



INTERIOR BOARD OF INDIAN APPEALS

Mike Belenski v. Portland Area Director, Bureau of Indian Affairs

33 IBIA 148 (02/03/1999)



# United States Department of the Interior

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

MIKE BELENSKI,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 98-3-A
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 3, 1999

This is an appeal from an August 15, 1997, decision of the Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), holding that BIA could not acquire interests in land in trust for Appellant under 25 C.F.R. Part 151 because Appellant did not fall within the definition of "Indian" in 25 C.F.R. § 151.2(c).

At the time of the Area Director's decision, Appellant was not a member of any Indian tribe. By letter of January 12, 1999, Appellant advised the Board that he had become an enrolled member of the Shoalwater Bay Indian Tribe. The Board requested the parties to submit statements concerning the effect they believed Appellant's new status had on this appeal.

The Area Director filed a motion to dismiss the appeal as moot, stating: "BIA has confirmed appellant's [tribal] membership and concludes that appellant now falls within the definition of Indian. Therefore, BIA is now able to process his application to have land acquired in trust for his benefit."

Appellant contends that his appeal is not moot and asks the Board to decide his appeal on the merits. In the alternative, he asks the Board to dismiss his appeal.

Given the Area Director's statement, it is apparent that this appeal is now moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed. The Superintendent, Olympic Peninsula Agency, may proceed to consider Appellant's trust acquisition application.

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Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge