



## INTERIOR BOARD OF INDIAN APPEALS

Estate of Mary Josephine (Mosho) Estep

49 IBIA 14 (03/19/2009)

Dismissing motion for reconsideration of:  
48 IBIA 176

Judicial review of 48 IBIA 176:  
Affirmed, *Edmo v. Salazar*, Civ. No. 09-0178-E-BLW (D. Idaho Mar. 31, 2010)

Related Board Case:  
44 IBIA 18



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ESTATE OF MARY JOSEPHINE	)	Order Dismissing Motion for
(MOSHO) ESTEP	)	Reconsideration
	)	
	)	Docket No. IBIA 06-075-1
	)	
	)	March 19, 2009

On March 17, 2009, the Board of Indian Appeals (Board) received a motion for reconsideration from Connie Mosho Edmo (Appellant) of the Board's Order Affirming Denial of Petition for Rehearing, entered December 19, 2008, in *Estate of Mary Josephine (Mosho) Estep*, 48 IBIA 176 (2008). Our order affirmed the decision of Administrative Law Judge (ALJ) Earl J. Waits to deny rehearing and let stand a September 1, 2005, probate decision by ALJ Robert G. Holt, which directed the distribution of the Indian trust estate of Mary Josephine (Mosho) Estep (Decedent) to the lineal descendants of Decedent's maternal grandparents. Judge Holt found Appellant to be a descendant of one of Decedent's relatives, Jack Mosho, but concluded that Mosho had too remote a relationship to Decedent for Appellant to inherit under the controlling law, Idaho Code § 15-2-103(d). Appellant seeks reconsideration on the grounds that a newly discovered letter allegedly supports her position that Decedent was adopted by Mosho. We dismiss Appellant's motion on the grounds that it is untimely submitted.

The Board's decision in *Estate of Estep* issued on December 19, 2008, and was sent by certified mail to Appellant's counsel.<sup>1</sup> Pursuant to 43 C.F.R. § 4.315(a), Appellant had 30 days from the date of the Board's decision, until January 20, 2009, to seek reconsideration from the Board.<sup>2</sup> The motion for reconsideration was postmarked on

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<sup>1</sup> According to the certified mail receipt card, counsel received the Board's decision on January 5, 2009.

<sup>2</sup> The 30th day after December 19th was January 18, 2009. Because January 18th was a Sunday and because January 19th was a Federal legal holiday (Martin Luther King's Birthday), Appellant gained an extra two days to submit her petition for reconsideration. See 43 C.F.R. § 4.22(e) (where the last day of a filing period is a Sunday or a Federal legal holiday, parties have until the next business day to file their pleadings with the Board).

March 13, 2009, and received by the Board on March 17, 2009. We thus conclude that Appellant's petition is untimely and we dismiss.<sup>3</sup>

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 motion for reconsideration of 48 IBIA 176 is dismissed as untimely.

I concur:

\_\_\_\_\_  
// original signed  
Debora G. Luther  
Administrative Judge

\_\_\_\_\_  
// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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<sup>3</sup> Even if we were to consider the merits of Appellant's motion, no "extraordinary circumstances" warranting reconsideration are set forth. See 43 C.F.R. § 4.315(a). The new document provided by Appellant, which is an unsigned letter dated October 29, 1924, from the Superintendent of the Yakima Agency to the Examiner of Inheritance in *Estate of Crawfish Amelie Mosho*, does not aid her in establishing that Decedent was adopted by Mosho. The letter does not even mention Jack Mosho. To the extent that the letter is offered as proof that the Esteps did not adopt Decedent, the Board never made any such determination. See 48 IBIA at 184 n.10 ("We express no opinion on whether the Esteps legally adopted Decedent.").

The remaining arguments in Appellant's motion are the same arguments considered and rejected by the Board in *Estate of Estep*. Merely restating arguments previously raised and considered does not demonstrate "extraordinary circumstances" for purposes of reconsideration. See *Chosa v. Midwest Regional Director*, 47 IBIA 50, 50-51 (2008).