



INTERIOR BOARD OF INDIAN APPEALS

Wanda A. Quitiquit v. Acting Pacific Regional Director, Bureau of Indian Affairs

51 IBIA 275 (05/26/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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WANDA A. QUITIQUIT,)	Order Docketing and
Appellant,)	Dismissing Appeal
)	
v.)	
)	
ACTING PACIFIC REGIONAL)	Docket No. IBIA 10-098
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	May 26, 2010

On May 17, 2010, the Board of Indian Appeals (Board) received a notice of appeal from Wanda A. Quitiquit (Appellant),¹ seeking review of an April 9, 2010, decision (Decision) of the Acting Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA). In his Decision, the Regional Director affirmed a decision by the Robinson Rancheria Citizens Business Council (Business Council) to disenroll Appellant from the Robinson Rancheria of Pomo Indians. The Decision stated that it was final for the Department. We docket this appeal, but dismiss it for lack of jurisdiction because the Board does not have jurisdiction over enrollment appeals.

The Regional Director reviewed the Business Council’s decision pursuant to 25 C.F.R. Part 62, which provides procedures for appealing a tribal committee’s disenrollment action to BIA when the tribal governing document provides for such an appeal. 25 C.F.R. § 62.4(a)(3). Under section 62.10(a), with an exception not relevant here, when an appeal is taken from an adverse enrollment action by a tribal committee, the Regional Director makes a decision “which shall be final for the Department and which shall so state in the decision.”²

¹ The appeal is only signed by Appellant, but purports to be on behalf of herself and 56 other disenrolled individuals who are identified in an attachment.

² Section 62.10 refers to action by the “Director,” which is defined to mean “Area Director,” 25 C.F.R. § 62.1, the former designation for what are now titled Regional Directors. Section 62.10(a) allows the Regional Director to waive his or her authority to make a final decision, and forward the appeal to the Assistant Secretary - Indian Affairs, but the Decision in this case did not do so.

The Board is not part of the appeal process under Part 62 and is specifically precluded from considering tribal enrollment disputes under the Board's general appeal regulations. See 25 C.F.R. § 62.10; 43 C.F.R. § 4.330(b)(1); *Sanders v. Eastern Oklahoma Regional Director*, 50 IBIA 307, 307 (2009); *B.B. v. Rocky Mountain Regional Director*, 39 IBIA 48, 50 (2003); *Jackson v. Muskogee Area Director*, 32 IBIA 45, 47 (1998); *McClure v. Acting Muskogee Area Director*, 27 IBIA 154, 156 (1995); *Traversie v. Superintendent, Turtle Mountain Agency*, 16 IBIA 189, 189 (1988).

Appellant seeks to invoke the Board's jurisdiction under BIA's default appeal regulations found in 25 C.F.R. Part 2. But as 25 C.F.R. § 2.3(a) states, Part 2 applies "[e]xcept as provided in paragraph (b) of this section," and subsection 2.3(b) states that "[t]his part does not apply if any other regulation . . . provides a different administrative appeal procedure applicable to a specific type of decision." Here, Part 62 provides "a different administrative appeal procedure applicable to a specific type of decision," and therefore Part 2 does not apply and does not provide a source of jurisdiction for the Board.

In her notice of appeal, Appellant requests that the Board exercise the inherent authority of the Secretary to correct manifest injustice or error, under 43 C.F.R. § 4.318. That regulation governs the scope of review for appeals over which the Board has jurisdiction, but it does not provide an independent source of jurisdiction for an appeal. See *Weinberger v. Rocky Mountain Regional Director*, 46 IBIA 167, 174 (2008); *Hoopa Valley Tribe v. Special Trustee for American Indians*, 44 IBIA 247, 251 (2007).

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 lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge