



DEPARTMENT OF THE INTERIOR HEARINGS DIVISION

Seminole Nation of Oklahoma v. Acting Eastern Oklahoma Regional Director,
Bureau of Indian Affairs

Docket No. IBIA 01-112-A (06/26/2006)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division
215 Dean A. McGee Avenue, Suite 820
Oklahoma City, Oklahoma 73102-3423

SEMINOLE NATION OF OKLAHOMA	:	Docket No. IBIA 01-112-A
	:	
v.	:	
	:	
ACTING EASTERN OKLAHOMA	:	
REGIONAL DIRECTOR,	:	ORDER
BUREAU OF INDIAN AFFAIRS	:	RECOMMENDING DISMISSAL

This case was referred to the Office of Hearings and Appeals Field Office in Oklahoma City (OHA-OKC) April 26, 2001. Thereafter, entries of appearance were made by attorneys Marcella Giles Burgess for the Tribe and Charles R. Babst, Jr. for the government.

The Interior Board of Indian Appeals (IBIA) referred this matter to the Hearings Division of the Office of Hearings and Appeals April 26, 2001. A pre-hearing conference was conducted May 18, 2001 by agreement of the parties. During the conference, parties announced that, depending upon the result of a U.S. District court action, Seminole Nation of Oklahoma v. Norton, 00-2384-CKK (D.D.C. Sept 27, 2001), further proceedings in the instant case might be unnecessary. They requested the matter be continued pending a decision in that case. (See Synopsis of Prehearing Conference) A report of the decision in that case was received October 17, 2001 from the Solicitor's Office. On April 30, 2003, further proceedings were postponed due to announced health problems of the Tribe's attorney. (Ex. A - Docket Card) Since then, no further action has been taken to prosecute this case, and no announcement has been made by the Tribe.

The Tribe has not raised any genuine issue of material fact, and it has not engaged in discovery since June, 2001. In the absence of meaningful participation by the Tribe, the record suggests no realistic objective for further inquiry.

By Notice and Order to Show Cause issued November 9, 2004, the parties were afforded an opportunity to submit comments as to whether this matter should be returned to the Interior Board of Indian Appeals with a recommendation that it be dismissed because Appellant has failed to participate in the hearing process. Comments were directed to be made on or before December 1, 2004. To the time of this writing, no comment, brief or other authority has been received.

IT IS, THEREFORE, RECOMMENDED that this matter be dismissed for failure to prosecute.

Within 30 days of the receipt of this recommended decision, you may file an objection to the recommended decision with the Interior Board of Indian Appeals (IBIA) under 24 C.F.R. 900.165(c). An appeal to the IBIA under 900.165(c) shall be filed at the following address: Board of Indian Appeals, 801 N. Quincy Street, Arlington, VA 22203. You shall serve copies of your notice of appeal on the Secretary of the Interior, and on the official whose decision is being appealed. You shall certify to the IBIA that you have served these copies. If neither party files an objection to the recommended decision within 30 days, the recommended decision will become final.

Done at Oklahoma City, Oklahoma this 26th day of June, 2006.

// original signed

Richard Reeh
Administrative Law Judge