded Appellant of the August 30, 2004 deadline. The Board received no response 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, the Board dismisses this appeal for failure to prosecute.

// original signed
Colette J. Winston
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge