



INTERIOR BOARD OF INDIAN APPEALS

Estate of Phillip Quaempts

54 IBIA 290 (03/29/2012)

Denying reconsideration of:
54 IBIA 278



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF PHILLIP QUAEMPTS) Order Denying Reconsideration
))
) Docket Nos. IBIA 11-119-1
) IBIA 11-119-2
))
) March 29, 2012

On March 9, 2012, the Board of Indian Appeals (Board) dismissed, for lack of standing, an appeal by Dora Quaempts (Appellant) from an Order Modifying Decision (Order) entered on May 4, 2011, by Administrative Law Judge (ALJ) Thomas F. Gordon in the estate of Phillip Quaempts (Decedent). *See* 54 IBIA 278.

On March 19 and 22, 2012, respectively, the Board received petitions for reconsideration from Appellant and from Bernadine Napyer Quaempts (Quaempts).¹ Both petitions focus on the underlying merits rather than the basis upon which we dismissed Appellant's appeal — lack of standing. Quaempts specifically asks the Board to reverse the Federal court decision that was implemented through the ALJ's Order.

Reconsideration of a Board decision will be granted only in extraordinary circumstances. 43 C.F.R. § 4.315(a). The Board has reviewed both petitions and concludes that neither Appellant nor Quaempts has shown that the Board erred. As noted in our decision, even if we had concluded that Appellant had standing, we would have summarily affirmed the ALJ's Order because the Board lacks authority to overturn or reverse a Federal court decision.

¹ Quaempts and Decedent were married, and the issue in prior proceedings before the Board, and in Federal court litigation, was whether Quaempts or Johanna Senator was Decedent's surviving spouse for purposes of distributing Decedent's Indian trust estate. *See* 54 IBIA at 278-79. Quaempts did not appeal from the ALJ's Order, *id.* at 279 n.3, nor could her petition be considered as a timely appeal because the Order included accurate appeal instructions and a certification that it was mailed to the interested parties (including Quaempts) on May 4, 2011. *See* 43 C.F.R. § 4.321(a) (30-day appeal deadline).

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 denies reconsideration of 54 IBIA 278.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge