



INTERIOR BOARD OF INDIAN APPEALS

Estate of Mabel Begay

57 IBIA 306 (08/27/2013)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF MABEL BEGAY)
) Order Docketing and Dismissing
) Appeal
)
) Docket No. IBIA 13-101
)
) August 27, 2013

Tommy Begay (Appellant) appealed to the Board of Indian Appeals (Board) from an Order to Add Heir and Redistribute Estate Property (Reopening Order) entered on May 21, 2013, by Administrative Law Judge (ALJ) Earl J. Waits in the estate of Appellant’s mother, Mabel Begay (Decedent).¹ In the order, the ALJ reopened the December 19, 2008, Order Disapproving Will and Order Determining Heirs and Decree of Distribution, added Arlene Y. Vandever (Arlene) as an heir (as the child of Decedent’s predeceased son, Colin Begay (Colin)), and ordered the redistribution of Decedent’s trust assets accordingly.

The Board ordered Appellant to complete service of his notice of appeal, as required by 43 C.F.R. §§ 4.310(b) and 4.323. And because Appellant’s intent in appealing to the Board was unclear—he appeared to support the ALJ’s decision to add Arlene as an heir, but also to raise a matter that was outside the scope of the ALJ’s decision—the Board ordered Appellant to clarify his intent and to show cause (i.e., explain) why the Reopening Order should not be affirmed or the appeal dismissed as outside the scope of that order. *See* Order to Show Cause (OSC), Jun. 14, 2013.² The Board set a deadline of July 15, 2013, for Appellant to comply with the Board’s order, and advised Appellant that if he failed to respond to the Board’s OSC, his appeal might be dismissed without further notice.

¹ Decedent was a Navajo. The probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. P000020298IP.

² In his notice of appeal, Appellant appeared to support the addition of Arlene as Colin’s daughter and an heir of Decedent, but also asked that Mildred B. Paul (a daughter of Decedent) be removed as an heir from the estate of Alfred Begay, Probate No. P000077495IP. In the OSC, the Board explained that Appellant’s request concerning Mildred would not be within the scope of an appeal from the Reopening Order.

Appellant complied with the order to complete service, but did not address the OSC. Accordingly, the Board will dismiss this appeal for failure to prosecute. *See Estate of Franklin Lee Tonasket*, 57 IBIA 142, 143 (2013) (dismissing appeal because appellant failed to respond to an order to show cause); *Estate of Fern Ruby Paul*, 55 IBIA 130, 131 (2012) (same); *Estate of Glade Sylvia Willis*, 54 IBIA 316, 317 (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