



INTERIOR BOARD OF INDIAN APPEALS

Louis W. Ballard v. Acting Eastern Oklahoma Regional Director, Bureau of Indian Affairs

35 IBIA 216 (10/16/2000)

Reconsideration denied:

35 IBIA 255



United States Department of the Interior

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

LOUIS W. BALLARD,
Appellant

v.

ACTING EASTERN OKLAHOMA
REGIONAL DIRECTOR, BUREAU
OF INDIAN AFFAIRS,
Appellee

: Order Docketing and Dismissing
: Appeal
:
:
:
: Docket No. 00-107-A
:
:
:
: October 16, 2000

This is an appeal from a June 19, 2000, decision of the Acting Eastern Oklahoma Regional Director, Bureau of Indian Affairs (Regional Director), denying the request of Louis W. Ballard (Appellant) to have a tract of land in Hot Springs, Arkansas, taken into trust for him.

The Regional Director held that trust acquisition of the tract was not authorized by the regulations in 25 C.F.R. Part 151)) specifically, that it did not fall within the trust acquisition policy set out in 25 C.F.R. § 151.3(b) concerning trust acquisitions for individuals, because the tract is presently in fee status and is not located within the boundaries of an Indian reservation or adjacent thereto. 1/

Although Appellant made a number of policy-based arguments in his notice of appeal, he did not contend that the Regional Director erred in his interpretation of the regulations in 25 C.F.R. Part 151.

1/ 25 C.F.R. § 151.3(b) provides:

"Subject to the provisions contained in the acts of Congress which authorize land acquisitions or holding land in trust or restricted status, land may be acquired for an individual Indian in trust status:

"(1) When the land is located within the exterior boundaries of an Indian reservation, or adjacent thereto; or

"(2) When the land is already in trust or restricted status."

Therefore, on August 7, 2000, the Board issued an Order to Show Cause. In light of the apparent correctness of the Regional Director's interpretation of 25 C.F.R. § 151.3(b) and given the fact that duly promulgated regulations are binding on the Board, e.g., Van Mechelen v. Portland Area Director, 35 IBIA 122, 125 (2000), the Board ordered Appellant to show why the Regional Director's decision should not be summarily affirmed.

Appellant was advised that failure to respond by September 22, 2000, would result in dismissal of this appeal for failure to prosecute.

Appellant has not responded.

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 docketed but is dismissed for failure to prosecute.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge