



INTERIOR BOARD OF INDIAN APPEALS

Estate of Marie Lillian Williamson

54 IBIA 282 (03/15/2012)

The ALJ's Rehearing Order included accurate appeal instructions, and included a certification that it was mailed to the listed interested parties (including Appellant) on January 30, 2012. Therefore, the deadline for filing an appeal with the Board was February 29, 2012. Appellant filed her appeal on March 2, 2012, after the appeal deadline had expired. *See* 43 C.F.R. § 4.310(a) (date of filing is date of mailing or date of personal delivery to the Board). As a result, her appeal must be dismissed.

Even if the appeal were not untimely, dismissal is appropriate because Appellant's appeal raises new issues on appeal that were not presented to or considered by the ALJ. *See* 43 C.F.R. § 4.318.² The ALJ approved Decedent's will, which devised certain allotments to individual children, and which also left the rest and residue of Decedent's estate to Appellant and her three siblings in equal shares. In her notice of appeal, Appellant identifies certain parcels of land that she apparently believes may not have been addressed by the ALJ's Decision.³ Appellant's concerns, however, were not presented to the ALJ in a

² The one possible exception is Allotment 201-164-B, which Appellant refers to, along with Allotment 201-164-C, in connection with an assertion that there are another 80 acres that Appellant believes have not been inventoried. *See* Notice of Appeal at 1 ("JUANITA KITSON . . . HAS ADVISED ME THERE [ARE] ANOTHER 80 ACRES NOT INVENTORIED SOUTH OF HOME PLACE WHICH IS ON 201 164 B or 201 164 C."). Allotment 201-164-B is the subject of the ALJ's inventory dispute referral. *See supra* note 1. That dispute must be resolved by BIA through issuance of a decision that is subject to BIA's administrative appeal procedures, and is not a matter that the Board may review on the merits through an appeal from the Rehearing Order.

It does not appear that Appellant makes any claim to Allotment 201-164-C, which the ALJ determined Decedent had devised to another of her daughters, Toni Rae Williamson.

³ Appellant provides legal descriptions and title status reports (TSRs) for two parcels, 201-5103 and 201-5438, about which she expresses concern. The TSRs, dated January 26, 2010, show that Decedent owned a full surface and mineral interest in Allotment No. 5103, and a full surface interest in Allotment No. 5438. Although these two parcels were not identified in the ALJ's Decision, if they were included in BIA's estate inventory provided to the ALJ, they would be covered by the ALJ's order for the distribution of the "rest and residue" of Decedent's estate to Appellant and her siblings in equal shares. On the other hand, if the properties were not included in the estate inventory, but should have been, there are procedures for requesting an order of modification from the ALJ. *See* 43 C.F.R. § 30.126(a). Appellant may wish to consult with the Blackfeet Agency of BIA, or the ALJ's office, to obtain additional information and assistance to determine whether these

(continued...)

petition for rehearing, and therefore they are not within the scope of an appeal from the Rehearing Order. *Id.* And the Board does not have jurisdiction to consider a petition to reopen an estate, which must be presented to a probate judge in the Probate Hearings Division. *See* 43 C.F.R. § 30.243 (May a closed probate case be reopened?).

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

³(...continued)

properties, and any others of concern to Appellant, were included in the estate inventory covered by the ALJ's Decision, and whether a petition for modification of the inventory is or is not necessary.