



INTERIOR BOARD OF INDIAN APPEALS

Estate of Amos Sidney Bearshield, Jr.

56 IBIA 244 (03/18/2013)

Related Board case:
55 IBIA 10



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF AMOS SIDNEY)	Order Docketing and Dismissing
BEARSHIELD, JR.)	Appeal
)	
)	Docket No. IBIA 13-055
)	
)	March 18, 2013

Pauline Bear Shield appealed to the Board of Indian Appeals (Board) from a January 29, 2013, Decision by Administrative Law Judge (ALJ) Larry M. Donovan in the estate of Appellant’s father, Amos Sidney Bearshield, Jr. (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 Decision.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). 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). *Id.*

¹ Decedent, who was also known as Amos S. Bear Shield and Amos Sidney Bearshield, II, was a Rosebud Sioux. The probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. P000034917IP.

² The Decision concluded that LaCosta Odette Stone Arrow (LaCosta) is Decedent’s biological daughter, as had an initial probate decision issued by Indian Probate Judge (IPJ) Michael J. Stancampiano on March 11, 2009. The ALJ’s decision was issued following a remand from the Board in *Estate of Amos Sidney Bearshield, Jr.*, 55 IBIA 10 (2012), in which the Board found that the IPJ, in denying rehearing of his March 11 decision, did not give the interested parties notice and an opportunity to respond to or challenge new evidence he relied upon in denying rehearing regarding LaCosta’s paternity.

In her notice of appeal, Appellant argues that the Decision is flawed because the ALJ relied on statements made by LaCosta and her mother Roberta Stone Arrow regarding LaCosta’s paternity. Although we dismiss the appeal as untimely, we note that the ALJ also relied on a paternity affidavit executed by Decedent, in which he acknowledged being LaCosta’s father. Decision at 1-2.

§ 4.310(a); *see Confederated Tribes and Bands of the Yakama Nation v. Northwest Regional Director*, 56 IBIA 176, 181-82 (2013). The Board does not have authority to grant an extension for filing a notice of appeal, 43 C.F.R. § 4.310(d)(1), and untimely appeals must be dismissed, *id.* § 4.321(a).

The ALJ's Decision included accurate appeal instructions and included a certification that it was mailed to the listed interested parties (including Appellant) on January 29, 2013. Calculated from that mailing date, the deadline for filing an appeal with the Board expired on February 28, 2013. Appellant's appeal was filed on March 1, 2013, as shown by the postmark on the envelope. *See id.* § 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 this appeal but dismisses it as untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge