



INTERIOR BOARD OF INDIAN APPEALS

Henry J. Bear Medicine v. Rocky Mountain Regional Director,  
Bureau of Indian Affairs

41 IBIA 83 (06/06/2005)



# 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

HENRY J. BEAR MEDICINE,	:	Order Vacating Decision
Appellant,	:	and Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 03-55-A
ROCKY MOUNTAIN REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	June 6, 2005

Appellant Henry J. Bear Medicine appeals from a January 28, 2003, decision of the Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning the 1979 sale of Blackfeet Allotment 2016 to the Blackfeet Tribe (Tribe). Appellant was the owner of Allotment 2016 prior to its sale and contends in this appeal that the sale was based on forgeries and that he never signed any of the sale documents. He also contends that he did not sign a July 1979 application to withdraw funds from his Individual Indian Money (IIM) account and did not receive the withdrawn funds. For the reasons discussed below, the Board vacates the Regional Director’s decision and remands this matter to him for further proceedings.

Allotment 2016 was one of at least 25 Blackfeet allotments purchased by the Tribe in 1979 with funds from the Farmers Home Administration. <sup>1/</sup> The administrative record includes several documents relating to the sale of Allotment 2016 and the July 1979 withdrawal of funds from Appellant’s IIM account. Three of those documents bear Appellant’s apparent signature.

The first is a document titled “Application for Patent in Fee or for the Sale of Indian Land” which indicates that, on July 26, 1977, Appellant applied for a negotiated sale of Allotment 2016 to the Tribe. The application form is a standard printed BIA form and includes a printed statement at the left of the space for the applicant’s signature, which

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<sup>1/</sup> A transfer of funds for the purchase of 25 allotments, including Allotment 2016, is recorded in a July 23, 1979, journal voucher. As relevant to this appeal, the voucher shows that a deposit representing the sale price of Allotment 2016, minus an amount for rent, was made into Appellant’s IIM account.

reads: "Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. I hereby certify that the effect of this application was explained to and fully understood by the applicants and the application is hereby approved. \_\_\_\_\_ (Title)." In this case, the statement was crossed out and was not signed by anyone. <sup>2/</sup> However, as noted, the application bears a signature which purports to be Appellant's.

The second document purportedly signed by Appellant is a February 16, 1979, deed conveying Allotment 2016 to the Tribe. The document bears the apparent signatures of Appellant and his wife. Both signatures are notarized. The deed shows that it was approved by the Superintendent on April 23, 1979.

The third document is an application to withdraw funds from Appellant's IIM account, apparently signed by Appellant, and approved by a BIA welfare officer and the Superintendent on July 26, 1979. The application shows that the funds were paid by check No. 5311678, dated July 26, 1979. With respect to this check, the record includes a Treasury Department document titled "FMS Daily Advice of Status" which shows that check No. 5311678 dated July 26, 1979, was paid to Appellant in the amount shown on the approved application. <sup>3/</sup>

The record shows that Appellant began making inquiries to BIA concerning Allotment 2016 in 1998. <sup>4/</sup> BIA furnished him with several documents concerning the sale of the allotment to the Tribe. Appellant disputed the sale and also contended that he had not received the funds supposedly paid to him on July 26, 1979. On April 10, 2002, he wrote to the Superintendent, alleging that all legal documents concerning the sale of Allotment 2016 were forgeries and demanding the return of the allotment to him, as well as all lease proceeds from the allotment for the past 25 years.

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<sup>2/</sup> In Estate of Clifford Celestine v. Acting Portland Area Director, 29 IBIA 269, 273 (1996), a case concerning a gift deed, the Board discussed the problems that can arise when BIA does not complete the standard certification statement.

<sup>3/</sup> The Treasury Department document also states "no photocopy" and "no further information available."

<sup>4/</sup> No copy of a written inquiry is included in the record. It appears from the Superintendent's Aug. 10, 1998, letter to Appellant that Appellant made his initial inquiry to BIA's Central Office in Washington, D.C.

In his appeal to the Regional Director, Appellant explained his failure to inquire about the allotment earlier by stating that he believed the lease proceeds from Allotment 2016 were being held to repay a loan from the Tribe. He stated further that it was not until he inquired about the allotment in 1998 that he learned the allotment had been sold to the Tribe.

On May 14, 2002, the Superintendent issued a decision holding that Allotment 2016 had not been sold illegally and, therefore, neither the allotment nor the lease proceeds from the allotment would be returned to Appellant.

Appellant appealed to the Regional Director, who affirmed the Superintendent's decision on January 28, 2003.

Appellant then appealed to the Board, <sup>5/</sup> contending that the July 26, 1977, application for the sale of Allotment 2016 and the July 26, 1979, application for withdrawal of funds from his IIM account were both forged. He did not, in his initial filings, specifically allege that the February 16, 1979, deed was forged, although he contended that he "did not sell Allotment 2016." Appellant's Opening Brief/Statement at 1.

After the briefing period expired, Appellant sent the Board copies of a September 28, 2004, letter he had apparently sent to the Office of the Special Trustee for American Indians. In that letter, he alleged that his stepson was present when the 1979 deed was signed and that his stepson had been brought to the Agency to verify to the notary that another individual was in fact Appellant. Appellant also alleged that the other individual signed the deed, purporting to be Appellant, and that the same individual received the funds that were withdrawn from Appellant's IIM account.

The Board gave other parties an opportunity to respond to Appellant's allegations. The Regional Director filed a response, indicating that he had not previously been aware of the allegations made by Appellant in his September 28, 2004, letter and seeking guidance from the Board concerning further proceedings.

Appellant offers no explanation for his failure to make these allegations when this matter was pending before BIA. Ordinarily, the Board would not consider such belated allegations, particularly without an explanation for the lateness. In this case, however, the Board finds that Appellant's new allegations are serious and specific enough to warrant further investigation. Therefore, the Board will vacate the Regional Director's decision and remand this matter to him for further proceedings including, if the Regional Director finds it appropriate, referral to the Special Trustee or the Inspector General.

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<sup>5/</sup> Appellant first wrote to the Board before the Regional Director issued his decision, asking the Board for "help to correct the illegal land sale of Allotment 2016." Appellant's Jan. 24, 2003, Letter at 1. The Board sought information from him as to what BIA decision he was attempting to appeal. By the time he responded, the Regional Director had issued his decision. The Board therefore treated Appellant's letter as a notice of appeal from the Regional Director's 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, the Regional Director's January 28, 2003, decision is vacated, and this matter is remanded to him for further proceedings.

I concur:

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// original signed  
Anita Vogt  
Senior Administrative Judge

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge