



INTERIOR BOARD OF INDIAN APPEALS

Elizabeth Drake v. Acting Minneapolis Area Director, Bureau of Indian Affairs

29 IBIA 178 (04/30/1996)



United States Department of the Interior

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

ELIZABETH DRAKE, : Order Docketing and Dismissing
Appellant : Appeal
: :
v. : :
: Docket No. IBIA 96-52-A
ACTING MINNEAPOLIS AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : April 30, 1996

Appellant Elizabeth Drake sought review of a January 23, 1996, decision of the Acting Minneapolis Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning recognition of the results of an August 14, 1995, recall election conducted by the Bad River Band of Lake Superior Chippewa Indians (Band).

After appellant filed her notice of appeal, the Board received a letter from Judith A. Atkinson, Esq., on behalf of the Band. Atkinson argued that this appeal was moot for either or both of two reasons: (1) Even if appellant had not been recalled, her term of office would have expired on November 7, 1995. A tribal election was held on November 7, 1995, at which appellant unsuccessfully ran for office; and (2) the recall election was upheld in tribal court on August 17, 1995, and, although appellant appealed that decision to the tribal appellate court, she failed to file her brief that was due on December 8, 1995, and had apparently abandoned the appeal.

On March 4, 1996, the Board issued an order to show cause, stating:

The Board has previously found appeals from election disputes moot for both the reasons cited by [Atkinson]. Paiz v. Albuquerque Area Director, 29 IBIA 55 (1996) (valid tribal election held during the pendency of an appeal renders moot questions concerning prior tribal leadership); Small v. Eastern Area Director, 18 IBIA 459 (1990) (BIA cannot disregard the resolution of an election dispute by a valid tribal forum). See also Gonzales v. Acting Albuquerque Area Director, 28 IBIA 229 (1995) (where the results of a tribal election have been certified by a properly constituted and authorized tribal body, BIA should recognize the election results at least on an interim basis, pending resolution of any disputes in a tribal forum).

(Order at 1).

The Board gave appellant until April 12, 1996, in which to show why her appeal should not be dismissed for either or both of the reasons raised by Atkinson. No response has been received.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Acting Minneapolis Area Director's January 23, 1996, decision is docketed but dismissed for failure to show cause.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge