



INTERIOR BOARD OF INDIAN APPEALS

Estate of Edward Benedict Defender

44 IBIA 8 (10/31/2006)

Related Board cases:

36 IBIA 280

47 IBIA 271



United States Department of the Interior

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INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF EDWARD BENEDICT : Order Docketing and Dismissing
DEFENDER : Appeal
:
: Docket No. IBIA 07-26
:
: October 31, 2006

On October 26, 2006, the Board of Indian Appeals (Board) received a notice of appeal from Bridget Defender (Appellant), *pro se*. Appellant seeks review of an Order Dismissing Petition for Rehearing entered on August 10, 2006 by Administrative Law Judge Richard L. Reeh (ALJ) in the estate of Edward Benedict Defender (Decedent), deceased Standing Rock Sioux Indian, Probate No. TC-037 H 00-1. The order let stand an Order of Modification on Remand entered on December 22, 2005 by Indian Probate Judge George Tah-bone. ^{1/} The Board docketed this appeal, but dismisses it for lack of jurisdiction because it is untimely.

Subsection 4.320(b) of 43 C.F.R. provides that an appeal from an order denying rehearing must be filed “[w]ithin 60 days from the date of the decision.” The 60-day deadline for filing an appeal is jurisdictional. *Id.* § 4.320(b)(3). The effective date for filing a notice of appeal is the date of mailing or the date of personal delivery. *Id.* § 4.310(a).

The certificate of mailing attached to the ALJ’s Order Dismissing Petition for Rehearing shows that it was mailed to interested parties, including Appellant, on the same day the order was issued, August 10, 2006. The order advised the parties that any appeal must be filed within 60 days, provided correct instructions for sending an appeal to the Board, and stated that untimely appeals would be dismissed.

^{1/} The order of modification was issued following the Board’s remand in Estate of Benedict Edward Defender, 36 IBIA 280 (2001). Decedent apparently has been referred to in some pleadings as Benedict Edward Defender.

