



INTERIOR BOARD OF INDIAN APPEALS

Wallace Wells, Jr., et al. v. Aberdeen Area Director, Bureau of Indian Affairs

23 IBIA 7 (10/16/1992)

Related Board case:

23 IBIA 9

24 IBIA 142



# United States Department of the Interior

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

WALLACE WELLS, JR., LEONARD	:	Order Docketing and Dismissing
PEASE, JR., and RANDY SHIELDS,	:	Appeal
Appellants	:	
	:	
v.	:	
	:	Docket No. IBIA 93-7-A
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	October 16, 1992

The Board has received a notice of appeal and statement of reasons from Wallace Wells, Jr., Leonard Pease, Jr., and Randy Shields, who state that they are members of the Crow Creek Sioux Tribe and former Tribal Council members. <sup>1/</sup> They state that they are appealing the inaction of the Aberdeen Area Director, Bureau of Indian Affairs, under 25 CFR 2.8. The matter at issue appears to concern a tribal governmental dispute.

Appellants contend that the Area Director has failed to issue a decision in an appeal filed by them on September 14, 1992, and has failed to notify appellants that "he needed additional time to render a decision" in that appeal. Among the documents attached to appellants' notice of appeal to the Board are copies of three notices of appeal which show that they were received at the Crow Creek Agency, BIA, on September 14, 1992, September 18, 1992, and October 6, 1992. An October 7, 1992, letter from the Superintendent to appellant Wells indicates that appellants' three appeals had been forwarded to the Area Director.

This appeal is clearly premature. Under 25 CFR 2.19(a), the Area Director is required to render a decision "within 60 days after all time for pleadings (including all extensions granted) has expired." Appellants' three notices of appeal to the Area Director indicate that they were intended to incorporate appellants' statements of reasons. Under 25 CFR 2.11,

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<sup>1/</sup> Only Wallace Wells, Jr., signed the notice of appeal. He states that he is filing it on behalf of the other two appellants as well as on his own behalf. There is no indication that Wells is a person qualified under 43 CFR 1.3 to practice in Departmental proceedings on behalf of anyone but himself. However, for purposes of this decision only, the Board assumes that the notice of appeal has been properly filed by or on behalf of all three named appellants.

opposing parties are entitled to file answers within 30 days of receipt of appellants' statements of reasons. (It is not clear from the copies received by the Board that appellants even served their notices of appeal and statements of reasons on opposing parties.) The Area Director's 60-day period does not begin to run until the opposing parties file their answers, or the time for filing them expires. It is apparent, therefore, that this matter is not properly before the Board at this time.

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 as premature.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge