



INTERIOR BOARD OF INDIAN APPEALS

Gilbert Myles v. Acting Eastern Oklahoma Regional Director, Bureau of Indian Affairs

55 IBIA 38 (05/15/2012)



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

GILBERT MYLES,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 12-102
ACTING EASTERN OKLAHOMA)	
REGIONAL DIRECTOR, BUREAU)	
OF INDIAN AFFAIRS)	
Appellee.)	May 15, 2012

On May 1, 2012, the Board of Indian Appeals (Board) received a notice of appeal from Gilbert Myles (Appellant). Appellant seeks review of an April 16, 2012, decision (Decision) of the Acting Eastern Oklahoma Regional Director (Regional Director), Bureau of Indian Affairs (BIA), dismissing as untimely Appellant’s appeal from a decision by the BIA Talihina Agency Superintendent to not issue a Certificate of Degree of Indian Blood to Appellant.¹ The Decision stated that it is final for the Department of the Interior (Department). We docket this appeal, but dismiss it because the Board does not have jurisdiction to review adverse enrollment actions by BIA officials, which include actions regarding Indian blood degree certifications.

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). The Board does not have jurisdiction to review decisions concerning the certification of degree of Indian blood. *See* 43 C.F.R. § 4.330(b)(1) (no jurisdiction to review tribal enrollment decisions); 25 C.F.R. § 62.4(a)(6) (an adverse tribal enrollment action includes the certification of degree of Indian blood by a BIA official); *Sanders v. Eastern Oklahoma Regional Tribal Government Officer*, 50 IBIA 307, 307 (2009) (dismissing appeal from decision declining to issue appellant a certificate of degree of Indian blood); *Harrison v. Eastern Oklahoma Regional Director*, 37 IBIA 144, 144-45 (2002) (same).

¹ The Superintendent’s decision was dated July 6, 2011.

The regulations that govern the issuance of Indian blood degree certifications, 25 C.F.R. Part 62, contain their own appeal procedures, which do not include a right of appeal to the Board. *See* 25 C.F.R. §§ 62.4-62.12. Instead, when an appeal from an adverse enrollment action by a superintendent is decided by a regional director, the regional director's decision "shall be final for the Department." *Id.* § 62.10(a). In the present case, the Decision stated that it was final for the Department, *see* Decision at 2 (unnumbered), which means that there is no further right of appeal within the Department.

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 lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge