



INTERIOR BOARD OF INDIAN APPEALS

Terry A. Chivis v. Acting Midwest Regional Director, Bureau of Indian Affairs

45 IBIA 296 (09/06/2007)



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

TERRY A. CHIVIS,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 06-32-A
ACTING MIDWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	September 6, 2007

Appellant Terry A. Chivis, as “Spokesperson for Petitioners,” and represented by counsel, appealed to the Board of Indian Appeals (Board) from a November 29, 2005, decision of the Acting Midwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning the procedures to be followed to petition for a Secretarial election for a new constitution for the Nottawaseppi Huron Band of Potawatomi (Tribe). Appellant had requested information from BIA related to petitioning for a Secretarial election under 25 C.F.R. § 81.5 to approve a new constitution for the Tribe. The Superintendent of the Michigan Agency, BIA, and then the Regional Director in his decision, advised Appellant that he must comply with the petitioning requirements of the Tribe’s existing Constitution in order to amend or replace it.

On May 30, 2007, after briefing on the merits had concluded, the Board received from the Tribe a Motion for Dismissal of Appeal, based on Appellant’s enrollment in the Little River Band of Ottawa Indians and his relinquishment of membership in the Tribe. Documentary exhibits attached to the motion indicated that Appellant had relinquished his membership in the Tribe, conditioned on being accepted into the Little River Band, and that upon receipt of notification that Appellant had been accepted as a member of the Little River Band, the Tribe had removed him from the Tribe’s rolls. The Tribe asserted that because Appellant is no longer a tribal member, he would not be eligible to petition for an amendment to the Tribe’s constitution. The Board treats Appellant’s motion as a request to dismiss this appeal as moot, because nothing turns on the outcome of this appeal. *See Pueblo of Tesuque v. Acting Southwest Regional Director*, 40 IBIA 273, 274 (2005).

By order dated May 31, 2007, the Board allowed Appellant, on or before June 15, 2007, to file a response to the Tribe's motion. The Board received no response from Appellant. On August 29, 2007, the Board received a letter from the Tribe, which notes that Appellant had failed to respond and asks the Board to grant the Tribe's motion to dismiss.

Based on Appellant's relinquishment of his membership in the Tribe, and his failure to respond to the Tribe's Motion for Dismissal of Appeal and the Board's May 31, 2007, order, the Board concludes that this appeal is moot.

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 as moot.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge