



INTERIOR BOARD OF INDIAN APPEALS

Estate of William A. Hamilton, Sr.

52 IBIA 161 (10/08/2010)

Reconsideration denied:

52 IBIA 221



received the OSC on August 2, 2010, as shown by the U.S. Postal Service's Track-and-Confirm service on its web site. William's copy of the OSC was left unclaimed, and was subsequently returned by the Postal Service to the Board.<sup>3</sup> The Board then mailed the OSC to William at the return address on the envelope in which the Notice of Appeal had been mailed.<sup>4</sup> The second certified mailing to William was also left unclaimed and was returned to the Board; another copy sent by regular mail at the same time as the second certified mailing has not, to date, been returned to the Board.

The Board has received no response from either Marie or William to the Order to Show Cause.

We dismiss this appeal for failure to prosecute. Marie received the OSC and did not respond. Regardless of whether William actually received the OSC, Appellants jointly filed a single appeal, and thus in order to preserve their appeal, at least one of them was required to respond to the OSC. In filing an appeal with the Board, it was William's responsibility to provide the Board with an address at which he would accept correspondence from the Board. *Cf. Keane v. Northwest Regional Director*, 51 IBIA 235, 236 (2010). Thus, even if he did not receive actual notice of the OSC, that fact would not change our disposition of this 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 docketed but dismisses this appeal for failure to prosecute.

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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<sup>3</sup> When William's certified-mail copy was returned by the Postal Service, the envelope bore a yellow label marked "Unclaimed; Unable to Forward."

<sup>4</sup> The return address on the envelope was different from the address provided by either Appellant in the Notice of Appeal itself. Because William signed the certificate of service for the notice of appeal, it appeared that William had mailed the Notice of Appeal and that the return address on the envelope might be an alternate address for him.