



## INTERIOR BOARD OF INDIAN APPEALS

Robert Mize v. Northwest Regional Director, Bureau of Indian Affairs

51 IBIA 298 (06/08/2010)

Reconsidering and vacating:

51 IBIA 262

Appeal dismissed:

52 IBIA 51



## United States Department of the Interior

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ROBERT MIZE, ) Order Granting Reconsideration,  
Appellant, ) Vacating Dismissal, and Reinstating  
 ) Appeal  
v. )  
 )  
NORTHWEST REGIONAL DIRECTOR, ) Docket No. IBIA 10-097-1  
BUREAU OF INDIAN AFFAIRS, )  
Appellee. ) June 8, 2010

On May 20, 2010, the Board of Indian Appeals (Board) dismissed as untimely an appeal by Robert Mize (Appellant), from a March 10, 2010, decision by the Northwest Regional Director, Bureau of Indian Affairs (Regional Director). 51 IBIA 262. Our decision was based on the Board's May 14, 2010, receipt of Appellant's appeal, which had been forwarded to the Board by the Regional Director. As we explained, the 30-day period for appealing the Regional Director's decision lapsed on April 15, 2010. *Id.* at 263. We now grant reconsideration *sua sponte*, and vacate our May 20 Decision because the Board recently received Appellant's original notice of appeal, which was timely filed but severely delayed in the Postal Service mailstream. We therefore reinstate Appellant's appeal.

As we noted in our May 20 decision, the only copy of Appellant's notice of appeal that had been received by the Board at that time was a copy forwarded to the Board by the Regional Director, which was not received until May 14, 2010, 29 days after the time to appeal had expired. *Id.* On June 4, 2010, the Board received an original notice of appeal from Appellant in an envelope sent by certified mail (7006 3450 0001 2158 7232), addressed to the Board at its correct address and bearing a postmark of April 15, 2010. According to the Postal Service's online tracking service for certified mail (*see* [www.usps.gov](http://www.usps.gov)), the Postal Service in Appellant's town accepted item 7006 3450 0001 2158 7232 for delivery on April 15, 2010, and attempted to deliver the item to the Board on Saturday, April 17, 2010.<sup>1</sup> The online tracking service does not reflect any further attempts to deliver the item to the Board until June 4, 2010, when the item was delivered.

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<sup>1</sup> The Board's offices are not open on Saturdays, Sundays, or holidays for the delivery of mail.

