



INTERIOR BOARD OF INDIAN APPEALS

Estate of Cleveland Iron Shooter

7 IBIA 212 (09/12/1979)

Judicial review of this case:

Summary judgment for defendant, *Ramirez v. Secretary of the Interior*,  
No. CV79-L-293 (D. Neb. Feb. 11, 1983)



# United States Department of the Interior

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

## ESTATE OF CLEVELAND IRON SHOOTER

IBIA 79-13

Decided September 12, 1979

Appeal from order denying petition for rehearing.

Affirmed in Part and Modified in Part.

1. Indian Probate: Claim Against Estate: Proof of Claim

Alleged failure of hospital receiving Federal funding under Hill-Burton Act to provide free care as required by the Act does not bar the hospital's claim for care in an Indian probate proceeding where neither decedent nor those claiming to be his heirs had exhausted administrative procedures required by Act to establish decedent's entitlement to free hospital care.

2. Indian Probate: Claim Against Estate: Source of Funds for Payment--Indian Probate: Code of Federal Regulations (43 CFR Part 4 formerly Title 25 Part 15--Interpretation & Construction): Generally

Hospital bill in an amount larger than cash assets of trust estate must be paid according to regulations governing such payment as established by the Secretary of the Department of the Interior at 43 CFR 4.250 and 4.252.

3. Indian Probate: Section 4 of Indian Reorganization Act of June 18, 1934 (WHEELER-HOWARD ACT) (25 U.S.C. § 464 et seq.): Construction of Section 4

Sec. 4 of Indian Reorganization Act of 1934 (25 U.S.C. § 464) is not unconstitutionally discriminatory against named devisee of decedent's will where the Act operates to achieve a recognized aim of Indian legislation.

4. Indian Probate: Section 4 of Indian Reorganization Act of June 18, 1934 (WHEELER-HOWARD ACT) (25 U.S.C. § 464 et seq.):  
Construction of Section 4

The reorganization of the Rosebud Sioux Tribe under a constitution and bylaws and a charter, pursuant to the Indian Reorganization Act of 1934 is a reasonable application of the Act and conforms to standards of reasonableness required in such cases. The self-determination, by the Tribe, of its own membership, was in furtherance of the Congressional purpose expressed by the 1934 Act, and was properly approved by the Department concerned.

5. Indian Probate: Section 4 of Indian Reorganization Act of June 18, 1934 (WHEELER-HOWARD ACT) (25 U.S.C. § 464 et seq.):  
Construction of Section 4

So long as a scheme for testamentary disposition established by law and regulation conforms to some generally accepted purpose for disposition and organization of Indian trust property it will not be disturbed by the courts.

6. Indian Probate: Wills: Proof of Will--Indian Probate: Wills:  
Witnesses, Attesting

Facts of the case justified a finding by the Administrative Law Judge that there was a failure to prove will where testimony to show testamentary act was scanty and where purported will was undated and was marked "signed copy."

7. Indian Probate: Claim Against Estate: Care and Support

Claim by devisee under will for amount for care and support of decedent must be disallowed where not supported by facts and where the claimant had no expectation of payment, and none had been promised by decedent.

APPEARANCES: David J. Clegg, Esq., for appellant Iyola Ramirez; Robert G. Pahlke, Esq., for claimant, West Nebraska General Hospital.

## OPINION BY ADMINISTRATIVE JUDGE ARNESS

Iyola Ramirez, appellant, is one of two named devisees of trust lands in the purported will of Cleveland Iron Shooter, a deceased Rosebud Sioux Indian who died on February 14, 1975, at Scottsbluff, Nebraska. Appeal is taken from order dated November 24, 1978, denying appellant's petition for rehearing and determining her to be barred from heirship by the provisions of the Indian Reorganization Act (Act of June 18, 1934, 48 Stat. 984, 25 U.S.C. §§ 461-486 (1976)). The November 24 order also directs a stay in probate proceedings to permit appellant to exhaust administrative remedies and to enable her to prove to be invalid the creditor's claim of a hospital for the last illness of decedent which appellant claims is barred by the provisions of 42 U.S.C. §§ 291-300. The claimant hospital has also appeared on appeal, by brief and argument filed in opposition to appellant insofar as the disputed hospital claim is concerned.

Background

Appellant, an enrolled Pine Ridge reservation Sioux and her daughter Terisa (not enrolled at any agency) are joint devisees of a will executed by decedent Cleveland Iron Shooter in April 1974, at Scottsbluff, Nebraska. Paragraph 2 of the purported will provides:

2. I give, devise and bequeath to Iyola Ramirez and Terisa Ramirez, her daughter all my rights, title and interest that I may have in and to Rosebud Sioux #863 Charging Eagle and Rosebud Sioux #864 Rose White Hail Charging Eagle, said property being located on the reservation in South Dakota, share and share alike, and absolutely [sic].

At the time of his death, decedent owned 11 separate tracts of trust land located on the Rosebud Sioux Reservation. He also left cash in an individual Indian money account according to the inventory filed in the probate record for his estate. The April 1974 will makes no disposition of the remainder of decedent's estate, but provides, at paragraph 1: " 1. I direct the executor which is named for me to pay all my debts, including bills of any last illness and burial charges as soon after my death as it may be practicable to do so."

Decedent left surviving him two nieces, a nephew, and a grandnephew, none of whom is named in the April 1974 will. During the last 10 years of his life, decedent moved back and forth between appellant's house in Nebraska and his niece's house in South Dakota. He did odd jobs for appellant for which he was not paid and for which no payment was expected, and he stayed generally at her house, for which he paid \$135 annually from income derived from rents. He suffered from intestinal bleeding which required periodic hospitalization throughout the last 10 years of his life. Decedent was hospitalized at West Nebraska General Hospital at Scottsbluff, Nebraska, on

January 8, 1975, until his death at the hospital on February 14, 1975. The hospital claimed \$10,367.45 to be due from the decedent's estate on account of the care given.

On June 16, 1978, the Administrative Law Judge issued an intermediate order in the probate of decedent's estate determining his heirs to be his nieces, nephew, and grandnephew, and disapproving the April 1974 will. Further probate proceedings were ordered stayed to permit appellant to establish that the amount of the hospital's claim for care should be diminished or barred altogether by the provisions of the Act of July 1, 1944, as amended, 42 U.S.C. §§ 291-300 (the Hill-Burton Act), which provides that under certain conditions health care is to be provided free of charge to poor persons as defined by the Act and implementing regulations of the Secretary of the Department of Health, Education and Welfare (HEW). The appellant was ordered by the Administrative Law Judge, prior to August 16, 1978, to seek an administrative determination by the Secretary of HEW whether the hospital had incorrectly determined decedent to be a paying patient not entitled to free care under the Hill-Burton Act. Appellant declined to take such action, but elected instead to petition the Administrative Law Judge for rehearing, contending it was unnecessary to exhaust administrative procedures required by the Hill-Burton Act because decedent had been entitled to free care as a matter of law.

On November 24, 1978, appellant's petition for rehearing was denied, and the prior probate order modified in part to provide that determination of the hospital claim raised questions that required decision by the Secretary of HEW. The order further recites that a hospital's noncompliance with the Hill-Burton Act can be raised in bar to a creditor's claim presented by a hospital. The November 24 order also finds that appellant's purported new evidence regarding the validity of the will is both unconvincing (since the offered new evidence consists of proposed testimony by a witness present and testifying at the first hearing) and pointless, since regardless of the validity of the will as a testamentary document neither appellant nor her daughter is eligible to take under the provisions of the Indian Reorganization Act of 1934.

Notice of appeal was timely given by appellant. The matter is now properly before this Board for decision.

#### Issues on Appeal

Appellant contends that (a) the creditor's claim from the hospital where decedent spent his last illness is barred by the operation of the Hill-Burton Act, 42 U.S.C. §§ 291-300; (b) the operation of section 4 of the Indian Reorganization Act (Act of June 18, 1934, 48 Stat. 984, 25 U.S.C. § 464) if it excludes appellant from the class of persons eligible to inherit from decedent, causes appellant

to be deprived of property without due process of law and denies her the equal protection of the laws in violation of the United States Constitution; (c) rulings by the Administrative Law Judge denying the purported will admission to probate denied appellant a full hearing concerning the validity of the document purporting to be decedent's will; and (d) it was error to deny the validity of the offered will based upon the recorded evidence received at the hearing.

### Discussion and Conclusions

[1] Since the issue raised concerning the effect of the Hill-Burton Act must be resolved regardless of the disposition of the other matters raised, it is discussed first.

The declared purpose of the Hill-Burton Act is the creation of a vehicle to make Federal money available for local hospital construction. <sup>1/</sup> Corollary to that purpose and to implement the statutory provisions, a regulation was adopted by the Surgeon General, HEW, requiring that hospitals so funded must provide a degree of free care to the poor in the neighborhood of the hospital. <sup>2/</sup> Prior to the amendment of the Hill-Burton Act in 1974 by the addition of section 300p-2(c) to the 1946 law, the extent of the right of private individuals to claim benefits under the Act was regularly challenged by hospitals which received funds under the Act. <sup>3/</sup> The 1974 amendment conferred individual rights of action upon private persons benefitted by the Act, under specified conditions. <sup>4/</sup> Thus, under the amended act, prior to suit by a private party claiming to have individual rights under the Hill-Burton Act, the claimant is required to

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<sup>1/</sup> 42 U.S.C. §291-291(a) (1976).

<sup>2/</sup> 42 CFR 53.111 (1976).

<sup>3/</sup> Saine v. Hospital Authority of Hall County, 502 F.2d 1033 (5th Cir. 1974); Ward v. St. Anthony Hospital, 476 F.2d 671 (10th Cir. 1972); Euresti v. Stenner, 458 F.2d 1115 (10th Cir. 1972); Don v. Okumlgree Memorial Hospital, 443 F.2d 234 (10th Cir. 1971); Corum v. Beth Israel Medical Center, 359 F. Supp. 909 (S.D.N.Y. 1973); Organized Migrants in Community Action, Inc. v. James Archer Smith Hospital, 325 F. Supp. 268 (S.D. Fla. 1971); Cook v. Ochsner Foundation Hospital, 319 F. Supp. 603 (E.D. La. 1970); Santurf v. Sipes, 224 F. Supp. 883 (W.D. Mo. 1963), aff'd, 335 F.2d 224 (8th Cir. 1964), cert. denied, 379 U.S. 977 (1965).

<sup>4/</sup> In pertinent part, 42 U.S.C. § 300p-2(c) provides:

"(c) Investigation of recipients for compliance with assurances; remedies available for finding of noncompliance

"The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this subchapter or which has received financial assistance under subchapter IV of this chapter or this subchapter, the extent of compliance by such entity with the assurances required

exhaust his administrative remedies in the prescribed manner. 5/ Under the law in effect at the time decedent entered the hospital, a patient claiming to be entitled to free care must therefore establish that he, personally, was entitled to such care. 6/ No such showing of individual entitlement has been made here. Appellant does not contend decedent was denied any individual right which entitles his heirs to assert an affirmative defense to the claim by the hospital. Rather, she contends there is a possibility such a showing might be made, but that the burden of going forward with proof in the matter is not on her but on the hospital. The position taken by appellant on this issue is untenable: it seeks to confuse the clear mandate of section 300p-2(c) with language taken from cases decided before the amendment was enacted. 7/ Neither section 300p-2(c) of the Hill-Burton Act nor the implementing regulation (42 CFR 53.111) requires free medical care for all poor persons treated at Hill-Burton hospitals (even though they be otherwise eligible). 8/ Appellant's apparent inability to raise more than a mere speculation concerning decedent's eligibility for free care indicates that further hearings on the issue thus sought to be raised would be equally unenlightening. The entire record shows a failure to establish that decedent was individually entitled to free care by the claimant hospital under the Hill-Burton Act, although appellant was afforded ample additional time in which to establish the necessary facts. 9/

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fn. 4 (continued)

to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) of this section or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary."

5/ Lugo v. Simon, 453 F. Supp. 677 (N.D. Ohio 1978).

6/ Yale-New Haven Hospital v. Matthews, 343 A.2d 661, 664 (Conn. App. 1974), and see: Valley Credit Service, Inc. v. Mair, 582 P.2d 47; 49 (Or. App. 1978).

7/ Valley Credit Service, Inc. v. Mair, *supra*.

8/ Falmouth Hospital v. Lopes, 382 N.E.2d 1042 (Mass. 1978); Craft v. Edwards, 353 So.2d 669 (Fla. App. 1978).

9/ See Falmouth Hospital v. Lopes, *supra*, and Lugo v. Simon, *supra*. Appellant has not merely neglected her administrative remedy. It appears that the hospital has done all it needed to do under applicable regulations when it admitted and cared for decedent.

[2] The hospital bill must now be considered by the Administrative Law Judge for payment under provisions of 43 CFR 4.250 and 4.252. <sup>10/</sup> Under the circumstances of this case, no further delay is necessary. The matter should not be referred to the Secretary of HEW, since the appellant is now foreclosed from raising the affirmative defense urged.

[3] Central to appellant's position that she is entitled to take the property devised to her by the April 1974 will is the challenge she makes to the constitutionality of section 4 of the Indian Reorganization Act of 1934, on the theory that the Act operates to deprive her of property without due process contrary to the provisions of the Fifth Amendment to the United States Constitution. Further, she contends that the Act denies her and her daughter the equal protection of the laws when its application causes them to be classified to be ineligible to inherit from decedent although named in his will. <sup>11/</sup> Appellant argues that she, her daughter, and the decedent were all members of the Sioux tribe. Appellant is an Oglala Sioux enrolled at the Pine Ridge Reservation in South Dakota. Her daughter is not enrolled at any agency. The decedent was enrolled as a member of the Rosebud Sioux reservation. Appellant urges the notion that the division of the Sioux nation into tribes according to reservation is a mere technicality having no real or rational basis in fact and ignores the reality of the interrelationship of the Sioux peoples, especially

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<sup>10/</sup> The cash on hand to satisfy claims against the estate at the time of the probate hearing was \$1,252.27. Since some of the trust lands in the estate are income producing, this amount seems certain to have changed. The hospital claim must be ranked in order of precedence with other claims against the estate according to the regulatory scheme.

<sup>11/</sup> Section 4 of the Indian Reorganization Act of 1934 provides:

“SECTION 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: Provided however, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: Provided further, That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.”

the Rosebud and Pine Ridge Tribes, since both tribal reservations were created by a single legislative act.

[4] Under section 4 of the Indian Reorganization Act trust property may be devised by an Indian only to his heirs at law, to members of the tribe having jurisdiction over the property devised, or to the tribe itself. The words "heirs of such member" appearing in section 4, which might conceivably be construed to include appellant, have been regularly and consistently held to mean "heirs of the testator . . . ." 12/ Appellant seems to concede she is not an heir within the statutory definition, when urging rather that she is a devisee under a valid will which should be recognized as it would be under South Dakota law, were it not for the statutory classification made by section 4 of the 1934 Act. In this connection she contends alternatively, that she is a member of the tribe of decedent, and that, even if she is not, the Act is unconstitutional because it illogically excludes one Sioux Indian from the trust estate of another. Under the 1934 Act, the various tribes have the right, subject to the supervision by the Secretary of the Interior, to determine the membership of each tribe, including the power to recognize members of other tribes or persons not within certain land boundaries to be nonetheless members of the tribe so organized. Both the Rosebud Sioux and the Oglala Sioux have chosen to organize under the Act. 13/ Membership in the Rosebud tribe is limited to persons enrolled in the tribe or born to members of the tribe (with provisions for certain exceptions to that rule). 14/

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12/ Solicitor's Opinion, 54 I.D. 584, 585 (1934), Estate of Dorothy Sheldon, 7 IBIA 11 (1978).

13/ The Oglala Sioux Tribe of the Pine Ridge Reservation is organized under the Indian Reorganization Act of 1934 and operates under a constitution and bylaws approved January 15, 1936, as amended; the Rosebud Sioux are organized under the 1934 Act using a constitution and bylaws approved December 20, 1935, as amended; and a charter approved March 23, 1937, as amended.

14/ Article II, Constitution and By-Laws of the Rosebud Sioux Tribe of South Dakota provides: "Section 1. Membership of the Rosebud Sioux Tribe shall consist as follows:

"(a) All persons of Indian blood, including persons born since December 31, 1920, whose names appear on the official census roll of the tribe as of April 1, 1935.

"(b) All persons born after April 1, 1935, and prior to the effective date of this amendment, to any member of the Rosebud Sioux Tribe who was a resident of the reservation at the time of the birth of said persons.

"(c) All persons of one-fourth (1/4) or more Rosebud Sioux Indian blood born after April 1, 1935, to a member of the Tribe, regardless of the residence of the parent.

"Section 2. The Tribal Council shall have power to promulgate ordinances, subject to review by the Secretary of the Interior, covering future membership and the adoption of new members."

The Oglala Sioux Tribe, in which appellant is enrolled has adopted similar rules for admittance into tribal membership. <sup>15/</sup> Neither tribe admits members of the other to membership on a reciprocal basis, although the constitution of both tribes would permit such a merger, apparently, had it been the desire of these tribes to combine their assets. Certainly it is true that a large part of the business of each tribe is concerned with management of trust lands and that a key to sharing in the benefits from the lands is membership in the tribe having jurisdiction over the land. The constitutions of both tribes evidence the overriding concern of the tribes with the use and division of the tribal lands. Each tribe has, however, chosen to organize to exclude the members of the other tribe. The form of organization chosen by each tribe is declared by each to represent the will of the majority of the tribe and such action was approved by the Secretary. Appellant's contention that she ought to be considered to be a member of the same tribe as decedent for purposes of inheritance is thus without merit. The statutory classification here used to determine eligibility to inherit is not unreasonable or without rational purpose so as to offend the Fifth Amendment to the United States Constitution. <sup>16/</sup> It is not, ultimately, a Congressional fiat that has operated to exclude appellant from the class of eligible persons she seeks to enter, but rather the voluntary self-determination by the tribes concerned that has produced the effect complained of.

[5] Moreover, courts have generally been very reluctant to interfere in any Congressional or Departmental scheme for the disposition or organization of trust property that seems to further some

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<sup>15/</sup> Article II, Constitution and By-Laws of the Oglala Sioux Tribe the Pine Ridge Reservation of South Dakota provides:

“SECTION 1.--The membership of the Oglala Sioux Tribe shall consist as follows:

“(a) All persons whose names appear on the official census roll of the Oglala Sioux Tribe of the Pine Ridge Reservation as of April 1, 1935, provided, that correction may be made in the said rolls within five years from the adoption and approval of this constitution by the tribal council subject to the approval of the Secretary of the Interior.

“(b) All children born to any member of the tribe who is a resident of the reservation at the time of the birth of said children.

“SECTION 2. The tribal council shall propose by-laws covering future membership and the adoption of new members.”

<sup>16/</sup> See Solicitor's Opinion, 55 I.D. 14, 32-40 (1934). It is clearly beyond the power of this Board to hold the statute to be unconstitutional, as the Administrative Law Judge observes in his ruling (Eskra v. Morton, 524 F.2d 9 (7th Cir. 1975)); however, nothing prevents this Board from making the contrary determination in a proper case. This is such a case.

recognized purpose for the furtherance of tribal interests. <sup>17/</sup> Statutes of inheritance more restrictive of individual claims than is section 4 of the Indian Reorganization Act have withstood attacks upon constitutional theories of infirmity similar to those made by appellant. <sup>18/</sup> In short, appellant is simply not eligible to take the trust property devised her because she is not a member of the Rosebud Tribe. In this regard she is treated equally with all other nonmembers. Her exclusion from the Rosebud Tribe appears to be regular, especially in view of her membership in another tribe. <sup>19/</sup> She is not denied the equal protection of the laws by her exclusion from the class of persons eligible to take trust property from decedent.

[6] Although there is a suggestion in the record on appeal that there was not a full hearing concerning the validity of the will because the matter was mooted by the ineligibility of both named devisees, a review of the record shows that there was a sufficient development of the facts to enable the Administrative Law Judge to rule on this issue on the merits, and that he did so rule. The document purporting to be the decedent's last will was admitted into evidence and appears of record; the subscribing witness Josie Gallegos Ramirez testified concerning the events prior to the execution of the will, the execution of the will itself, and the circumstances surrounding the signing. The absence of any other evidence to support the offered will was shown, and the unavailability of witnesses because of death or for other reasons was established. Testimony was offered concerning decedent's testamentary capacity by other witnesses, both by persons present at the will signing and persons who knew him and were familiar with his behavior during April 1974.

According to the subscribing witness, she, the decedent, and appellant went together to the lawyer's office where decedent signed the will. The lawyer who drew the will is dead. Except for the decedent, it appears that the five other persons present (including the two devisees) were all related to one another. The offered document itself is a single typewritten page of tissue carbon copy paper marked "signed copy" in handwriting at the top of the page. It is dated "the \_\_\_ day of April 1974." The document offered is obviously a carbon copy. It lacks a date.

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<sup>17/</sup> See Chippewa Indians of Minnesota v. United States, 307 U.S. 1 (1939); Solicitor's Opinion, 55 I.D. 14, 50-54 (1934).

<sup>18/</sup> Simmons v. Eagle Seelatsee, 244 F. Supp. 808 (E.D. Wash. 1965), aff'd, 384 U.S. 209 (1965).

<sup>19/</sup> See Josephine Valley et al., 19 L.D. 329 (1894) (Opinion that one may not use dual tribal membership to obtain multiple allotments.)

The offered will is at best a questionable document which requires more proof than appellant was able to offer before it can be found to be decedent's last will. The circumstances described, however, indicate all available evidence was put before the Administrative Law Judge. Under the circumstances as developed by the testimony, there is little likelihood that there exists further proof. Based upon the facts in this case, the will offered is not entitled to probate, and the record affirmatively indicates there is no probability other proof can be expected to be offered at another hearing. 20/

[7] Appellant has also claimed against the estate in the amount of \$30,000 for care given to decedent during the last 10 years before his death. The claim is contradicted by appellant's own testimony that decedent paid annual rent in a sufficient amount, did chores around the house for her, and that she did not expect anything from him in addition. Although not specifically urged on appeal, the claim has not been withdrawn. This claim also must therefore be denied. 21/

#### Decision and Order

For the foregoing reasons, the Board affirms the ruling by the Administrative Law Judge that the document offered as the decedent's will was not proved to be valid and is not entitled to probate; that appellant and her daughter cannot, in any event, inherit because they are not persons eligible to inherit decedent's trust property under provision of 25 U.S.C. § 464; and that section 464 is a valid, constitutional limitation upon inheritance in cases involving devolution of Indian trust property. The holding below, however, that noncompliance with the Hill-Burton Act can be raised as an affirmative defense in this proceeding, is reversed and remand is made to the Administrative Law Judge with instructions to consider the claim by the hospital for payment in such amount as is allowable under applicable regulations of the Secretary of the Interior and consistent with this opinion.

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20/ See 43 CFR 4.260(a), providing in pertinent part: "(a) An Indian . . . may dispose of . . . [trust] property by a will executed in writing and attested by two disinterested adult witnesses." (The problem with the will offered for probate is not merely that it fails to meet statutory and regulatory requirements--although it is deficient in both areas--but also that it is of such dubious character when the evidence concerning it is considered, that it hardly can be considered to show any testamentary intention at all.)

21/ See Estate of Edith Anderson Pretty Bird Ferron, 6 IBIA 41 (1977), and cases cited therein.

This decision is final for the Department.

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//original signed  
Frank Arness  
Administrative Judge

We concur:

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//original signed  
Wm. Philip Horton  
Chief Administrative Judge

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Mitchell J. Sabagh  
Administrative Judge