



## INTERIOR BOARD OF INDIAN APPEALS

Merceline Warrington; Neoma Denning; Patricia Shopodock; Bernadine R. Kersey;  
Lisa Shaw; Victor Torres; Ramon Torres; Deborah Lowe; and Charita E. Beauprey  
v. Anadarko Area Director, Bureau of Indian Affairs

31 IBIA 312 (12/30/1997)

Reconsideration denied:

32 IBIA 12

Related Board cases:

29 IBIA 233

29 IBIA 236

29 IBIA 240

29 IBIA 303

29 IBIA 305

31 IBIA 314

Reconsideration denied, 32 IBIA 11



# United States Department of the Interior

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

MERCELINE WARRINGTON,	:	Order Severing Appeals and
NEOMA DENNING,	:	Affirming Decisions
PATRICIA SHOPODOCK,	:	
BERNADINE R. KERSEY,	:	
LISA SHAW,	:	Docket Nos. IBIA 96-88-A
VICTOR TORRES,	:	IBIA 96-89-A
RAMON TORRES,	:	IBIA 96-90-A
DEBORAH LOWE, and	:	IBIA 96-92-A
CHARITA E. BEAUPREY,	:	IBIA 96-93-A
Appellants	:	IBIA 96-94-A
	:	IBIA 96-95-A
v.	:	IBIA 96-97-A
	:	IBIA 96-98-A
ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 30, 1997

Appellants Merceline Warrington, Neoma Denning, Patricia Shopodock, Bernadine R. Kersey, Lisa Shaw, Victor Torres, Ramon Torres, Deborah Lowe, and Charita E. Beauprey seek review of separate decisions issued by the Anadarko Area Director, Bureau of Indian Affairs (Area Director) on May 17, 1996. The decisions concern whether certain properties owned by each Appellant are held in trust by the United States. For the reasons discussed below, the Board of Indian Appeals (Board) affirms these decisions.

Appellants filed essentially identical Notices of Appeal, each of which states:

This letter is to serve as notice of my appeal of the decision made by the Bureau of Indian Affairs, Anadarko Area Director dated May 17, 1996 (attached). I received that decision on or about May 28, 1996. That decision upheld \* \* \* the Superintendent, Horton Agency's decision of November 2, 1994 wherein he determined that my interest in certain individual Potawatomi trust allotments would be considered non trust land due to my status as a member of the Menominee Indian Tribe of Wisconsin and due to the date on which I acquired title to such trust allotments.

I certify that a copy of this notice has been sent to: \* \* \*

Please notify me of further appeal procedures at the above address.

On August 13, 1996, the Board docketed and consolidated these appeals and an appeal filed by Annie Wayka, Docket No. IBIA 96-87-A. The Order stated at page 2:

Appellants may file individual briefs, or any or all of them may file a consolidated brief. Any consolidated brief must clearly show those appellants for which it is filed, and show that the person signing the brief has been given authority to sign for each appellant participating in the consolidated brief.

Appellants were further advised that they bore the burden of proving the error in the decisions being appealed.

Appellants did not file a brief or briefs. The Opening Brief filed by Annie Wayka lists those individuals on whose behalf the brief was filed. None of the present Appellants are listed.

The Board has consistently held that an appellant bears the burden of proving the error in the decision being appealed. An appellant who fails to make any allegation concerning how an Area Director's decision is in error, let alone any argument in support of such an allegation, has not carried this burden of proof. *See, e.g., McCarty v. Muskogee Area Director*, 30 IBIA 152 (1996), and cases cited therein. Appellants have not carried their burden of proof here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, these appeals are severed from *Wayka v. Anadarko Area Director*, 31 IBIA 314, and the Area Director's May 17, 1996, decisions in regard to these Appellants are affirmed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge