



## INTERIOR BOARD OF INDIAN APPEALS

Estate of Mary Jo (Mosho) Estep

44 IBIA 18 (11/14/2006)

Related Board Case:

48 IBIA 176

Motion for reconsideration dismissed:

49 IBIA 14

Judicial review of this case:

*Arrirmed, Edmo v. Salazar*, Civ. No. 09-0178-E-BLW  
(D. Idaho Mar. 31, 2010)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ESTATE OF MARY JO (MOSHO) ESTEP : Order Docketing and Dismissing  
(Shirley Mosho appeal) : Appeal  
: Docket No. IBIA 07-25  
: November 14, 2006

On October 23, 2006, the Board of Indian Appeals (Board) received a notice of appeal from Shirley Mosho, (Appellant), pro se. 1/ Appellant seeks review of an order denying rehearing entered on May 15, 2006 by Chief Administrative Law Judge Earl J. Waits in the estate of Mary Jo (Mosho) Estep (Decedent), deceased Fort Hall Indian, Probate No. NW-180-0166. The order denied rehearing from a September 1, 2005 decision entered in the probate proceedings by Administrative Law Judge Robert G. Holt. The Board docketed this appeal, but dismisses it for lack of jurisdiction because it is untimely.

A notice of appeal from an order denying rehearing must be filed with the Board “[w]ithin 60 days from the date of the decision.” 43 C.F.R. § 4.320(b). The 60-day deadline is jurisdictional. Id. § 4.320(b)(3). Untimely appeals must be dismissed. See Estate of Edward Benedict Defender, 44 IBIA 8 (2006). The effective date for filing a notice of appeal is the date it is mailed or personally delivered to the Board. 43 C.F.R. § 4.310(a).

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1/ Appellant styles her appeal as “by Estate of Eli W. Mosho, Shirley Mosho (Appellant).” It appears that Appellant is a devisee of Eli W. Mosho. See Aug. 17, 2006 Decision at 2, Estate of Eli Walter Mosho, Probate No. P-0000-01202-IP. Appellant apparently contends that Eli Walter Mosho was entitled to inherit from Decedent, and that she would therefore be entitled to an interest in Decedent’s estate through the estate of Eli Walter Mosho.

Appellant did not file her appeal until October 18, 2006, as shown by the postmark. Because Appellant filed her appeal after the 60-day time period expired, this appeal must be dismissed. 2/

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 docketed this appeal, but dismisses it for lack of jurisdiction.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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// original signed  
Debora G. Luther  
Administrative Judge

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2/ Appellant states in her notice of appeal that she “was never duly notified of the hearing in [Decedent’s] estate,” although she does not attach any affidavits or other evidence to support that statement. The Board notes that the Estate of Eli Walter Mosho was served notice of Decedent’s probate proceedings in care of the Superintendent of the Fort Hall Agency, Bureau of Indian Affairs. We express no opinion on whether Appellant would have standing to petition the ALJ for reopening under 43 C.F.R. § 4.242.

Our dismissal of Appellant’s appeal does not affect Connie Mosho Edmo’s pending appeal (Docket No. IBIA 06-75) from the same May 15, 2006 order denying rehearing. Without determining whether Appellant qualifies as an “interested party” within the meaning of 43 C.F.R. § 4.201, the Board will add her name to the distribution and service list for Docket No. IBIA 06-75.