



INTERIOR BOARD OF INDIAN APPEALS

Jefferey Alan-Wilson, Sr. v. Sacramento Area Director, Bureau of Indian Affairs

31 IBIA 4 (05/07/1997)

Denying reconsideration of:

30 IBIA 241

Related Board cases:

30 IBIA 263

Reconsideration denied, 31 IBIA 6

32 IBIA 33

Reconsideration denied, 32 IBIA 92

33 IBIA 55



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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JEFFEREY ALAN-WILSON, SR.,	:	Order Denying Petition for
Appellant	:	Reconsideration
	:	
v.	:	
	:	Docket No. IBIA 95-112-A
SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 7, 1997

Jefferey Alan-Wilson, Sr. (Wilson), has petitioned for reconsideration of a decision issued by the Board of Indian Appeals (Board) on April 1, 1997. 30 IBIA 241. The case involves the reorganization of a tribal government for the Cloverdale Rancheria of Pomo Indians of California (Tribe), and the recognition of such a government by the Bureau of Indian Affairs (BIA). The Board's decision vacated two BIA decisions and remanded the matter for further consideration.

Wilson continues to contend that BIA's decision to withdraw recognition of the government he organized was improper because any appeal from John Santana (Santana) was barred by laches. Wilson raises new arguments in further support of this argument. The Board is not required to consider arguments raised for the first time in a petition for reconsideration. Hamilton v. Acting Sacramento Area Director, 29 IBIA 188 (1996); Pima Country Club, Inc. v. Phoenix Area Director, 21 IBIA 70 (1991). Here, although Wilson raised the underlying contention during the appeal, he is now presenting new arguments in support of it. The Board is not required to consider these new arguments.

However, even if the Board were to consider Wilson's new arguments, it would not change its decision. Much of Wilson's argument is based on his continuing assertion that any challenge to BIA's decision recognizing the government he organized was barred by laches. Wilson now cites two prior Board decisions in support of this argument. However, the decisions Wilson cites were issued under procedural regulations that are no longer in effect, and were not in effect at any time relevant to this case. The present regulations in 25 C.F.R. § 2.7 specifically require that an interested party be given written notice of the decision and be notified of both the right to appeal that decision and the time period for filing an appeal. Although Wilson argues that there is additional information in the administrative record indicating that Santana had knowledge of Wilson's reorganization efforts, the Board found no evidence in the record, and Wilson has not cited anything which the Board overlooked, to show that Santana was given the notice required by the regulations.

Wilson also objects to the Board's decision because it did not identify those individuals who were authorized to reorganize the Tribe's government. The Board declined the invitation to issue a decision on this point because of a lack of information. The Board's decision requires that, on remand, the Area Director demonstrate what practice the Department has followed in the reorganization of other rancherias restored under the decision in Hardwick v. United States, Civil No. C-79-1710 SW (N.D. Cal. Dec. 22, 1983), and apply that same practice here. This demonstration and application of prior BIA practice is well within the Area Director's authority and capability.

Reconsideration of Board decisions is governed by 43 C.F.R. § 4.315(a) which states in pertinent part: "Reconsideration of a decision of the Board will be granted only in extraordinary circumstances." After consideration of Wilson's petition, the Board finds that it does not raise extraordinary circumstances meriting reconsideration.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Wilson's Petition for Reconsideration is denied.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge