



INTERIOR BOARD OF INDIAN APPEALS

Estate of Albert Angus, Sr. and Estate of George Angus

47 IBIA 57 (05/20/2008)

Dismissing petition for reconsideration of:

46 IBIA 90

Judicial Review of this Case:

Affirmed, *Kakaygeesick v. Salazar*, 656 F. Supp. 2d 964, (D. Minn. 2009),
aff'd. 389 F. Appx. 580, 2010 WL 3190768 (8th Cir. Aug. 12, 2010) (per curiam)

intended to raise issues related to Decedents' membership in the Red Lake Band of Chippewa Indians and the will of George Angus.

The Board, through its legal assistant, provided Appellant with a copy of the certified mail receipt card, which showed that the Board's November 13 decision was delivered to Appellant's address on November 19. The receipt card was signed by "Jennifer Stish."

Subsequently, on May 7, 2008, the Board received a second letter from Appellant in which he states that he does not know Ms. Stish. Furthermore, Appellant argues that had he received the decision promptly, he would have "appealed" the decision. He acknowledges the 30-day deadline for filing a petition for reconsideration with the Board, but requests an extension of time.

A party may, within 30 days from the date of the Board's decision, file a petition for reconsideration. 43 C.F.R. § 4.315(a). A request for reconsideration is not necessary, however, to complete the administrative appeal proceedings before the Department of the Interior: The Board's decisions become final for the Department on the date of issuance, 43 C.F.R. § 4.312, and no further appeal is available within the Department, 43 C.F.R. § 4.21(d). Even assuming — without deciding — that the 30-day deadline for seeking reconsideration may be extended, the request would have to be filed "within the time originally allowed for filing." *Id.* § 4.310(d); *Estate of Archie Blackowl, Sr.*, 29 IBIA 237 (1996). In addition, and again assuming that the deadline is subject to extension, no good cause exists in this case to grant such an extension because Appellant has not shown that his alleged lack of notice was due to any fault of the Board. *See Estate of Gloria Little Light Castro*, 47 IBIA 14, 16 (2008). Nor does he even briefly identify any grounds for reconsideration of the Board's decision.

The time for seeking reconsideration of the Board's November 13 decision expired on December 13, 2007. Construing Appellant's letters generously as petitions for reconsideration, we conclude that both are untimely and, therefore, we dismiss. To the extent that Appellant's May 7 letter requests an extension of the time for seeking reconsideration, the request is denied inasmuch as it was not filed within the time for seeking reconsideration and no good cause exists to grant an extension.²

² To the extent that Appellant seeks to correct any error concerning Decedents' membership in the Red Lake Band, the Board explained in its decision that it lacks jurisdiction to hear or decide tribal membership disputes. 46 IBIA at 97 n.15.

(continued...)

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Appellant's petition for reconsideration of 46 IBIA 90 is dismissed as untimely.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

²(...continued)

To the extent that Appellant refers in his letters to George Angus's will, we note that Judge Clapp considered George's will and disapproved it in a separate Order Determining Heirs. *See* 46 IBIA at 95 n.11. The Order Determining Heirs was neither the subject of nor was it within the scope of Appellant's appeal to the Board from Judge Clapp's Recommended Decision. We express no opinion on what, if any, remedies exist for Appellant with respect to the Order Determining Heirs.