



INTERIOR BOARD OF INDIAN APPEALS

Estate of Imogene Iron Teeth Fast Horse

36 IBIA 208 (07/06/2001)

Reconsideration denied:
36 IBIA 256



United States Department of the Interior

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

ESTATE OF IMOGENE IRON TEETH : Order Docketing and Dismissing
FAST HORSE : Appeals
: :
: Docket No. IBIA 01-143
: :
: July 6, 2001

On July 2, 2001, the Board of Indian Appeals received two filings concerning an April 20, 2001, Order Denying Petition for Rehearing issued by Administrative Law Judge Marcel S. Greenia in the estate of Imogene Iron Teeth Fast Horse, IP TC 305 T 98-1. One of the filings is an original handwritten document signed by Eleanor Iron Teeth Big Owl and postmarked June 28, 2001. The other is a copy of a different document, signed by Eleanor Big Owl, Georgianna Shot, and Mary Rose Iron Teeth (Appellants), and postmarked June 26, 2001. The latter document is partially typed and partially handwritten. For purposes of this decision, the Board construes both documents as notices of appeal.

In addition to the two documents mailed to the Board by Appellants, another copy of the latter document was telefaxed to the Board on June 20, 2001, by the Superintendent, Pine Ridge Agency, Bureau of Indian Affairs. This copy shows that it was received in the Superintendent's office on June 20, 2001, the same day it was telefaxed to the Board. Finally, a copy of a similar, but not identical, document was sent to the Board by Judge Greenia. This document shows that it was received in the Judge's office on June 19, 2001. It differs from the copy Appellants filed with the Board in that the handwritten portion is absent and the signatures appear in a different place. Judge Greenia transmitted a copy of this document to the Board along with copies of letters he wrote to Appellants concerning the document.

None of the several documents now before the Board may be considered a properly filed notice of appeal. Both notices mailed to the Board are untimely and must be dismissed for that reason. There are two impediments to consideration of the telefaxed copy. First, there is no authority in the Board's regulations for the filing of notices of appeal by telefax. Thus, the Board has held that a notice of appeal telefaxed to the Board cannot be considered. Estate of Anita Walsey, 35 IBIA 214 (2000). Second, even if this general barrier did not exist, this particular telefax could not be considered because it is untimely. Finally, the document Appellants sent to Judge Greenia's office cannot be considered because it was not filed with the Board, as required by the Board's regulations, 43 C.F.R. § 4.320.

Judge Greenia notified the parties of the correct appeal procedures when he issued his April 20, 2001, order. He informed the parties that appeals must be filed with the Board within 60 days of the mailing of his decision. He provided the Board's address and stated that filings with the Board must be made by mail or personal delivery. Appellants were informed of the correct procedures for filing a notice of appeal but failed to follow them. For the reasons discussed above, Appellants' notices of appeal must be dismissed.

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 docketed and dismissed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge