



INTERIOR BOARD OF INDIAN APPEALS

Estate of Angelo Frederick Garbani

50 IBIA 73 (07/20/2009)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF ANGELO FREDERICK) Order Docketing and Dismissing Appeal
GARBANI)
) Docket No. IBIA 09-084
)
) July 20, 2009

Appellant Michael Angelo Garbani filed an appeal with the the Board of Indian Appeals (Board) from an April 28, 2009, Order Reopening Case and Modifying Probate Decision to Add Omitted Property, entered by Administrative Law Judge (ALJ) Thomas F. Gordon in the estate of Angelo Frederick Garbani (Decedent), deceased Luiseno Mission (Pechanga Band) Indian, Probate No. P-00000-8231-IP (formerly IP SA 202 N 04). The order reopened Decedent's estate to add certain property that had been omitted from the estate inventory, and distributed it to Gary L. Garbani and Diana M. Garbani, two of Decedent's children, pursuant to the rest-and-residue clause in Decedent's will, which had been approved in a final probate decision dated August 11, 2005. Appellant, also one of Decedent's children, stated in his notice of appeal that if he has a right to appeal any or all decisions concerning his father's estate, he wished to exercise that right.

Because Appellant did not serve his notice of appeal on the ALJ and other interested parties, *see* 43 C.F.R. §§ 4.310(b) (2008) and 4.323, *as amended*, 73 Fed. Reg. 67,256, 67,288 (Nov. 13, 2008), the Board ordered him to do so on or before June 12, 2009. In addition, because the ALJ's order only reopened the estate to add and distribute omitted property to beneficiaries of Decedent's previously-approved will, which did not include Appellant, the Board ordered Appellant to show cause (also by June 12) why his appeal should not be dismissed for lack of standing and because a challenge to the 2005 order approving Decedent's will would be untimely.

The Board advised Appellant that if he wished to pursue his appeal, he must comply with and respond to the Board's order to serve interested parties and to show cause.

The Board received no response from Appellant.

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 docketed this appeal but dismisses it for failure to prosecute.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge