



INTERIOR BOARD OF INDIAN APPEALS

Hope Vivian Steele Amiotte v. Deputy Assistant Secretary - Indian Affairs (Operations)

13 IBIA 182 (06/12/1985)



United States Department of the Interior

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

HOPE VIVIAN STEELE AMIOTTE,	:	Order Vacating Decision and
Appellant	:	Remanding Case to Bureau of
	:	Indian Affairs
v.	:	
	:	Docket No. IBIA 84-51-A
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS),	:	
Appellee	:	June 12, 1985

On September 10, 1984, the Board of Indian Appeals (Board) received a notice of appeal from Hope Vivian Steele Amiotte (appellant). Appellant sought review of a July 6, 1984, decision of the Deputy Assistant Secretary--Indian Affairs (Operations) (appellee) concerning the denial of her application for Sioux benefits pursuant to 25 U.S.C. § 474 (1982) and 25 CFR Part 125.

In reviewing the administrative record, the Board found that appellant cited an October 29, 1981, letter to her from the Acting Realty Officer, Pine Ridge Agency, Bureau of Indian Affairs. This letter, which allegedly found that she appeared to be eligible to receive benefits under new BIA guidelines, was not part of the administrative record forwarded to the Board. Because the memorandum transmitting the record to the Board stated that it contained all materials upon which appellee based his decision, the Board concluded that this letter was not before appellee at the time he made his decision. The Board therefore requested the letter from the Pine Ridge Superintendent. It was received on May 17, 1985.

The Board recently remanded two other Sioux benefits cases to appellee upon his request after he became convinced by the appellants' arguments that his original reasons for denying their applications were erroneous. Means v. Deputy Assistant Secretary--Indian Affairs (Operations) and One Feather-Red Owl v. Deputy Assistant Secretary--Indian Affairs (Operations), 13 IBIA 132 (1985). It appears that the denial in this case may have been based upon the same grounds.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Deputy Assistant Secretary's July 6, 1984, decision is vacated and the case is remanded for his further consideration in light of the October 1981 letter to appellant and/or the Bureau's position in the two cases.

//original signed
Bernard V. Parrette
Chief Administrative Judge

//original signed
Jerry Muskrat
Administrative Judge

//original signed
Anne Poindexter Lewis
Administrative Judge