



INTERIOR BOARD OF INDIAN APPEALS

Chris Keane v. Northwest Regional Director, Bureau of Indian Affairs

51 IBIA 235 (04/15/2010)

Denying Reconsideration of:
51 IBIA 143



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

CHRIS KEANE,)	Order Denying Reconsideration
Appellant,)	
)	
v.)	
)	Docket No. IBIA 10-049-1
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	April 15, 2010

On February 22, 2010, the Board dismissed an appeal filed by Chris Keane (Appellant) in which he challenged a November 16, 2009, decision by the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA). 51 IBIA 143. We dismissed the appeal for lack of jurisdiction because it was filed more than 30 days after the decision was delivered to Appellant's address of record.

Appellant now seeks reconsideration of our dismissal. He contends that he did not authorize his father, who accepted delivery of the Regional Director's decision in La Conner, Washington, on November 24, 2009, to accept certified mail on his behalf.¹ He contends that certified mail means "mail intended to [be delivered] to a specific person or persons under legal description and proper identification," and that the Postal Service mistakenly permitted his father to accept delivery. Petition for Reconsideration at 1. Finally, he contends that he was in Seattle for Thanksgiving 2009, and did not return to La Conner before moving to Hawaii on December 2, 2009.

Reconsideration of a Board decision will be granted only in extraordinary circumstances. 43 C.F.R. § 4.315(a); *Gardner v. Acting Western Regional Director*, 46 IBIA 105 (2007); *Jacobs v. Great Plains Regional Director*, 43 IBIA 272 (2006). Appellant has not shown the requisite extraordinary circumstances warranting reconsideration, and we deny his request for reconsideration.

¹ Appellant avers that he moved to Hawaii on December 2, 2009, and he did not receive the Regional Director's decision until December 26, 2009, after it was forwarded to him.

We reject as irrelevant Appellant’s assertion that he did not specifically authorize his father to accept certified mail addressed to Appellant. The matter of who is authorized to accept mail on an appellant’s behalf is between the appellant and the individual who accepts mail for the appellant. As between BIA and an appellant, it is the appellant’s responsibility to provide BIA with an address at which he is able to receive mail. *See* 25 C.F.R. § 2.14(a) (“The most current address on file . . . shall be deemed the proper address for all purposes under [Part 2]”). Appellants who fail to file a change of address “may not object to lack of notice or service attributable to his/her failure to indicate a new address.” *Id.* § 2.14(c). BIA’s obligation is to deliver its written communications to the appellant at the address provided by the appellant; BIA cannot control who accepts mail on behalf of an appellant. Therefore, Appellant bears the risk of delay for mail that is received at his address of record but not forwarded to him in a timely fashion.

We also reject Appellant’s argument that certified mail can only be delivered to the addressee. Appellant confuses certified mail with restricted mail. According to the Postal Service, “[w]ith Certified Mail™ you can be sure your article *arrived at its destination.*” www.usps.com/send/waystosendmail/extraservices/certifiedmailservice.htm (emphasis added). With restricted delivery, “only a specified person (or authorized agent) will receive a piece of mail.” *Id.* Moreover, nothing in BIA’s regulations requires the agency to deliver its decisions by restricted mail.

Finally, Appellant states that he “was still out of town in Seattle over Thanksgiving” when the Regional Director’s decision was delivered on November 24, 2009, and that he did not return to La Conner before moving to Hawaii on December 2. This argument is misplaced. Until Appellant notified BIA of his change of address, it remained his responsibility to make arrangements to have his mail forwarded to him in a timely fashion. *See* 25 C.F.R. § 2.14.

None of the arguments proffered by Appellant rises to the level of extraordinary circumstances warranting reconsideration of our decision to dismiss his appeal.

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 denies reconsideration of 51 IBIA 143.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge