



INTERIOR BOARD OF INDIAN APPEALS

Jennifer M. Reeder and Laura Jarvis v. Acting Southern Plains Regional Director, Bureau
of Indian Affairs

55 IBIA 201 (07/25/2012)

Related Board cases:

57 IBIA 184

57 IBIA 223

58 IBIA 40



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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JENNIFER M. REEDER AND LAURA)	Order Dismissing Appeals
JARVIS,)	
Appellants,)	
)	
v.)	
)	Docket No. IBIA 12-103
ACTING SOUTHERN PLAINS)	12-111
REGIONAL DIRECTOR, BUREAU)	
OF INDIAN AFFAIRS)	
Appellee.)	July 25, 2012

Jennifer M. Reeder (Reeder) and Laura Jarvis (Jarvis) (collectively, Appellants) appealed to the Board of Indian Appeals (Board) from a March 26, 2012, letter from the Acting Southern Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), stating that an entry of information into a BIA tribal directory does not constitute an appealable decision. The underlying dispute is over a change made by BIA’s Anadarko Agency Superintendent (Superintendent) in March 2012 to BIA’s tribal directory information for the Caddo Nation (Tribe) to identify two tribal council positions, Secretary and Treasurer, as “Vacant.” Reeder contends she is and remains the Secretary of the Tribe and Jarvis contends that she is and remains the Treasurer of the Tribe.¹ We dismiss these appeals as moot because BIA has further revised the tribal directory and Appellants have not shown that they are adversely affected by the listing as further revised.

Upon receipt of Reeder’s appeal, the Board solicited a statement from the Regional Director informing the Board whether he would be willing to revise the entry in the Southern Plains Region’s tribal directory to reflect that the two tribal council positions may be the subject of a dispute within the Tribe. On May 21, 2012, the Board received a statement from the Regional Director that BIA has revised its tribal directory as follows:

Secretary	*Jennifer Reeder (May be Subject to Tribal Dispute)
Treasurer	*Laura Jarvis (May be Subject to Tribal Dispute)

¹ Jarvis’s appeal is framed as an appeal from a May 4, 2012, letter providing her with notice of appeal rights for the March 26 letter, but in substance she challenges the March 26 letter and the Superintendent’s underlying action.

*This directory was updated based on information provided by the Tribal Chairman and does not reflect a decision by the Anadarko Agency as to whom is officially recognized as Tribal Leaders. The Caddo Nation is presently experiencing an intertribal dispute.

The Board provided Reeder and Jarvis with an opportunity to respond to the Regional Director's statement, and to address whether the revision would render their appeals moot or eliminate the alleged adverse action by BIA upon which their appeals were based. The Board does not issue advisory opinions, and adheres to the principle that an active case or controversy must be present at all stages of an appeal before the Board. *See Forest County Potawatomi Community v. Deputy Assistant Secretary – Indian Affairs*, 48 IBIA 259, 264 (2009), and cases cited therein. Thus, regardless of whether the Superintendent's original action was appealable, or whether it adversely affected Appellants within the meaning of the appeal regulations, the Regional Director's further revision to the directory appeared to render these appeals moot, unless Appellants could demonstrate otherwise. *See Parker v. Southern Plains Regional Director*, 45 IBIA 310, 319 (2007) (appellant bears the burden in opposing a suggestion of mootness).

The Board received no response from Reeder, and therefore she has not met her burden.

Jarvis responded to the Regional Director's statement, but Jarvis fails to establish that her appeal should not be dismissed as moot. Much of Jarvis's argument focuses on BIA's activities that were superseded when the Regional Director revised the tribal directory to reflect the existence of a pending internal tribal dispute over the two council positions. *See* Letter from Jarvis to Board, June 1, 2012 (styled as "Notice of Appeal"), at 4-5 (arguing that the Superintendent should not have given credence to the information provided to BIA by the Tribe's Chairperson that Jarvis was illegally seated as the Treasurer, and should have accepted the Tribal Council's statement to BIA that her appointment was legal). And although Appellant argues that the tribal directory, as it relates to her, should state only "Treasurer—Laura Jarvis," she does not deny the existence of a tribal dispute involving the position of Treasurer. Indeed, the evidence submitted by Jarvis confirms that this is true. *See, e.g.*, Letter from Tribal Chairperson to Superintendent, Jan. 23, 2012 (stating that Reeder was recalled by the Tribe and that the Tribe does not recognize Jarvis as the Treasurer); Letter from Tribal Council to Regional Director, Jan. 23, 2012, at 1 (unnumbered) (noting that the Tribal Council does not recognize certain actions taken by the Chairperson).

Jarvis also refers to a number of actions that the Tribe's Chairperson has allegedly taken refusing to recognize her as the Treasurer, which Jarvis contends is "because" first, the

Superintendent listed the Treasurer position as “vacant,” and now, BIA lists it as “may be subject to Tribal Dispute.” Notice of Appeal, June 1, 2012, at 5 (alleging that the Chairperson “has refused to chair meetings if either of us are there, employees have been fired, employees (contract) have waited approximately 2 months to receive their paycheck”). We are not convinced that Jarvis has demonstrated a causal link between the current, revised listing in BIA’s tribal directory, and the actions taken by the Tribe’s Chairperson. BIA’s tribal directory does not dictate the Chairperson’s actions, nor does it control whether the Tribe treats Jarvis as the Treasurer or not.

Moreover, Jarvis seeks an order from the Board directing BIA to take an action which, in her view, would affirmatively recognize that she is the Treasurer of the Tribe. But that request is nonresponsive to the issue of whether Jarvis’s appeal has become moot, and in any event the Board has no authority in the context of this appeal to grant that relief. At most, the Board could vacate the BIA listing in the tribal directory, but Jarvis has not shown that the revised listing adversely affects her. It lists her as the Tribe’s Treasurer, while noting the undisputed fact that there is a tribal dispute regarding the position. We conclude that Jarvis has not met her burden of showing that she is adversely affected by the intervening action by the Regional Director revising the tribal directory, and thus we conclude that the matter is now moot.²

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 dismisses these appeals as moot.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge

² We express no opinion on whether a BIA listing in its tribal directory is an appealable action. But considering the sensitive nature of tribal government disputes, it would be advisable for BIA to exercise care in making changes to its directory while a dispute is pending to avoid any appearance of taking sides in the dispute.