INTERIOR BOARD OF INDIAN APPEALS

Estate of Elizabeth Adeline Vollertsen

55 IBIA 307 (09/24/2012)

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

ESTATE OF ELIZABETH ADELINE VOLLERTSEN	)	Order Docketing and Dismissing Appeal
	)	
	)	Docket No. IBIA 12-122
	)	
	)	September 24, 2012

Rodney D. Vollertsen (Appellant) appealed to the Board of Indian Appeals (Board) from a Modification Order to Include Omitted Property (Modification Order) entered on June 28, 2012, by Administrative Law Judge (ALJ) R.S. Chester in the estate of Appellant's mother, Elizabeth Adeline Vollertsen (Decedent).[1] The Modification Order added trust property to Decedent's estate inventory, consisting of a one-twelfth undivided mineral interest in Allotment No. 706 (Allotment), a 47.880-acre tract on the Fort Peck Reservation in Montana, and distributed that interest in accordance with the May 8, 2009, Decision (Decision) for Decedent's estate.

On receipt of the appeal, the Board ordered Appellant to complete service of his appeal on interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323, and to notify the Board that he had done so. In addition, because it appeared that Appellant was not contesting the Modification Order, but was concerned with a separate matter relating to the Allotment, but not one that was within the scope of the probate proceedings, the Board also ordered Appellant to show cause why his appeal should not be dismissed.[2] The Board

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[1] Decedent, who was also known as Elizabeth Adeline Murray, was a Fort Peck Indian. The probate number assigned to Decedent's case in the Department of the Interior's probate tracking system, ProTrac, is No. P000067444IP.

[2] Appellant appeared to be concerned about the unresolved ownership of a one-half undivided interest in the Allotment that Appellant contends passed from the original allottee, Emma Ponton Sugrue, to Jack Desjarlais, a Canadian Chippewa. Appellant expressed concern that if Desjarlais was not a U.S. citizen, his interest in the Allotment could not have been held in trust, and also expressed concern that this one-half interest had not been probated, leaving its status in limbo. Appellant requested that "whatever result is reached that my portion remain in trust with the rest of my land." Notice of Appeal at 1 (unnumbered).

set a deadline of August 20, 2012, for Appellant to comply with the Board's order, and advised Appellant that if he failed to comply with or respond to the Board's order, his appeal might be dismissed without further notice.

The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on July 25, 2012.

The Board has received no response from Appellant.

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 dockets but dismisses this appeal for failure to prosecute.[3]

I concur:

// original signed	//original signed
Steven K. Linscheid	Debora G. Luther
Chief Administrative Judge	Administrative Judge

[3] As noted in the Board's order to show cause, our dismissal of this appeal does not preclude Appellant from requesting additional information and assistance from the Bureau of Indian Affairs to determine the present status of the one-half interest that may have passed to Desjarlais. As we also noted, however, if Desjarlais was a non-U.S. Indian for whom the United States may not hold property in trust, the Department of the Interior would not have authority to probate his estate.