



INTERIOR BOARD OF INDIAN APPEALS

Trenton Indian Service Area v. Director, Bureau of Indian Affairs

54 IBIA 318 (04/12/2012)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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TRENTON INDIAN SERVICE AREA,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 12-091
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	April 12, 2012

Trenton Indian Service Area (Appellant) appeals to the Board of Indian Appeals (Board) from an email Appellant received from the Bureau of Indian Affairs (BIA), stating that BIA's Director (Director) and BIA's Deputy Bureau Director for Field Operations (Deputy Director) would be unable to meet with Appellant.¹ We dismiss the appeal because even if the email is construed as a "decision" by the Director, the denial of Appellant's meeting request is not appealable to the Board.

The Board does not have jurisdiction to review every action taken or decision made by BIA. The Board's jurisdiction is specifically prescribed by regulations and, as relevant to this appeal, is limited to appeals from final actions or decisions of certain BIA officials issued under the regulations in Title 25 of the Code of Federal Regulations. *See* 43 C.F.R. §§ 4.330(a), 4.331; *see also Preckwinkle v. Pacific Regional Director*, 44 IBIA 45, 45 (2006) (Board has jurisdiction to review decisions made by Regional Directors pursuant to 25 C.F.R. Chapter I), *Delmar v. Acting Navajo Regional Director*, 40 IBIA 184, 184 (2005) (discussing the scope of the Board's jurisdiction). Even for decisions made by BIA in a matter governed by Title 25 of the Code of Federal Regulations, the Board has held that the word "'final' denotes a dispositive decision on [a] *substantive* matter before BIA, and does not contemplate review of an interim and purely procedural ruling." *Yakama Nation v. Northwest Regional Director*, 47 IBIA 117, 118 (2008). In addition, the Board does not

¹ The email, dated March 6, 2012, was sent from Matthew Martin to Dave Lambert. Martin apparently is a staff assistant to the Deputy Director; Appellant does not identify Lambert's position.

have jurisdiction to adjudicate matters decided by BIA through the “exercise of its discretionary authority.” 43 C.F.R. § 4.330(b)(2).

In this case, Appellant apparently asked to meet with certain BIA officials, received a response from BIA declining the request, and then appealed to the Board from the denial of its meeting request. Assuming that BIA’s response may even be characterized as an “action” or a “decision” within the meaning of the appeal regulations, and assuming that it is attributable to the Director,² it is a purely procedural decision that is not dispositive of any underlying substantive matter. Whatever the subject matter of the meeting between Appellant and BIA might have been, the denial of a meeting, unaccompanied by any decision on a substantive matter, is not a final decision on a substantive matter. Moreover, BIA’s regulations do not set forth procedures pertaining to requests for meetings, nor do they dictate how the Director must handle meeting requests. *See, e.g.*, 25 C.F.R. Chapter I, Subchapters A-N. And finally, a decision on whether or not to meet with Appellant, standing alone, is purely a discretionary decision for which the Board has no standard to apply. *See* 43 C.F.R. § 4.330(b)(2).³ Accordingly, the Board lacks jurisdiction to review this appeal.⁴

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 and dismisses this appeal for lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

² As noted, *supra* note 1, the email was sent by a BIA staff assistant, not the Director, but we assume, solely for purposes of disposing of this appeal, that the email was sent under instructions from and on behalf of the Director.

³ Nothing in BIA’s regulations nor in the Board’s appeal regulations would give the Board authority to order BIA to meet with Appellant.

⁴ The Board’s authority to consider matters referred to it by the Secretary of the Interior or the Assistant Secretary - Indian Affairs is not implicated in this appeal.