



INTERIOR BOARD OF INDIAN APPEALS

Estate of Geraldine Begay

55 IBIA 216 (08/03/2012)

Petition for Reconsideration denied:

55 IBIA 249

The IPJ's Modification Order included accurate appeal instructions and included a certification that it was mailed to the listed interested parties (including Appellant) on June 6, 2012. Calculated from that mailing date, the deadline for filing an appeal with the Board expired on July 6, 2012.

The only notice of appeal received by the Board is the copy that Appellant sent to BIA, which BIA transmitted to the Board, and which was received by (i.e., delivered to) the Board on July 19, 2012—after the appeal deadline expired.³ On July 24, 2012, the Board received a “Declaration of Service” from Appellant, which asserts that Appellant tried to send a copy of her notice of appeal to the Board by facsimile (fax) on July 6. *See* Declaration of Service, July 21, 2012, at 1 (unnumbered) (“claimant sent notice of appeal by fax for filing, to courtroom”). The Board did not receive a faxed copy of the appeal from Appellant. In any event, an appeal must be filed either by mail or personal delivery of the original notice of appeal to the Board. 43 C.F.R. § 4.323(a); *Estate of Preston Toledo*, 51 IBIA 3, 4 n.3 (2009). The regulations do not authorize filing an appeal by fax. And Appellant’s Declaration of Service does not suggest that she mailed the original of her notice of appeal to the Board. Thus, the Board finds that the appeal is untimely and must be dismissed for lack of jurisdiction.

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 this appeal but dismisses it as untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge

³ The Board is an administrative appellate body within the Office of Hearings and Appeals in the Department of the Interior. 43 C.F.R. § 4.1. It is not part of BIA. *See LeCompte v. Acting Great Plains Regional Director*, 46 IBIA 242, 243 n.2 (2008).