



INTERIOR BOARD OF INDIAN APPEALS

Estate of Mamie Sarah de Marrias Lee Salo

2 IBIA 283 (05/06/1974)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF MAMIE SARAH DE MARRIAS LEE SALO
(Unallotted Sisseton-Wahpeton Probate No. 2A-157-58)

IBIA 74-41

Decided May 6, 1974

Petition to reopen.

Petition Granted and Order Determining Heirs Modified in Part

Indian Probate: Reopening: Waiver of Time Limitation

A petition to reopen filed more than three years after the final determination of heirs will be granted when there is compelling proof that the delay was not occasioned by the lack of diligence on the part of the petitioning party.

OPINION BY ADMINISTRATIVE JUDGE SABAGH

This matter came before the Board on a petition for reopening of Probate filed on January 21, 1971 by the Superintendent, Sisseton Agency, Sisseton, South Dakota, for and on behalf of Arne Adolph Salo, surviving spouse. The Administrative Law Judge in his August 7, 1972 transmittal of the petition recommended that the petition be granted.

It appears that the decedent died intestate on August 8, 1954, and the original order closing her estate entered September 12, 1958, after decedent's heirs were determined to be:

Arne Adolph Salo (Canadian) ,	widower	1/2
Rondella Ruth Lee, SWU-1275,	daughter	1/2

The Superintendent's informal petition indicates that the agency had been unable to locate Rondella Ruth Lee and her whereabouts was unknown. In addition, the agency could not properly administer one-half of this estate. Money continues to accrue into the account of Rondella Ruth Lee. Moreover, funds cannot be disbursed and the status of the land title remains unchanged since September 12, 1958.

A preliminary procedural order on the petition was issued by the Board on July 25, 1973 conditionally reopening the matter.

Pursuant to the dictates of the preliminary procedural order the Administrative Law Judge on January 17, 1974 entered a Notice

of Hearing and Notice to Show Cause why the Order of September 12, 1958 should not be Amended by Deleting as an Heir, Rondella Ruth Lee.

Notice was served upon Arne Adolph Salo, surviving spouse, the Superintendent of the Sisseton Indian Agency, and John Lee, former husband of decedent Mamie Sarah De Marrias and purported father of Rondella Ruth Lee. Hearing was held on February 13, 1974 at which time certain documents, letters and correspondence were entered into the record as evidence without objection.

After full and careful consideration of the complete record and the Recommended Order, the Board concurs in the findings and conclusions of the Judge and adopts the Recommended Order of April 15, 1974 as its own.

A finding is made that this estate should be reopened for the sole purpose of modifying and correcting the Order Determining Heirs, dated September 12, 1958 by deleting Rondella Ruth Lee as an heir and finding Arne Adolph Salo, surviving spouse, to be the sole heir.

NOW, THEREFORE, by the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the estate of Mamie Sarah De Marrias Lee Salo, is HEREBY REOPENED and the ORDER DETERMINING HEIRS issued September 12, 1958 is HEREBY AMENDED, CORRECTED AND MODIFIED to redetermine decedent's heirs as follows, to wit:

Arne Adolph Salo, widower-sole surviving heir, the Superintendent to make distribution accordingly.

Except as herein modified, the Order Determining Heirs, dated September 12, 1958 shall be unchanged and is final as of that date.

This decision is final for the Department.

Done at the city of Arlington, Virginia.

//original signed
Mitchell J. Sabagh
Administrative Judge

I concur:

//original signed
Alexander H. Wilson
Administrative Judge