



INTERIOR BOARD OF INDIAN APPEALS

Estate of Douglas Leonard Ducheneaux

12 IBIA 1 (09/20/1983)

Related Board case:

13 IBIA 169

Reversed in part, *Ducheneaux v. Secretary of the Interior*, 645 F. Supp. 930  
(D.S.D. 1986)

Reversed, 837 F.2d 340 (8th Cir. Jan 26, 1988)

Certiorari denied, 486 U.S. 1055 (1988)



## United States Department of the Interior

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

ESTATE OF DOUGLAS LEONARD : Order Docketing and Dismissing Appeal  
DUCHENEAX :  
: Docket No. IBIA 83-51  
:  
: September 20, 1983

On September 9, 1983, the Board of Indian Appeals received a notice of appeal in the above estate filed by Marie Ducheneaux (appellant), through her counsel, Newell E. Krause, Esq., Mobridge, South Dakota. The notice was referred to the Board by the Board of Land Appeals, which had received the notice on September 6, 1983.

Appellant seeks review of determinations made in the context of the probate of the estate of Douglas Leonard Ducheneaux, by Administrative Law Judge Garry V. Fisher, on August 4, 1983. Appellant apparently sought a determination which the Administrative Law Judge found to be beyond his jurisdiction in an Indian probate proceeding. Accordingly, he stated, "[h]owever, the broader authority of the Interior Board of Land Appeals, which includes the administrative appeals in addition to appeals in Indian probate, supplies an umbrella for ultimate consideration of the issue." Opinion at page 2. This statement contains a typographical error. <sup>1/</sup> The Board of Indian Appeals, not the Board of Land Appeals has jurisdiction over administrative decisions of the Bureau of Indian Affairs.

The Board notes that appellant has not yet exhausted her remedies before the Administrative Law Judge, in that she has not filed a petition for rehearing in accordance with 43 CFR 4.241. The materials submitted with the notice of appeal indicate an intent to file such a petition. A petition for rehearing is a prerequisite to review by the Board of Indian Appeals. See 43 CFR 4.320. Consequently, the Board finds that this appeal is premature.

---

<sup>1/</sup> Whether it was correct for the Administrative Law Judge to suggest that he lacked jurisdiction to decide appellant's claim that decedent's property was rightfully hers as a product of joint toil and effort is subject to reevaluation in additional proceedings allowed before the Administrative Law Judge, as explained below.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed without prejudice as premature.

\_\_\_\_\_  
*//original signed*

Wm. Philip Horton  
Chief Administrative Judge

\_\_\_\_\_  
*//original signed*

Franklin D. Arness  
Administrative Judge

\_\_\_\_\_  
*//original signed*

Jerry Muskrat  
Administrative Judge