



INTERIOR BOARD OF INDIAN APPEALS

Edward After Buffalo v. Acting Billings Area Director, Bureau of Indian Affairs

28 IBIA 131 (08/02/1995)

Reconsideration denied:
28 IBIA 159



United States Department of the Interior

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

EDWARD AFTER BUFFALO,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 95-144-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 2, 1995

On July 31, 1995, the Board of Indian Appeals received a notice of appeal from Edward After Buffalo (appellant), pro se. The notice of appeal was transmitted to the Board by the Assistant Secretary - Indian Affairs, in whose office it was filed. Appellant seeks review of a June 21, 1995, decision of the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning a request to place a portion of Blackfeet Allotment 1084-A into a range unit.

Appellant's attorney received the Area Director's decision on June 23, 1995, as shown by the receipt for certified mail for the decision.

This appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

The Area Director's decision stated:

This decision may be appealed to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * * You must send copies of your notice of appeal to (1) the Assistant Secretary - Indian Affairs, * * * (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. * * *

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal. [Emphasis in original.]

Appellant has failed to file a timely notice of appeal. The Area Director's decision clearly informed him that his notice of appeal was to be filed with the Board and provided the Board's address. Appellant did

not follow the Area Director's instructions but, instead, filed his notice of appeal with the Assistant Secretary - Indian Affairs. The Board has consistently held that a notice of appeal is not timely when the appellant has been given the correct appeal information but files his/her notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board outside the time period specified in the regulations. E.g., Blanchard v. Sacramento Area Director, 27 IBIA 134 (1995); Kozak v. Acting Aberdeen Area Director, 24 IBIA 207 (1993).

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 as untimely. The Area Director's June 21, 1995, decision is therefore final for the Department of the Interior.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge