



INTERIOR BOARD OF INDIAN APPEALS

Estate of Bernard Whittier

20 IBIA 86 (06/19/1991)



## United States Department of the Interior

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

ESTATE OF BERNARD WHITTIER : Order Docketing and Dismissing Appeal  
:  
: Docket No. IBIA 91-93  
:  
: June 19, 1991

On June 5, 1991, the Board of Indian Appeals received a letter from Beverly M. Whittier Arthur. The letter seeks information but also appears to be a notice of appeal. Accordingly, the Board treats the letter as if it were intended to be a notice of appeal.

Appellant attaches to her letter a copy of an order of modification entered in the estate of appellant's father, Bernard Whittier (decedent), by Administrative Law Judge S.N. Willett on March 22, 1991. The order modified the inventory in decedent's estate by deleting a reference to Gila River Allotment No. 3282.

Appellant's letter indicates, however, that her concern is not with the order of modification but, rather, with the original order in decedent's estate, which was issued on October 17, 1990. That order approved decedent's will, under which decedent devised his entire estate to four of his children, who are appellant's half-brothers and sisters. Appellant apparently believes that she should receive that portion of her father's estate which was originally part of the estate of her mother, Edith Sanderson, who died in 1939.

To the extent appellant is seeking information about the estates of her father and her mother, she is referred to the Realty Office of the Pima Agency, Bureau of Indian Affairs, which maintains records concerning these estates. Further, appellant is advised that she is free to request the devisees under decedent's will to convey interests in the estate to her, but that the devisees are under no legal obligation to comply with her request.

To the extent appellant intended her letter to be a notice of appeal, the Board finds that it must be dismissed. Assuming appellant intended to appeal the October 17, 1990, order, she was required to first seek rehearing from the Administrative Law Judge. Further, she was required to do so within 60 days of mailing of notice of the order. 43 CFR 4.241. Even if she intended to appeal the March 22, 1991, order of modification, which the Judge's notice stated was appealable directly to the Board, the appeal is untimely, as appellant's letter acknowledges. Under 43 CFR 4.320(a), a notice of appeal must be filed within 60 days of the date of the decision appealed. Appellant's letter to the Board was mailed on June 1, 1991.

Therefore, 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.

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//original signed

Anita Vogt  
Administrative Judge

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge