



INTERIOR BOARD OF INDIAN APPEALS

William Blackdeer v. Midwest Regional Director, Bureau of Indian Affairs

35 IBIA 147 (08/07/2000)

Denying reconsideration of:
35 IBIA 92



United States Department of the Interior

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

WILLIAM BLACKDEER,
Appellant

v.

MIDWEST REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS
Appellee

: Order Denying Reconsideration
:
:
:
: Docket No. IBIA 00-94-A
:
:
: August 7, 2000

On June 28, 2000, the Board dismissed this appeal as untimely. 35 IBIA 92. On July 28, 2000, the Board received a petition for reconsideration from Appellant.

Appellant states that he was unable to mail his notice of appeal himself and so requested his attorney to mail it for him and to mail it within the time allowed for filing an appeal. He does not contend that his appeal was timely filed. Rather, he apparently seeks to be excused from the requirement for filing a timely notice of appeal.

A notice of appeal to the Board is required to be timely filed, regardless of whether it is filed by the appellant himself or by an attorney on behalf of the appellant. Thus it does not matter whether Appellant's notice of appeal was mailed by him personally or by his attorney.

Appellant's notice of appeal was untimely. The Board is prohibited by regulation from considering an untimely appeal. See 43 C.F.R. § 4.332(a): "A notice of appeal not timely filed shall be dismissed for lack of jurisdiction."

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 petition for reconsideration is denied. 1/

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge

1/ Appellant suggests that, unless the Board considers his appeal, the issues in the appeal will remain unresolved. Contrary to his suggestion, however, the issues are now resolved for the Department of the Interior, although presumably not to Appellant's liking. When Appellant failed to file a timely notice of appeal, the Regional Director's decision became final for the Department.