



INTERIOR BOARD OF INDIAN APPEALS

Estate of Doris June Derickson

44 IBIA 131 (02/26/2007)

Reconsideration denied:

44 IBIA 177

Related Board case:

44 IBIA 252



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ARLINGTON, VA 22203

ESTATE OF DORIS JUNE DERICKSON : Order Docketing and Dismissing  
: Appeal  
:  
: Docket No. IBIA 07-75  
:  
: February 26, 2007

On February 16, 2007, the Board of Indian Appeals (Board) received a notice of appeal from Deborah J. Derickson (Appellant), *pro se*. Appellant's notice of appeal was forwarded to the Board by Indian Probate Judge M.J. Stancampiano, with whom it was filed. Appellant seeks review of Judge Stancampiano's December 6, 2006 Order Reopening Estate and Modifying Order (Order) entered in the estate of Doris June Derickson (Decedent), deceased Colville Indian, Probate No. IP NW 101-0202. <sup>1/</sup> The Board docketed the appeal, but dismisses it for lack of jurisdiction because it is untimely.

The Order provided that it would become final for the Department of the Interior unless a notice of appeal was filed with the Board "within 60 days from the date this Order Reopening Estate and Modifying Order is issued." Order at 3. Appellant is listed on the distribution list for the Order. The Order provided the Board's correct mailing address, and advised the parties that any appeal must be filed in accordance with the provisions of 43 C.F.R. § 4.320. Appellant did not send her notice of appeal to the Board, but instead mailed it to Judge Stancampiano in Sacramento, California, who received it on February 12, 2007.

Subsection 4.320(b) of 43 C.F.R. provides that an appeal from an order on a petition for reopening must be filed "[w]ithin 60 days from the date of the decision." The 60-day deadline for filing an appeal is jurisdictional. *Id.* § 4.320(b)(3). The Board has

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<sup>1/</sup> The Order found that Susan Derickson is a half-sister of Decedent and therefore entitled to share in Decedent's estate under Washington State intestacy law. The Order reopened Decedent's estate and modified a November 29, 2005 Order Determining Heirs to add Susan as an heir.

consistently held that when an appellant has been given correct appeal information, but chooses to file an appeal with an official other than the Board, resulting in receipt of the appeal by the Board outside the time for filing an appeal, the appeal is untimely. See Estate of Arlen D. Houle, 42 IBIA 253 (2006), and cases cited therein. Although Judge Stancampiano forwarded Appellant's appeal to the Board promptly on receipt in his office, the Board received Appellant's notice of appeal after the 60-day appeal period had expired. Accordingly, the Board finds that Appellant's appeal is untimely.

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 docket this appeal, but dismisses it for lack of jurisdiction because it is untimely.

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