



INTERIOR BOARD OF INDIAN APPEALS

Estate of Louis Williams

39 IBIA 99 (08/11/2003)



United States Department of the Interior

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

ESTATE OF LOUIS WILLIAMS : Order Docketing and Dismissing Appeal
:
: Docket No. IBIA 03-120
:
: August 11, 2003

Appellants Helen Miller Williams, Sharon Henry, and Lyle Williams seek review of a May 19, 2003, order denying rehearing issued in the estate of Decedent Louis Williams by Administrative Law Judge William E. Hammett. For the reasons discussed below, the Board of Indian Appeals (Board) docketed this appeal but dismisses it as untimely.

Judge Hammett issued his order denying rehearing on May 19, 2003. The order correctly notified interested parties that they had 60 days from the date of the decision to appeal the order to the Board. See 43 C.F.R. § 4.320. The date of filing a notice of appeal with the Board is the date of mailing. See 43 C.F.R. § 4.310(a). Appellants' notice of appeal was postmarked July 21, 2003, which is more than 60 days from the date of the decision. Accordingly, this appeal was not timely filed and the Board lacks jurisdiction to address it. See 43 C.F.R. § 4.320(a).

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 as being untimely filed. 1/

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge

1/ If the Board had had jurisdiction over this appeal, it would not have had authority to grant the relief Appellants request. Appellants' notice of appeal asks that the Board order DNA tests to determine paternity. The Board has previously held that it lacks authority to order DNA, or other invasive tests, in order to determine paternity. However, if the parties voluntarily submit to DNA testing, they can provide the results to be used in a probate proceeding. Estate of Paul Greenwood, 38 IBIA 121 (2002); Estate of Herbert Bartlett Levering, 37 IBIA 89 (2001).