



INTERIOR BOARD OF INDIAN APPEALS

Estate of Byron Keith Other Bull

52 IBIA 259 (11/22/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
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ARLINGTON, VA 22203

ESTATE OF BYRON KEITH)	Order Dismissing Appeals
OTHER BULL)	
)	
)	Docket Nos. IBIA 10-084
)	10-085
)	10-086
)	
)	November 22, 2010

Morton F. Other Bull, Sr. (Docket No. 10-084), Rebecca Otherbull Stops (Docket No. 10-085), and Raynard Otherbull (Docket No. 10-086) (collectively, Appellants) appeal an Order Removing Improperly Included Property from Estate Inventory (Modification Order), entered on March 25, 2010, by Indian Probate Judge (IPJ) Albert C. Jones in the estate of Appellants' brother, Byron Keith Other Bull (Decedent), deceased Crow Indian, Probate No. P000017142IP.¹ The Modification Order deleted trust property from Decedent's estate inventory consisting of interests in Allotment Nos. 202-157-B and 202-M157-F.² Appellants allege that they were not given notice of the request from BIA to modify the Decedent's trust inventory. Therefore, they seek either clarification concerning the IPJ's Modification Order or contend that, if the property is removed from Decedent's

¹ Decedent's children, Rachel Other Bull, Jamie S. Other Bull, and Cameron J. Other Bull, also seek review from the Board of Indian Appeals (Board) of the March 25, 2010, Modification Order. That appeal was assigned docket no. IBIA 10-082, and is in briefing. Nothing in our dismissal today of the siblings' appeals shall have any effect on the status, or our consideration, of docket no. IBIA 10-082.

² According to the Modification Order, the interests in Allotment Nos. 202-157-B and 202-M157-F originally had been inherited by Decedent from his mother, Margaret Hill Other Bull. But, the interest in Allotment No. 202-157-B apparently was removed from Margaret's estate in 1999 through an administrative modification by the Bureau of Indian Affairs' (BIA's) Land Titles and Records Office and the change was never entered in BIA's electronic land titles recording system, TAAMS. Thus, Margaret's ownership interest in Allotment No. 202-157-B (including, apparently, 202-M157-F), and subsequently her heirs, was still reflected on title status reports and Decedent's inventory.

estate, they are entitled to receive it. The Board dismisses these appeals for failure to prosecute because Appellants have failed to respond to a May 27, 2010, order and an August 6, 2010, order from the Board to comply with service requirements.

Appellants' separately filed notices of appeal did not indicate that they had sent copies of their notices of appeal to all interested parties, as required by 43 C.F.R. § 4.320(c). Namely, Appellants failed to certify that the notices of appeal were served on Decedent's children, Rachel Other Bull, Jamie S. Other Bull, and Cameron J. Other Bull, who are interested parties. Thus, on May 27, 2010, the Board issued an order requiring each Appellant on or before June 14, 2010, to complete these service requirements and to file a statement with the Board that each had done so. The Board advised Appellants that if any Appellant failed to comply with its order, his or her appeal may be dismissed without further notice.

The Board received no response from any Appellant stating that he or she complied with the Board's May 27, 2010, order to serve Decedent's children with a copy of his or her respective notice of appeal.

But, on June 7, 2010, the Board received a copy of two letters — both dated April 19, 2010, and one signed by Raynard and the other signed by Rebecca — that were sent to BIA's Crow Agency to inquire about land interests owned by Margaret Hill Other Bull and Alonzo Jim Other Bull. Affixed to both copies were three certified mail receipts made out to "Jamie S. Other Bull for Cameron," "Jamie S. Otherbull," and "Rachel Lynn Other Bull." Because the receipts were affixed to copies of the letters sent to BIA, the receipts appeared to indicate that copies of these letters were also sent to Cameron, Jamie, and Rachel. On June 24, 2010, the Board also received from Judge Jones' office a second copy of the notice of appeal, which apparently was received by Judge Jones' office in June 2010.

Given that Appellants made some efforts to provide Cameron, Jamie, Rachel, and IPJ Jones with copies of certain correspondence, the Board extended each Appellant another opportunity, on or before August 16, 2010, to confirm that each one had served Decedent's children with a copy of his or her notice of appeal. *See* Second Order Concerning Service, Aug. 6, 2010.³ Specifically, the Board ordered each Appellant to answer the following question in writing:

³ The Board's August 6 order was sent to Appellants by certified mail. According to the U.S. Postal Service, Rebecca and Raynard received their copies of the order on August 9, 2010; Morton received his copy on August 11, 2010.

Have you sent a copy of your notice of appeal to:

1. Jamie S. Other Bull
2. Rachel Other Bull
3. Jamie Other Bull for
Cameron Other Bull

Id. at 2. The Board’s order again informed Appellants that if any Appellant failed to comply with the order, his or her appeal may be dismissed without further notice. The Board has received no response from Appellants to its August 6 order.⁴

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 these appeals for failure to prosecute.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

⁴ On October 14, 2010, the Board received a Request for Extension of Time to File Appellants’ Brief on Appeal from Robert E. LaFountain, Esq. In his request for a 45-day extension, LaFountain notes that he represents Decedent’s children (Cameron, Jamie, and Rachel) and Decedent’s siblings (Morton, Rebecca, and Raynard). Because the request was not received within the time period set forth in 43 C.F.R. § 4.310(d)(2) for seeking an extension regarding the Board’s August 6 order, and because the request bears only the docket number for the appeal by Decedent’s children (IBIA 10-082), the extension request was not docketed in Appellants’ appeals. Notwithstanding the dismissal of their appeals, Appellants may still participate as “interested parties” in the appeal filed by Decedent’s children. See *Peterson v. Acting Great Plains Regional Director*, 44 IBIA 31, 32 n.1 (2006).