



INTERIOR BOARD OF INDIAN APPEALS

Estate of Glenn Birdinground, Sr.

39 IBIA 160 (10/08/2003)



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

ESTATE OF GLENN BIRDINGROUND, SR. : Order Affirming Decision
:
: Docket No. IBIA 03-108
:
: October 8, 2003

Appellant Alta Birdinground sought review of an April 11, 2003, order affirming decision after rehearing entered in the estate of Decedent Glenn Birdinground, Sr., by Administrative Law Judge Robert G. Holt. IP RM-202-0018. For the reason discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant's notice of appeal states in its entirety:

NOTICE IS HEREBY GIVEN that the undersigned, ALTA BIRDINGROUND, appeals the "Order Affirming Decision After Rehearing" entered by Administrative Law Judge Holt in the Hearings Division, Billings, Montana, and dated April 11, 2003, in the case of *In the Matter of the Estate of Glenn Birdinground Sr.*, Probate IP RM-202--0018.

The Board advised Appellant of her right to file an opening brief and of the fact that she was responsible for proving the error in the decision from which she was appealing. Appellant was given until September 19, 2003, to file an opening brief. The Board has received nothing further from Appellant.

The Board has consistently held that an appellant in a probate matter bears the burden of proving the error in an Administrative Law Judge's decision. An appellant who fails to make any allegation concerning how a probate decision is in error, let alone any argument in support of such an allegation, has not carried her burden of proof. See, e.g., Estate of Shirley Lavina Johns Burdeaux, 39 IBIA 82 (2003); Estate of Charles Walton Austin, 37 IBIA 56 (2001), and cases cited there. Appellant's notice of appeal does not allege any error in Judge Holt's decision and she did not file an opening brief alleging any error. Under these circumstances, Appellant has failed to carry her burden of proving error in the decision below.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Judge Holt's April 11, 2003, decision is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge