



INTERIOR BOARD OF INDIAN APPEALS

Apache Tribe of Oklahoma v. Acting Southern Plains Regional Director,
Bureau of Indian Affairs

54 IBIA 274 (03/06/2012)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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APACHE TRIBE OF OKLAHOMA,)	Order Vacating Decisions and
Appellant,)	Dismissing Appeal
)	
v.)	
)	Docket No. IBIA 12-068
ACTING SOUTHERN PLAINS)	
REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	March 6, 2012

The Apache Tribe of Oklahoma (Appellant or Tribe), through the Chairman of the Tribe's Business Committee, and joined by a quorum of the Business Committee, appealed to the Board of Indian Appeals (Board) from a December 22, 2011, decision (Decision) of the Acting Southern Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to recognize Nghia Ngu as Vice-Chairman of the Business Committee.¹ We docket this appeal, but summarily vacate BIA's decisions because, in response to an order to the Regional Director to provide the Board with some reason or justification for why BIA needed to decide whether or not to recognize Ngu as Vice-Chairman, the Regional Director offers no explanation and states that he has no objection to an order of vacatur.

It is well-settled that tribal disputes should be resolved in tribal forums. *See George v. Eastern Regional Director*, 49 IBIA 164, 186-87 (2009). If BIA is required to act in order to carry out the government-to-government relationship with a tribe, it may be necessary for BIA to decide which tribal officials to recognize, even in the midst of a tribal dispute. *Id.* But even when a recognition decision is necessary, BIA must still ensure that its decision is narrowly tailored to avoid unnecessarily intruding into tribal affairs. *See Yeahquo*

¹ The Decision affirmed a September 26, 2011, decision of BIA's Anadarko Agency Superintendent (Superintendent) to recognize the composition of the Business Committee as follows: Louis Maynahonah, Chairman; Nghia Ngu, Vice-Chairman; Marquita Carattini, Secretary/Treasurer; and Karen Heminokeky and Bobby Jay, Committee Members.

v. Southern Plains Regional Director, 36 IBIA 11, 12 (2001); *Wells v. Acting Aberdeen Area Director*, 24 IBIA 142, 145 (1993).

In the present case, the Tribe appealed the Decision on the grounds “that a constitutional quorum exists for the Tribe to conduct business with the Federal Government, *regardless of Ngu’s status*, and that the Decision constitutes an impermissible intrusion into tribal governmental affairs.” Pre-Docketing Notice and Order for Regional Director to Show Cause, Jan. 30, 2012, at 2 (emphasis added). The Board ordered the Regional Director to show cause why the Decision should not be summarily vacated, observing that “[n]either the Decision, nor the Superintendent’s decision, provides any indication or reasoning for why it was necessary for BIA to determine whether or not Ngu is Vice-Chairman of the Business Committee, i.e., why BIA’s ability to take required Federal action hinged on making a determination concerning Ngu’s status.” *Id.*

In response, the Regional Director makes no attempt to provide an explanation or to defend issuance of the BIA decisions. Instead, the Regional Director suggests that the appeal is moot because the Superintendent’s decision was only intended to recognize the composition of the Business Committee on an interim basis for 3 months, and thus expired by its own terms on December 26, 2011. *See* Entry of Appearance and Statement of Regional Director, Feb. 6, 2012.² The Regional Director has no objection to an order summarily vacating the Decision. The Board received no replies from interested parties.

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, vacates the Superintendent’s September 26, 2011, decision and the Regional Director’s December 22, 2011, decision, and dismisses the appeal as moot.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Janet A. Goodwin
Acting Administrative Judge

² Of course, by operation of law, neither the Superintendent’s decision nor the Regional Director’s Decision ever became effective. *See* 25 C.F.R. § 2.6; *Spicer v. Eastern Oklahoma Regional Director*, 50 IBIA 328, 331 (2009).