



INTERIOR BOARD OF INDIAN APPEALS

Danley Atkins v. Assistant Secretary - Indian Affairs

54 IBIA 194 (01/12/2012)



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

DANLEY ATKINS,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	Docket No. IBIA 12-055
ASSISTANT SECRETARY - INDIAN)	
AFFAIRS,)	
Appellee.)	January 12, 2012

On January 4, 2012, the Board of Indian Appeals (Board) received a notice of appeal from Danley Atkins (Appellant). Appellant seeks review of an October 6, 2011, decision (Decision) of the Assistant Secretary - Indian Affairs (Assistant Secretary), which upheld a September 17, 2010, decision by the Western Regional Director, Bureau of Indian Affairs, finding that Appellant is not eligible to be included on the distribution roll of descendants for payment from the Western Shoshone Claims Distribution Act, Pub. L. No. 108-270, 118 Stat. 805 (July 7, 2004). The Decision stated that it was final for the Department of the Interior (Department). We docket this appeal, but dismiss it for lack of jurisdiction.

The Board's jurisdiction is limited to the authority vested in it by regulation or otherwise delegated to it by the Secretary of the Interior. *See* 43 C.F.R. § 4.1(b)(1); *State of California v. National Indian Gaming Commission*, 44 IBIA 22, 22 (2006). With exceptions not relevant here, the Board lacks jurisdiction to review administrative action by the Assistant Secretary. *See* 25 C.F.R. § 2.4(e); *Kozłowicz & Gardner Advocates, Inc. v. Superintendent, Uintah and Ouray Agency, and Deputy Assistant Secretary for Policy and Economic Development - Indian Affairs*, 50 IBIA 201, 202 (2009). Moreover, in the present case, the regulations governing the eligibility determinations for the Western Shoshone Claims Distribution Act expressly provide that a decision by the Assistant Secretary is final and conclusive. *See* 25 C.F.R. §§ 61.4(k), 61.13. That means there is no further right of appeal within the Department, including an appeal to the Board. Accordingly, the Board lacks jurisdiction to review 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.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge