



INTERIOR BOARD OF INDIAN APPEALS

Mesa Grande Band of Mission Indians v. Sacramento Area Director,
Bureau of Indian Affairs

22 IBIA 197 (08/05/1992)



United States Department of the Interior

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

MESA GRANDE BAND OF	:	Order Docketing and Dismissing
MISSION INDIANS,	:	Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 92-206-A
SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 5, 1992

This is an appeal from a July 1, 1992, letter of the Sacramento Area Director, Bureau of Indian Affairs, concerning two tracts of land patented to the Santa Ysabel Band of Mission Indians in 1893. The Area Director's letter stated that the tracts had been the subject of a March 9, 1978, decision of the Assistant Secretary for Indian Affairs, in which the Assistant Secretary concluded that beneficial title was in the Santa Ysabel Band rather than appellant.

It appeared from appellant's notice of appeal that appellant sought to reopen the matter which the Area Director indicated had been decided by the Assistant Secretary in 1978. The Board therefore requested and received a copy of the Assistant Secretary's decision.

It is abundantly clear that the issue upon which appellant now seeks Board review is the very same issue decided by the Assistant Secretary in 1978. It is also clear that appellant was a party to the earlier proceedings, which were initiated following appellant's request that the 1893 patents be cancelled and reissued to appellant.

Plainly, the Board has no jurisdiction in this matter. As noted, the original decision was rendered by the Assistant Secretary for Indian Affairs. Normally, decisions of the Assistant Secretary are final for the Department of the Interior. The Board has no authority to review those decisions except where they are specifically referred to it by the Secretary or the Assistant Secretary, or where a right of review is established in regulations. E.g., *Begay v. Acting Phoenix Area Director*, 20 IBIA 243 (1991), and cases cited therein. None of those circumstances are present here.

Further, the appeal is untimely. Under BIA's appeal regulations in effect in 1978, appellant was required to file a notice of appeal within 30 days of receipt of the decision being appealed. 25 CFR 2.10(a) (1978).

The decision appellant is now attempting to appeal was issued over 14 years ago. Even if it had jurisdiction to review the Assistant Secretary's decision, the Board would be required to dismiss this appeal as untimely.

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 docketed and dismissed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge