



INTERIOR BOARD OF INDIAN APPEALS

Estate of Rita Marie Peterson, a.k.a. Rita Marie Evans

54 IBIA 272 (02/22/2012)

Related Board case:  
54 IBIA 58



# 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

ESTATE OF RITA MARIE	)	Order Docketing and Dismissing Appeal,
PETERSON, a.k.a. RITA	)	and Referring Petition to Reopen
MARIE EVANS	)	to Probate Hearings Division
	)	
	)	Docket No. IBIA 12-023
	)	
	)	February 22, 2012

On November 4, 2011, the Board of Indian Appeals (Board) received a Petition to Reopen Estate (Petition), from the Blackfeet Indian Tribe (Tribe), in the estate of Rita Marie Peterson (Decedent).<sup>1</sup> The Tribe seeks to reopen Decedent’s estate on the grounds that Administrative Law Judge (ALJ) R.S. Chester erred in his application of tribal law in determining that Decedent’s adopted-out daughter was an heir.<sup>2</sup> We docket and dismiss this appeal because the Board lacks jurisdiction to consider petitions to reopen an estate, but we refer the Tribe’s Petition to the Probate Hearings Division for consideration.

The Board’s jurisdiction is specifically prescribed by regulation and is limited to appellate jurisdiction to review certain decisions or orders. *See* 43 C.F.R. § 4.320 (in probate matters, parties may appeal from orders on a petition for rehearing, a petition for reopening, a purchase at probate, and the modification of an estate inventory). The Board does not have original jurisdiction to reopen an estate.

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<sup>1</sup> Decedent, a.k.a. Rita Marie Evans, was a Blackfeet Indian. The probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. P000076652IP.

<sup>2</sup> In a September 30, 2010, decision, the ALJ concluded that the Blackfeet Family Code was a tribal law that “otherwise define[s] the inheritance rights” of Decedent’s adopted-out biological daughter, Merisha Mae Schlinger Hicklin, and allowed her to be an heir to Decedent. *See* 25 U.S.C. § 2206(j)(2)(B)(iii)(II). On July 28, 2011, the ALJ denied a petition for rehearing from Decedent’s son, Leo Wolverine. The Board subsequently dismissed as untimely an appeal from Wolverine. *See Estate of Rita Marie Peterson*, 54 IBIA 58 (2011).

In the present case, the Tribe does not purport to be appealing from the ALJ's order denying rehearing. Nor could the Board consider the Petition as a timely appeal.<sup>3</sup> Because the Petition plainly seeks to reopen Decedent's estate, we refer it to the Probate Hearings Division for consideration under 43 C.F.R. §§ 30.243 – 30.246.

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, and refers the Tribe's Petition to the Probate Hearings Division for consideration.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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// original signed  
Debora G. Luther  
Administrative Judge

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<sup>3</sup> The Petition was filed well after the 30-day deadline for filing appeals from the July 28, 2011, order denying rehearing. *See* 43 C.F.R. § 4.321(a).