



## INTERIOR BOARD OF INDIAN APPEALS

Estate of Joseph Goggles

46 IBIA 158 (01/04/2008)

Reconsideration denied:

46 IBIA 258

Related Board case:

47 IBIA 174



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ARLINGTON, VA 22203

ESTATE OF JOSEPH GOGGLES            )    Order Docketing and Dismissing Appeal  
  )      
  )    Docket No. IBIA 08-33  
  )      
  )    January 4, 2008

Appellants Ruth Big Lake and Edie Big Lake filed a notice of appeal with the Board of Indian Appeals (Board) from an October 31, 2007, Decision by Indian Probate Judge James Yellowtail in the estate of Joseph Goggles (Decedent), deceased Wind River Northern Arapaho Indian, Probate No. P-0000-16162-IP. We docket but dismiss the appeal because the Board lacks jurisdiction to review a probate decision unless rehearing (or reopening) has first been sought from the probate judge.

The Board's legal assistant contacted Judge Yellowtail's office and obtained a copy of both the Decision and the accompanying "Notice to All Persons Having or Claiming an Interest in the Subject Matter of this Proceeding" (Notice). The Notice provided accurate instructions for obtaining review of the Decision. The Notice explained that a petition for rehearing should be filed "with the undersigned Indian Probate Judge" pursuant to 43 C.F.R. § 4.241. The Notice also informed Appellants of the correct address for filing, as well as the appropriate contents of, a petition for rehearing and the time for filing the petition.

In Indian probate matters, the Board's jurisdiction is limited to review of orders on petitions for rehearing, orders on petitions for reopening, and orders on tribal purchases of interests in decedents' trust estates. 43 C.F.R. § 4.320(a); *Estate of Phillip Lorraine Post*, 44 IBIA 108, 109 (2007); *Estate of Frank Andrew Spencer*, 39 IBIA 190 (2003). Except where the issue concerns tribal purchases, the Board does not have jurisdiction to review, in the first instance, probate decisions rendered by the Hearings Division of the Office of Hearings and Appeals. *Estate of Post*, 44 IBIA at 109.

Appellants have not obtained either an order on a petition for rehearing or for reopening nor does the Decision concern a tribal purchase of Decedent's interest(s). Therefore, unless and until Appellants obtain an order pursuant to a petition for rehearing

or for reopening, the Board lacks jurisdiction over any appeal from the Decision, for which reason we docket this appeal but dismiss.<sup>1</sup>

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but dismissed for lack of jurisdiction.

I concur:

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// original signed  
Debora G. Luther  
Administrative Judge

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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<sup>1</sup> We note that Appellants' certificate of service states that a copy of their Notice of Appeal was mailed to Judge Yellowtail on December 28, 2007. We express no opinion on whether their Notice of Appeal may be treated as timely filed with Judge Yellowtail and whether it should be construed as a petition for rehearing within the meaning of 43 C.F.R. § 4.241.