



INTERIOR BOARD OF INDIAN APPEALS

Judith A. Bodo v. Eastern Oklahoma Regional Director,
Bureau of Indian Affairs

49 IBIA 8 (03/12/2009)



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

JUDITH A. BODO,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 08-124-A
EASTERN OKLAHOMA REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	March 12, 2009

Judith A. Bodo (Appellant) filed a 25 C.F.R. § 2.8 (appeal from inaction of official) appeal to the Board of Indian Appeals (Board) from the alleged failure of the Eastern Oklahoma Regional Director, Bureau of Indian Affairs (Regional Director; BIA), to respond to a section 2.8 appeal filed by Appellant with the Regional Director from alleged inaction of the Superintendent, Miami Agency, BIA (Superintendent). Appellant sought action by BIA on four requests from Cynthia D. Whitebird to gift convey certain property to Appellant.

On February 2, 2009, the Board received a Status Report and Motion for Remand from the Regional Director, who reports that the Superintendent issued a decision on the merits of this matter on September 11, 2008, declining to approve Whitebird's requested conveyances. According to the Regional Director, the Superintendent's decision contained appeal rights and was served on Whitebird, who did not appeal, but the decision was not served on Appellant. The Regional Director, who has not yet considered the merits of the case, requests a remand in order to allow her to sort the matter out and review the merits, as appropriate. Appellant was afforded an opportunity to respond to the Regional Director's Status Report and Motion for Remand, but did not do so.

Because Appellant's appeal to the Board was intended to prompt the Regional Director to, in turn, prompt the Superintendent to decide the merits of the gift conveyance requests, both of her section 2.8 appeals were rendered moot when the Superintendent issued a decision. To the extent that further consideration of the merits of the matter is appropriate, such consideration properly now lies with the Regional Director. And because the underlying merits are outside the scope of this section 2.8 appeal, *see Forest County*

Potawatomi Community v. Deputy Assistant Secretary - Indian Affairs, 48 IBIA 259, 264-66 (2009), dismissal of this appeal, rather than a remand, is the appropriate disposition by the Board.

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