



INTERIOR BOARD OF INDIAN APPEALS

Paula J. Brady v. Western Regional Director, Bureau of Indian Affairs

37 IBIA 256 (05/30/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

PAULA J. BRADY,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 02-109-A
	:	
WESTERN REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 30, 2002

Appellant Paula J. Brady seeks review of the alleged failure of the Western Regional Director, Bureau of Indian Affairs (Regional Director; BIA), to respond to her March 26, 2002, letter to him concerning her dispute as to the calculation of the Indian blood quantum of her paternal grandmother. Appellant brought her appeal under 25 C.F.R. § 2.8, which provides procedures under which a person adversely affected by the failure of a BIA official to make a decision or take action can make that inaction the subject of an appeal to the next deciding official. For the reasons discussed below, the Board docketed this appeal but dismisses it for lack of jurisdiction.

Appellant's notice of appeal shows that she is seeking review of a determination of Indian blood quantum. Indian blood quantum determinations are governed by 25 C.F.R. Part 62. See 25 C.F.R. § 62.4(a)(5).

In In re Federal Acknowledgment of the Paucatuck Eastern Pequot Indians of Connecticut, 34 IBIA 210 (2000), the appellant sought review under 25 C.F.R. § 2.8 of the alleged failure of the Assistant Secretary - Indian Affairs to issue proposed findings on the appellant's petition for Federal acknowledgment as an Indian tribe. Federal acknowledgment determinations are made under 25 C.F.R. Part 83. The Board noted that 25 C.F.R. § 2.8 is part of BIA's general appeal regulations in 25 C.F.R. Part 2, and that 25 C.F.R. § 2.3(b) provides that Part 2 does not apply "if any other regulation or Federal statute provides a different administrative appeal procedure applicable to a specific type of decision." The Board held that because 25 C.F.R. Part 83 provides a different administrative appeal procedure applicable to Federal acknowledgment determinations, 25 C.F.R. § 2.8 does not apply to appeals brought under Part 83.

Similarly here, 25 C.F.R. Part 62 sets out a different appeal procedure for appeals concerning Indian blood quantum determinations. See 25 C.F.R. §§ 62.4--62.11. For the same

reasons as were discussed in Paucatuck Eastern Pequot Indians, the Board finds that 25 C.F.R. § 2.8 does not apply to appeals brought under 25 C.F.R. Part 62.

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 dismissed for lack of jurisdiction.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge