



INTERIOR BOARD OF INDIAN APPEALS

Jerry G. Haney and James Factor v. Acting Assistant Secretary--Indian Affairs

39 IBIA 25 (04/03/2003)



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

JERRY G. HANEY and JAMES FACTOR,	:	Order Docketing and Dismissing
Appellants	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 03-73-A
ACTING ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS,	:	
Appellee	:	April 3, 2003

Appellants Jerry G. Haney and James Factor seek review of a February 28, 2003, decision issued by the Acting Assistant Secretary - Indian Affairs, recognizing Appellants' removal from the positions of Principal Chief and Assistant Chief of the Seminole Nation of Oklahoma. For the reason discussed below, the Board of Indian Appeals (Board) docketed this appeal but dismisses it for lack of jurisdiction.

As stated, the decision Appellants seek to appeal was issued by the Acting Assistant Secretary - Indian Affairs. Decisions of the Acting Assistant Secretary are equivalent to decisions of the Assistant Secretary. Three Irons v. Acting Assistant Secretary - Indian Affairs, 19 IBIA 46 (1990); Ute Mountain Ute Tribe v. Acting Assistant Secretary for Indian Affairs, 11 IBIA 168 (1983). The Board is not a court of general jurisdiction, but rather has only that authority delegated to it by the Secretary of the Interior. It has not been delegated general authority to review decisions of the Assistant Secretary. Instead, it has authority to review those decisions only when the decision at issue specifically grants a right of appeal to the Board or a regulation grants such a right. See, e.g., Shawnee Tribe v. Assistant Secretary - Indian Affairs, 39 IBIA 4 (2003), and cases cited there. Here, no regulation establishes a right to appeal this type of decision to the Board, and the Assistant Secretary did not provide for review by the Board in her decision.

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 from the Acting Assistant Secretary's February 28, 2003, decision is docketed but dismissed for lack of jurisdiction.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge