



## INTERIOR BOARD OF INDIAN APPEALS

Estate of Arthur Wishkeno

11 IBIA 73 (02/16/1983)

Related Board cases:

8 IBIA 147

11 IBIA 21

11 IBIA 70



# United States Department of the Interior

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

ESTATE OF ARTHUR WISHKENO : Order Closing Case  
:  
Deceased Prairie Band Potawatomi Allottee 330 : Docket No. IBIA 80-13  
:  
: February 16, 1983

On August 8, 1980, the Board of Indian Appeals issued an opinion in this case upholding a July 19, 1979 decision of Administrative Law Judge Sam E. Taylor disapproving an Indian will allegedly written by decedent Arthur Wishkeno and referring a warranty deed executed by decedent in favor of his daughter, Virginia Wishkeno Cadue, to the Commissioner of Indian Affairs for consideration as to whether it should be given retroactive approval. 8 IBIA 147 (1980). Departmental approval of deeds of Indian trust land is governed by 25 CFR Part 152 (formerly Part 121). On April 5, 1982, the Deputy Assistant Secretary--Indian Affairs (Operations) issued a decision refusing to approve the warranty deed. This decision was opposed by Wesley Wishkeno, Mary E. Wishkeno Delg, Alethia Wishkeno Bedwell, Wilma Wishkeno Anquoe, and Virginia Wishkeno Cadue.

In an opinion dated December 30, 1982, the Board discussed Departmental practice and court decisions concerning retroactive approval of deeds of Indian trust land. Because the decision not to approve this deed did not disclose "any evidence of legally adequate grounds for denying approval of this conveyance," the Board remanded the case to the Deputy Assistant Secretary for supplementation. Wesley Wishkeno et al. v. Deputy Assistant Secretary--Indian Affairs (Operations), 11 IBIA 21, 33, 89 I.D. 655, 661 (1982).

On February 2, 1983, the Assistant Secretary--Indian Affairs found that, after reconsideration of the facts of this case in light of the legal framework as set forth in the Board's December opinion, the warranty deed should be retroactively approved. This decision is attached to and incorporated in the Board's final decision in Wesley Wishkeno et al. v. Deputy Assistant Secretary--Indian Affairs (Operations), 11 IBIA 70 (1983).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Bureau of Indian Affairs is ordered to transfer title to all trust property covered

by the warranty deed of November 21, 1968, signed by Arthur Wishkeno, since deceased, to Virginia (Wishkeno) Cadue in accordance with the terms of that deed. Any trust property remaining in the estate of Arthur Wishkeno shall pass to his heirs as determined by Administrative Law Judge Taylor in his order of July 19, 1979.

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//original signed  
Jerry Muskrat  
Administrative Judge

We concur:

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//original signed  
Wm. Philip Horton  
Chief Administrative Judge

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//original signed  
Franklin D. Arness  
Administrative Judge