



INTERIOR BOARD OF INDIAN APPEALS

Estate of San Pierre Kilkakhan (Sam E. Hill)

4 IBIA 242 (12/02/1975)

Judicial review of this case:

Dismissed, *Sam v. Kleppe*, No. C-76-14 (E.D. Wash. Jan. 26, 1976)

Related Board cases:

1 IBIA 299

4 IBIA 93

Reconsideration denied, 5 IBIA 12

7 IBIA 240



United States Department of the Interior

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

ESTATE OF SAN PIERRE KILKAKHAN (SAM E. HILL)

IBIA 75-37 (Supp. 2)
(Supp. IBIA 72-9, 1 IBIA 299)

Decided December 2, 1975

Appeal from a denial of a petition for reopening.

Affirmed.

1. Indian Probate: Reopening: Generally

The Secretary of the Interior has inherent power to reopen and review administrative determinations purporting to dispose finally of departmental proceedings when some factor, such as newly discovered evidence or fraud, is brought to his attention.

APPEARANCES: Roger Coombs, Esq., Spokane County Legal Services, for appellants; Christine Sam and Nancy Judge.

OPINION BY ADMINISTRATIVE JUDGE SABAGH

This is an appeal from a denial of a petition for reopening.

Christine Sam and Nancy Judge, by and through counsel, filed a petition for reopening contending among other things that they were first cousins of the decedent once removed. Their attack was concentrated upon the Administrative Law Judge's decision of October 30, 1974, wherein second cousins were found to be the heirs. It appears at the time of filing that the appellants may not have been aware of this Board's decision of July 11, 1975, wherein it found the heirs of the decedent to be the children of Narcisse Bone, half-brother of Edward Kilkakhan and first cousins of the decedent.

The law applicable to the case is contained in the Revised Code of (the State of) Washington, 1963 Supplement, Title II, Chapter 11.04.020(6), which reads as follows:

If the decedent leaves no issue, nor husband, nor wife, and no father nor mother, nor brother, nor sister, the estate must go to the next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor must be preferred to those claiming through an ancestor more remote.

The appellants concede in their petition for reopening that they are first cousins of the decedent once removed.

An examination of the record discloses that the appellants are one degree further removed than the children of Narcisse Bone and we so find.

[1] The Secretary of the Interior has inherent power to reopen and review administrative determinations purporting to dispose finally of departmental proceedings when some factor, such as newly discovered evidence or fraud, is brought to his attention. This is not such a case.

Consequently, we are constrained to deny the appeal and affirm the Administrative Law Judge.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, IT IS ORDERED that the Order Denying the Petition for Reopening dated September 19, 1975, be and the same is AFFIRMED.

This decision is final for the Department.

Done at Arlington, Virginia.

//original signed
Mitchell J. Sabagh
Administrative Judge

I concur:

//original signed
Alexander H. Wilson
Administrative Judge