



INTERIOR BOARD OF INDIAN APPEALS

Estate of Throws First

6 IBIA 28 (02/04/1977)

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# United States Department of the Interior

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

## ESTATE OF THROWS FIRST

IBIA 77-2

Decided February 4, 1977

Petition to reopen.

Denied.

1. Indian Probate: Reopening: Generally

Where no cogent reasons are alleged and the petition for reopening is submitted after the statutory period for filing, a reopening will not be allowed.

APPEARANCES: Mary Goggles Antelope, pro se.

### OPINION BY ADMINISTRATIVE JUDGE SABAGH

The above-entitled matter comes before the Board on a petition to reopen filed by the petitioner, Mary Goggles Antelope, with Administrative Law Judge Garry V. Fisher.

The estate having been closed since August 8, 1940, the petition was referred by Judge Fisher for disposition pursuant to 43 CFR 4.242(h).

The petitioner in support of her contentions in effect states that Throws First's estate was probated without listing her as an heir. She asserts that she should have been included as an heir, being a daughter of a predeceased daughter of the decedent.

She further asserts that her mother was Hallowing Woman, a/k/a Halloween Goggles and Theresa Throws First Goggles, born 1886, married to John B. Goggles, 1901. Petitioner declares she was born in 1903.

In support of her petition there were submitted copies of the following:

1) Marriage certificate showing a ceremonial marriage having taken place between John Baptist Goggles and Theresa Throwing First on August 20, 1903.

2) Certificate of Baptism certifying baptism on August 20, 1903, of Mary Goggles Antelope born June 7, 1903, to John B. Goggles and Theresa Throwing First.

3) Delayed Birth Certificate sworn to by the petitioner on August 1, 1960, wherein the petitioner declares her name at birth, June 7, 1903, to be Mary Goggles and her parents to be John B. Goggles, age 19, and Halloween (Hollowing Woman) Throws First, age 17.

4) Census rolls record of Catherine Throws First, from 1892 through 1902. The rolls reflect Catherine to have been 16 in 1892 and single, her maiden name being Catherine Reed; that she married Throws First in or about 1898 at age 22. The roll for 1899 shows Throws First and Catherine Throws First to have a daughter, age 14. The roll for 1900 shows a daughter, Hollowing Woman, age 3. The roll for 1901 and 1902 shows Hollowing Woman, Halloween, to be 4 and 5, respectively.

A docketing notice was issued by the Board on October 20, 1976, and opportunity afforded the petitioner and other interested parties to submit within 30 days briefs or statements in opposition to or support of the petition. No additional information was submitted in support of said petition.

[1] Where no cogent reasons are alleged and the petition for reopening is submitted after the statutory period for filing, a reopening will not be allowed.

We are not persuaded by petitioner's allegations and find no cogent reasons for granting reopening.

The petitioner alleges she is the granddaughter of decedent; that she was born June 7, 1903 to John Baptist Goggle and Hallowing Woman, a/k/a Haloween Goggles, and Theresa Throws First.

The census rolls show one Catherine Reed, age 22 to have married Throws First in or about 1898. This is corroborated by the records supplied by the Superintendent, Wind River Indian Agency, and testimony of Gregory Blackburn, a disinterested witness who knew decedent all of his life.

Although the petitioner asserts that Hollowing Woman, Haloween Goggles and Theresa Throws First were one and the same person, she supplies no supportive evidence of same.

Moreover, assuming Hallowing Woman, Haloween Goggles and Theresa Throws First were one and the same, we are faced with an apparent impossibility, i.e., the undisputed fact that Hallowing Woman, a/k/a Haloween Goggles and Theresa Throws First, at the age of 6, gave birth to the petitioner, Mary Goggles Antelope. We give no weight to the delayed birth certificate for obvious reasons.

In view of the foregoing reasons, the petition to reopen must be denied.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the petition to reopen be, and same is hereby DENIED.

This decision is final for the Department.

Done at Arlington, Virginia.

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//original signed  
Mitchell J. Sabagh  
Administrative Judge

I concur:

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//original signed  
Alexander H. Wilson  
Chief Administrative Judge