



INTERIOR BOARD OF INDIAN APPEALS

Estate of Imogene Campbell Stephenson Birch

40 IBIA 147 (11/10/2004)



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

ESTATE OF IMOGENE CAMPBELL : Order Dismissing Appeal
STEPHENSON BIRCH :
:
: Docket No. IBIA 04-150
:
:
: November 10, 2004

On September 17, 2004, the Board of Indian Appeals (Board) received, from Administrative Law Judge Richard L. Reeh, a copy of an undated letter from Pamela G. Birch-Joe (Appellant), appealing from a June 22, 2004, Order of Modification on Reopening, entered by Judge Reeh in the Estate of Imogene Campbell Stephenson Birch, deceased unallotted Wichita Indian, Probate No. IP OK 206 P 93-1. ^{1/} Judge Reeh's transmittal memorandum to the Board indicates that Appellant apparently submitted her appeal to the Anadarko Agency, Bureau of Indian Affairs, which transmitted a copy to Judge Reeh, who in turn forwarded a copy to the Board. As discussed below, the Board dismisses the appeal for lack of jurisdiction because it is untimely.

An appeal from an order on a petition for reopening must be filed with the Board within 60 days from the date of the order. See 43 C.F.R. § 4.320(a), (b). The 60-day deadline is jurisdictional. Id. § 4.320(b).

Judge Reeh's June 22, 2004, order correctly advised interested parties to the probate proceeding — including Appellant — that any appeal from his order must be filed with the Board within 60 days from the date of the order. Judge Reeh's order provided the Board's current address, stated that "[a] notice of appeal not timely filed will be dismissed," and noted that the decision would become final for the Department if not timely appealed. The copy of the appeal letter provided to the Board does not indicate that Appellant sent it to the Board,

^{1/} Appellant identifies herself as the decedent's granddaughter. Judge Reeh's June 22, 2004, order modified a June 24, 1994, Order Approving Will and Decree of Distribution for this estate, to clarify the legal description of five acres addressed in the fourth paragraph of the decedent's will.

