



INTERIOR BOARD OF INDIAN APPEALS

United Keetoowah Band of Cherokee Indians in Oklahoma
v. Muskogee Area Director, Bureau of Indian Affairs

22 IBIA 172 (07/07/1992)

Denying reconsideration of:
22 IBIA 75

Related Board case:
20 IBIA 1
Reconsideration denied, 20 IBIA 67



United States Department of the Interior

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

UNITED KEETOOWAH BAND OF	:	Order Denying Petition for
CHEROKEE INDIANS IN OKLAHOMA,	:	Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 91-60-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 7, 1992

Appellant United Keetoowah Band of Cherokee Indians in Oklahoma has petitioned for reconsideration of a decision issued by the Board of Indian Appeals (Board) on June 4, 1992. 22 IBIA 75. The case involves recognition of the results of a tribal election for the positions of Chief, Assistant Chief, and Treasurer.

In its petition, appellant argues:

- a. That the Band's sovereign immunity divests the Bureau of Indian Affairs of jurisdiction over this matter.
- b. That the government to government relationship between the United States and the Band neither gives nor implies a grant of jurisdiction or authority for the Bureau of Indian Affairs to interfere in the internal governmental-electoral operations of the Band as a sovereign tribe.
- c. That the Indian Civil Rights Act as discussed in Santa Clara Pueblo v. Martinez, 436 U.S. 49, 66 n.22 (1978), does not provide precedent for abridging the sovereign immunity of the Band, especially when consideration is given to general case law principles of tribal sovereign immunity in relation to the Indian Civil Rights Act.
- d. That Band Resolution 90 UKB 9-4 is not classifiable as one which strikes people from the rolls but instead is one that requires members to choose their affiliation.

Under 43 CFR 4.315(a), "[r]econsideration of a decision of the Board will be granted only in extraordinary circumstances." The Board has held that extraordinary circumstances are not present when the issues raised in the petition were considered when the initial decision was issued. See, e.g., Dahl v. Assistant Portland Area Director, 21 IBIA 2 (1991), and cases

cited therein. All of the issues raised in appellant's petition for reconsideration were addressed in the Board's initial decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this petition for reconsideration is denied.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge