



INTERIOR BOARD OF INDIAN APPEALS

Alonzo Chalepah and Beverly Mattice v. Acting Southern Plains Regional Director,
Bureau of Indian Affairs

46 IBIA 247 (02/08/2008)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ALONZO CHALEPAH and BEVERLY)	Order Dismissing Appeal
MATTICE,)	
Appellants,)	
)	
v.)	Docket No. IBIA 06-4-A
)	
ACTING SOUTHERN PLAINS)	
REGIONAL DIRECTOR, BUREAU)	
OF INDIAN AFFAIRS,)	
Appellee.)	February 8, 2008

Appellants Alonzo Chalepah and Beverly Mattice appealed to the Board of Indian Appeals (Board) from a September 6, 2005, decision of the Acting Southern Plains Regional Director, Bureau of Indian Affairs (Regional Director). In that decision, the Regional Director recognized the removal in October of 2004 of Chalepah as Business Committee Chairman of the Apache Tribe of Oklahoma (Tribe) and the removal of Mattice as Secretary/Treasurer of the Tribe. We dismiss this appeal as moot.

On December 11, 2007, the Board ordered the parties to brief the issue of whether the appeal had become moot,¹ given the Tribe's normal schedule for holding elections and the passage of time since the appeal was filed. Appellants were elected in the Spring of 2004. The Regional Director's decision concluded that Appellants had validly been removed from office on October 2, 2004, at a special Tribal Council meeting. In the order for briefing on mootness, the Board noted that Apache Business Committee members serve

¹ The doctrine of mootness in the Federal courts is based on the case-or-controversy limitations set forth in Article III, § 2, of the United States Constitution. *Northrup v. Acting Western Regional Director*, 42 IBIA 136, 139 (2006). Although the Board, as an executive branch forum, is not bound by the same constitutional constraints, it has consistently followed the same principles of declining to consider moot cases in the interest of administrative economy. *Id.* Mootness may occur when nothing turns on the outcome of an appeal. *See Poe v. Pacific Regional Director*, 43 IBIA 105, 111 (2006); *Brown v. Navajo Regional Director*, 41 IBIA 314, 318 (2005).

for two-year terms. *See* Tribe's Constitution Art. V. Given the Tribe's two-year election cycle, it appeared possible that a general election to elect members of the Apache Business Committee had taken place since October of 2004, which might render this appeal moot. In its order for briefing, the Board advised Appellants that failure to respond could result in summary dismissal of the appeal without further notice.

On January 14, 2008, the Board received a response from the Regional Director. The Regional Director stated that the Tribe held an election on May 13, 2006, and attached a copy of the official election results to his response. The Election Results showed that Chalepah ran for Chairman and received the most votes, and that Mattice did not run for Secretary/Treasurer. The Regional Director stated that he was not aware of any challenges to the election or that BIA declined to recognize the results of the election, and requested the Board to dismiss the appeal as moot.

Appellants did not respond to the Board's order, nor did they respond to the Regional Director's evidence or request for dismissal of the appeal.

An appeal concerning the recall of a tribal official becomes moot if that official's normal term of office has expired and the position formerly held by the official has been filled in a regular tribal election. *See Kostzuta v. Southern Plains Regional Director*, 35 IBIA 205, 206 (2000). Based on the evidence submitted by the Regional Director and Appellants' failure to respond, the Board finds that this appeal is moot.²

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.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

² Even in the absence of the evidence submitted by the Regional Director, we would dismiss this appeal for failure to prosecute based on Appellants' failure to respond to the Board's order. *See Rapp v. Acting Great Plains Regional Director*, 46 IBIA 3 (2007).