



INTERIOR BOARD OF INDIAN APPEALS

Clifford McKenzie v. Senior Awarding Official,
Southern Plains Regional Office, Bureau of Indian Affairs

39 IBIA 184 (10/28/2003)

Vacated on Reconsideration:
39 IBIA 242



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

CLIFFORD McKENZIE, <u>1</u> / Appellant	:	Order Docketing and Dismissing Appeal
	:	
v.	:	
	:	
SENIOR AWARDING OFFICIAL, SOUTHERN PLAINS REGIONAL OFFICE, BUREAU OF INDIAN AFFAIRS, Appellee	:	Docket No. IBIA 03-88-A October 28, 2003

Appellant Clifford McKenzie, Chairman, Kiowa Tribe of Oklahoma (Tribe), sought review of a March 18, 2003, Notice of Reassumption of certain programs contracted to the Tribe under the Indian Self-Determination Act (ISDA). The Notice was sent to Appellant by the Senior Awarding Official, Southern Plains Regional Office, Bureau of Indian Affairs (BIA). For the reasons discussed below, the Board of Indian Appeals (Board) docketed but dismisses this appeal.

By order dated April 28, 2003, the Board found that Appellant had explicitly filed his appeal under BIA's general appeal regulations in 25 C.F.R. Part 2, rather than under the ISDA regulations in 25 C.F.R. Part 900. Therefore, even though the appeal involved ISDA issues, the appeal was not referred for an evidentiary hearing. Instead, the Board required Appellant to show that he had standing to bring this appeal, the appeal was timely, and the Board had jurisdiction over it.

After reviewing Appellant's response to its April 28, 2003, order, the Board gave other parties an opportunity to reply. On September 22, 2003, the Board received a response signed by five members of the Kiowa Business Committee, who stated that they were a majority and a quorum of the Business Committee and that Appellant did not have authority to file this appeal without action by the Business Committee.

1/ The Appellant in this appeal was formerly identified as the Kiowa Tribe of Oklahoma. The Appellant has been changed to show that the appeal was brought by Clifford McKenzie in his capacity of Tribal Chairman.

On September 23, 2003, the Board informed the parties that it would dismiss the appeal if the Business Committee filed a valid resolution asking for it to be dismissed. On October 2, 2003, the Board received Resolution No. CY-2003--04, stating that the Business Committee was withdrawing Appellant's appeal.

The Board did not act immediately in response to its receipt of the resolution, waiting to see if Appellant opposed it. The Board has not received anything from Appellant, but has received a motion to dismiss filed on behalf of the Senior Awarding Official.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, and to the request of the Tribal Business Committee, this appeal is docketed and dismissed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge