



INTERIOR BOARD OF INDIAN APPEALS

Southern Ute Indian Tribe v. Deputy Assistant Secretary -
Indian Affairs (Operations)

12 IBIA 5 (10/02/1983)



United States Department of the Interior

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

SOUTHERN UTE TRIBE	:	Order Granting Joint Motion to Dismiss
	:	
v.	:	Docket No. IBIA 83-39-A
	:	
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS)	:	October 3, 1983

On September 30, 1983, the Board of Indian Appeals received a joint motion for stipulated dismissal of the above appeal. The appeal involved the use of certain funds paid to minor members of the Southern Ute Tribe (tribe) in determining need and resources available to meet need of children in foster and institutionalized care under the provisions of 25 CFR Part 20. The motion, a copy of which is attached to this order and incorporated by reference, recites that the parties have reached an agreement under which the Bureau of Indian Affairs (BIA) recognizes that these funds are invested for the children by the tribe, and are not available to the children until they reach the age of 18. Because these funds are not available to the minors, BIA has agreed not to consider the funds in determining their resources available to meet need.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, and to the provisions of the stipulated agreement, this appeal is dismissed.

//original signed
Wm. Philip Horton
Chief Administrative Judge

//original signed
Jerry Muskrat
Administrative Judge

//original signed
Franklin D. Arness
Administrative Judge

SOUTHERN UTE TRIBE	:	Joint Motion for Stipulated Dismissal of
	:	Appeal
v.	:	Docket No. IBIA 83-39-A
DEPUTY ASSISTANT SECRETARY--	:	September 21, 1983
INDIAN AFFAIRS (OPERATIONS)	:	

COME NOW the Appellant, Southern Ute Indian Tribe, by and through its attorneys, Maynes, Bradford & Shipps, and the Appellee, Deputy Assistant Secretary--Indian Affairs (Operations), by and through his attorney, Penny Coleman, Office of the Solicitor, and jointly move for entry of an Order allowing for a stipulated dismissal of the pending appeal, and as grounds for said Motion state as follows:

1. The June 15, 1983, Memorandum Decision of the Deputy Assistant Secretary which is the subject of this appeal was issued inadvertently and without a thorough understanding of the restricted nature of funds invested by the Tribe for the benefit of Southern Ute children in foster and institutionalized care.
2. Recognition of the need for revision of the Deputy Assistant Secretary's position did not take place until after the Southern Ute Indian Tribe filed its appeal with the Board of Indian Appeals.
3. The Tribe has agreed to take such action as is appropriate to remove any doubt as to the restricted nature of said funds, and to make it clear that no minor may receive, directly or indirectly, either principal or interest from the Minors' Investment Fund until said minor attains the age of eighteen (18) years.
4. Counsel for the Appellant agreed that if the Deputy Assistant Secretary recognized that such funds were not available as resources to meet need for children in foster or institutionalized care, that the Southern Ute Indian Tribe would seek to withdraw its appeal.
5. On September 14, 1983, the Acting Deputy Assistant Secretary--Indian Affairs (Operations) issued a Memorandum which recognizes that such funds are not available to meet need and shall not be considered as resources for eligibility for services under 25 C.F.R. 20.
6. Based upon the understanding of the parties that the Minors' Investment Funds are not and will not be available for use by or for minor tribal members, and shall not be treated as available resources in the future by the Bureau of Indian Affairs, the parties seek to have the pending appeal dismissed.

WHEREFORE, the parties pray for entry of findings and conclusions which state as follows:

1. The parties stipulate that the Tribe has prohibited the disbursement of funds held in the Minors' Investment Fund to or for minors in foster or institutionalized care until such time as said minors have attained the age of eighteen (18) years.

2. The parties stipulate that the Tribe will take appropriate steps to insure that such funds shall not in the future be issued or disbursed to or for any minor in foster or institutionalized care until such minor has attained the age of eighteen (18) years.

3. Based upon the prior stipulations, the Deputy Assistant Secretary agrees that those funds invested in the Southern Ute Minors' Investment Fund are not and shall not be considered as income or resources available to meet need and are to be disregarded in the determination of eligibility for services under 25 C.F.R. 20.

4. Based upon the foregoing stipulations, the Board of Indian Appeals hereby dismisses the pending appeal.

Respectfully submitted,

MAYNES, BRADFORD & SHIPPS

By: _____ //original signed

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