



INTERIOR BOARD OF INDIAN APPEALS

Estate of Calvin Jack Condon

41 IBIA 103 (06/15/2005)



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

ESTATE OF CALVIN JACK CONDON : Order Affirming Decision
:
: Docket No. IBIA 05-6
:
: June 15, 2005

Eugenia Condon (Appellant), through counsel, sought review of an Order Denying Petition for Rehearing entered by Administrative Law Judge William E. Hammett on August 27, 2004, in the Estate of Calvin Jack Condon, deceased Colville Indian, Enrollment No. 101A001189 (Probate No. IP SA-14-N-03).

Appellant's notice of appeal contained no statement of reasons, but stated that it would "be followed by a brief containing a complete statement of the grounds upon which the appeal is based." The Board advised Appellant of her right to file an opening brief, which was due on or before April 22, 2005, and also advised her that she was responsible for proving error in the decision from which she was appealing. The Board has received nothing further from Appellant.

The Board has consistently held that an appellant bears the burden of proving error in an Administrative Law Judge's decision in a probate matter. An appellant who fails to make any allegation how a probate decision is in error, let alone make any arguments to support such an allegation, has not carried her burden of proof. Estate of Glenn Birdinground, Sr., 39 IBIA 160 (2003) (and cases cited therein).

Appellant's notice of appeal does not allege any grounds for finding error in Judge Hammett's decision, nor did Appellant file an opening brief. 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, the Board affirms Judge Hammett's August 27, 2004, decision.

I concur:

 // original signed
Steven K. Linscheid
Chief Administrative Judge

 // original signed
Anita Vogt
Senior Administrative Judge