



INTERIOR BOARD OF INDIAN APPEALS

Estate of Franklin Lee Tonasket

57 IBIA 142 (06/19/2013)



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 FRANKLIN LEE)	Order Docketing and Dismissing
TONASKET)	Appeal
)	
)	Docket No. IBIA 13-061
)	
)	June 19, 2013

Renee A. Courville (Appellant) appealed to the Board of Indian Appeals (Board) from a Modification to Add and Distribute Omitted Property (Modification Order) entered on February 27, 2013, by Administrative Law Judge (ALJ) James Yellowtail in the estate of Appellant’s brother, Franklin Lee Tonasket (Decedent).¹ The Modification Order added trust interests on the Fort Peck Reservation in Montana to Decedent’s estate inventory for probate,² and ordered that these interests be distributed (in equal shares) to Decedent’s siblings pursuant to the April 29, 2004, Order Determining Heirs (Decision).

Upon receipt of the appeal, the Board ordered Appellant to show cause why the Board should not either dismiss the appeal or summarily affirm the Modification Order because: (1) Appellant failed to object to the proposed modification when provided an opportunity; and (2) Appellant’s challenge appeared to be based on a mistaken belief that Washington state law applied, but the property added to the estate is located in Montana. *See* Order to Show Cause (OSC), Mar. 22, 2013.³ The Board set a deadline of April 19,

¹ Decedent was a Colville Indian. The probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. NW-101-0100.

² The Modification Order added trust interests in Allotment Nos. 206 M 1509-A (minerals) and 206 3366 (surface and minerals), which Decedent inherited from his mother, Alice Marie Martin Peasley Vanderberg. In her notice of appeal, Appellant contended that under Washington state law, Decedent’s half-sibling, Ellen Marie Tonasket Attwood, is not eligible to inherit property that Decedent inherited from his mother.

³ Decedent died intestate (i.e., without a will) before the American Indian Probate Reform Act, *see* 25 U.S.C. § 2206, became effective, and thus the Decision applied the intestacy law of the respective states in which Decedent’s various trust property interests were located.

2013, for Appellant to comply with the Board's order, and advised Appellant that if she failed to respond to the OSC, her appeal might be dismissed without further notice.

Appellant did not respond to the OSC.⁴ Accordingly, the Board will dismiss this appeal for failure to prosecute. *See Estate of Fern Ruby Paul*, 55 IBIA 130, 131 (2012) (dismissing appeal because appellant failed to respond to an order to show cause); *Estate of Glade Sylvia Willis*, 54 IBIA 316, 317 (2012) (same); *Estate of Louise Two Bears*, 54 IBIA 232, 233 (2012) (same).

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 for failure to prosecute.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge

⁴ The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on March 25, 2013.