



INTERIOR BOARD OF INDIAN APPEALS

Estate of Rudolph Lawrence Victor St. John

56 IBIA 118 (01/22/2013)

Petition for reconsideration denied:

57 IBIA 182



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 RUDOLPH LAWRENCE)	Order Docketing and Dismissing
VICTOR ST. JOHN)	Appeal
)	
)	Docket No. IBIA 13-038
)	
)	January 22, 2013

Kara St. John (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Denying Reopening (Reopening Order), entered on November 8, 2012, by Administrative Law Judge (ALJ) Larry M. Donovan in the estate of Rudolph Lawrence Victor St. John (Decedent).¹ We docket but dismiss this appeal because the ALJ provided accurate instructions for filing an appeal with the Board, and the appeal was not filed with the Board within the 30-day period allowed for filing an appeal following the Reopening Order.²

An appeal from a probate judge’s decision must be filed with the Board within 30 days from the date the decision was mailed with accurate appeal instructions. 43 C.F.R. § 4.321(a); *Estate of Franklin Porter*, 52 IBIA 243, 244 (2010); *Estate of John Kenneth Flood*, 51 IBIA 225, 225 (2010). The effective date of filing a notice of appeal with the Board is the date of mailing (if sent by U.S. mail) or the date of personal delivery (if not mailed). 43 C.F.R. § 4.310(a). Untimely appeals must be dismissed. *Id.* § 4.321(a); *Estate of Porter*, 52 IBIA at 244; *Estate of Flood*, 51 IBIA at 225.

The ALJ’s Reopening Order included accurate appeal instructions and included a certification that it was mailed to the listed interested parties (including Appellant) on

¹ Decedent, who was also known as Lawrence St. John, was a Standing Rock Sioux. The probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. P000061701IP.

² In the Reopening Order, the ALJ declined to reopen the estate, which was closed in 2002, in order to add Appellant as an heir and redistribute the trust property in Decedent’s estate. After conducting a hearing, the ALJ found that Appellant had failed to satisfy the applicable standard for reopening an estate that had been closed for more than 3 years. Reopening Order at 1; *see* 43 C.F.R. § 30.243.

November 8, 2012. Calculated from that mailing date, the deadline for filing an appeal with the Board expired on December 10, 2012.³ Appellant's appeal was filed on December 21, 2012, as shown by the postmark on the envelope. *See* 43 C.F.R. § 4.310(a). The appeal was filed with the Board after the 30-day deadline expired and thus 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 but dismisses this appeal as untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge

³ The 30th day after the date the decision was mailed was Saturday, December 8, 2012. When the last day for filing a document with the Board falls on a Saturday, Sunday, or holiday, the time period is automatically extended to the next business day, which in this case was Monday, December 10, 2012. 43 C.F.R. § 4.310(c)(2).