



INTERIOR BOARD OF INDIAN APPEALS

Estate of Clete LaForest Reeder

35 IBIA 13 (04/12/2000)



United States Department of the Interior

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

ESTATE OF CLETE LaFOREST REEDER : Order Docketing Case, Determining that
: Filing Should be Considered a Petition
: for Rehearing, and Remanding Case to
: the Administrative Law Judge
:
: Docket No. IBIA 00-52
:
: April 12, 2000

On April 7, 2000, the Board of Indian Appeals (Board) received several documents relating to the estate of Clete LaForest Reeder (Decedent) from the Office of Administrative Law Judge Richard L. Reeh. For the reasons discussed below, the Board docketed this case, but determines that the filing should be treated as a petition for rehearing. It therefore remands the matter to Judge Reeh for appropriate consideration.

The oldest of the documents submitted to the Board is a January 28, 1999, Order of Dismissal in the Estate of Clete LaForest Reeder, Case No. IP OK 051 P 97. This order dismissed the proceeding and returned the file to the Bureau of Indian Affairs (BIA) for additional work because the Judge discovered at the hearing that the family history information submitted to him by BIA was extremely incomplete. The Judge essentially determined that it would be a denial of due process to proceed on the basis of the information then before him, and required BIA to supplement that information and resubmit the probate. Judge Reeh stated that the dismissal was final for the Department. He did not give any information in the order relating to rehearings or appeals.

The next document is a January 20, 2000, Order Approving Will and Decree of Distribution in the Estate of Clete Reeder, Case No. IP OK 219 P 99. This order stated: "This decision is final for the Department unless a petition for rehearing is filed, pursuant to 43 C.F.R. § 4.241 with the Superintendent, Anadarko Agency, within 60 days from the date hereof."

Next is a March 15, 2000, letter from Joan R. Priddy to the Superintendent, Anadarko Agency, BIA (Superintendent). This letter states in its entirety: "I Joan Reeder Priddy appeal the decision made on the case of Clete LaForest Reeder IP OK 051 P 97." The envelope in which this letter was mailed was postmarked March 16, 2000; the letter is date stamped as having been received by BIA on March 17, 2000.

Next is a March 23, 2000, memorandum from the Superintendent transmitting Priddy's letter to the Judge's office.

The last document is an April 4, 2000, memorandum from the Judge's office transmitting the documents to the Board.

The reason why these documents were sent to the Board was not stated in the transmittal memorandum. For purposes of this order, the Board assumes that they were sent for a determination as to whether Priddy's letter constituted an appeal to the Board.

In her letter Priddy used the word "appeal" rather than the word "rehearing." Although this is technically and legalistically incorrect, it is hardly uncommon, even among attorneys, let alone among laypersons such as Priddy appears to be. Priddy used the first case number rather than the second. This is also not unusual. It has been the Board's experience that many parties who have been before the Board multiple times, especially in regard to the same dispute, confuse the docket numbers. Priddy also used Decedent's full name, which the Judge used in the title of the first case, but not in the title of the second.

Because of these "inaccuracies," however, it is perhaps possible to argue that Priddy was appealing from the January 1999 order, rather than seeking rehearing of the January 2000 order. The Board finds, however, that Priddy's letter was properly and timely sent to the Superintendent in accordance with the instructions in the January 2000 order. It has no doubt that Priddy was attempting to obtain rehearing of Judge Reeh's January 2000 order. It concludes that Priddy's letter should be treated as a petition for rehearing.

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 case is docketed but, because the Board has found that Priddy's letter should be treated as a petition for rehearing, the case is remanded to Judge Reeh for appropriate consideration.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge