



INTERIOR BOARD OF INDIAN APPEALS

Estate of Gregory Mario Marruffo, a.k.a. Gregorio Mario Marruffo

53 IBIA 267 (7/14/2011)

Related Board case:  
55 IBIA 309



## 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 GREGORY MARIO )  
MARRUFFO, )  
a.k.a. GREGORIO MARIO )  
MARRUFFO )  
)  
) July 14, 2011

Order Docketing and Dismissing Appeal  
Docket No. IBIA 11-126

On June 27, 2011, the Board of Indian Appeals (Board) received a letter from Beatriz Alvarado Marruffo (Appellant), which we construe as a notice of appeal. Appellant's letter appears to have been sent in response to a Notice of Petition for Reopening to Reduce Shares of Estate Property and Order to Show Cause (Show Cause Order), issued on May 27, 2011, by Indian Probate Judge (IPJ) Michael J. Stancampiano in the estate of Appellant's son, Gregory Mario Marruffo (a.k.a. Gregorio Mario Marruffo) (Decedent), deceased Luiseno Mission Indian, Probate No. P000046748IP.<sup>1</sup> We docket the appeal but dismiss it as premature because the IPJ's Show Cause Order is not a final order that is appealable of right to the Board.

The Show Cause Order is an interim order; it is not a final order. The Show Cause Order explains that the Bureau of Indian Affairs (BIA) has submitted a petition to reopen Decedent's estate, and that if the petition is granted, certain property interests included in the estate will be reduced.<sup>2</sup> The Show Cause Order then offers parties the opportunity to

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<sup>1</sup> Upon receipt of Appellant's appeal, the Board's staff contacted the IPJ's office and obtained a copy of the Show Cause Order.

<sup>2</sup> BIA did not seek to change the heirship determination made in the probate decision, dated September 16, 2008, which found that Appellant is Decedent's sole heir and entitled to all of Decedent's trust property. Instead, BIA stated that the purpose of its request is to have certain corrections made to the estate inventory that was attached to the probate decision. Specifically, for Pala Allotment No. 43, the inventory described Decedent's fractional interest, expressed as a percentage, as 0.0001129146; the title status report (TSR) accompanying BIA's request for modification identifies Decedent's fractional interest as 0.0000112875 (0.00112875 percent). For Pala Allotment No. 90-C, the inventory described that allotment as consisting of a total of 3.92 acres; the TSR accompanying BIA's  
(continued...)

respond to BIA's petition, following which an order modifying Decedent's trust assets will be issued in the absence of a party showing good cause to the contrary. There has been no decision yet by the IPJ after the issuance of his Show Cause Order.

The Board's jurisdiction is specifically prescribed by regulation and is limited to appeals only from certain *final* decisions or orders. See 43 C.F.R. § 4.320, *as amended*, 76 Fed. Reg. 7500, 7505 (Feb. 10, 2011) (detailing the four categories of appealable decisions or orders); *Estate of Wallace Bruce Armstrong*, 48 IBIA 212, 212 (2009) ("The reference to an appealable 'order' in 43 C.F.R. § 4.320 refers only to *final* orders; that section does not authorize appeals of right from interim orders.") (citation omitted). Accordingly, the Board lacks jurisdiction over appeals from interim orders, like the Show Cause Order issued in Decedent's estate. See *Estate of Alice W. Holyan*, 49 IBIA 253, 255 (2009) (the Board lacked jurisdiction over a show cause order issued by an IPJ); *Estate of Armstrong*, 48 IBIA at 212-13 (same). Once the IPJ issues a final decision on BIA's petition and provides appropriate appeal rights, the decision will then be appealable to the Board if a party is adversely affected by the decision.

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 this appeal, but dismisses it as premature.

I concur:

          // original signed            
Steven K. Linscheid  
Chief Administrative Judge

          // original signed            
Debora G. Luther  
Administrative Judge

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<sup>2</sup>(...continued)  
request for modification identifies the allotment as consisting of 2.08 acres. For Pala Allotment No. 94, the inventory did not describe the amount of Decedent's fractional interest; the TSR accompanying BIA's request for modification identifies Decedent's fractional interest as 0.0014814815. BIA's request is limited to seeking a modification to make the probate inventory description conform to the TSRs.