



INTERIOR BOARD OF INDIAN APPEALS

Micki Diserly v. Great Plains Regional Director, Bureau of Indian Affairs

39 IBIA 134 (09/16/2003)



United States Department of the Interior

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

MICKI DISERLY, : Order Dismissing Appeal
Appellant :
 :
v. :
 : Docket No. IBIA 03-63-A
GREAT PLAINS REGIONAL DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : September 16, 2003

Appellant Micki Diserly questioned the accuracy of information provided by the Bureau of Indian Affairs (BIA) for use in probating the estate of her sister, Wilma G. Old Rock (Decedent). The decision in Decedent's estate indicated that her entire trust estate consisted of funds in an Individual Indian Money account. Appellant alleged that James and Agnes Brown, Decedent and Appellant's grandparents, each left trust land to Decedent when they died. The Board of Indian Appeals (Board) asked the Great Plains Regional Director, BIA, for information concerning James and Agnes' estates. It received a response from the Acting Superintendent, Fort Totten Agency (Superintendent), BIA, on July 21, 2003. The Superintendent provided the Board with copies of three probate decisions: (1) the October 25, 1973, decision in the estate of James Brown; (2) the October 25, 1973, decision in the estate of Agnes Littlewind Brown; and (3) the July 26, 1995, decision in the estate of Irene T. Brown/Martin/Yankton, the daughter of James and Agnes Brown and Appellant and Decedent's mother.

In a July 22, 2003, order, the Board noted that the decisions in James and Agnes' estates showed that their estates passed through intestate succession, and that Irene took a 1/4 interest in James' estate and a 1/8 interest in Agnes' estate. It stated that the decisions further showed that Decedent took nothing from the estates of either her grandfather or her grandmother.

In addition, the Board noted that the decision in Irene's estate showed that Decedent predeceased Irene without issue, and therefore took nothing from her mother's estate.

The Board gave Appellant until August 29, 2003, in which to provide any evidence she might have that Decedent did take trust property from any of these relatives. It stated: "Failure to respond to this order or to show that Decedent received trust property will result in the dismissal of this appeal." (Emphasis omitted.)

The Board has received nothing further from Appellant.

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 dismissed for failure to prosecute.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge