



INTERIOR BOARD OF INDIAN APPEALS

Estate of George Lewis Roy

58 IBIA 36 (09/06/2013)



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 GEORGE LEWIS ROY)	Order Docketing and Dismissing
)	Appeal
)	
)	Docket No. IBIA 13-129
)	
)	September 6, 2013

Leonard Roy (Appellant) appealed to the Board of Indian Appeals (Board) from a Decision entered on July 9, 2013, by Indian Probate Judge (IPJ) Thomas K. Pfister, in the estate of Appellant’s father, George Lewis Roy (Decedent).¹ We docket but dismiss this appeal because the Board does not have jurisdiction over an appeal from the Decision. A party seeking to challenge a probate judge’s decision must first present his challenges to the probate judge, either through a timely petition for rehearing or through a properly supported petition for reopening. The party may not directly appeal the decision itself to the Board.

The jurisdiction of the Board in probate matters is set forth in 43 C.F.R. § 4.320, which limits the Board’s review to appeals from orders on petitions for rehearing, petitions for reopening, purchases of interests in decedents’ trust estates, and inventory modification orders. Before appealing to the Board, Appellant must present any legal and or factual errors as well as any newly discovered evidence to the IPJ for consideration. *Estate of Lonnie Kay Jurgens*, 53 IBIA 23, 24 (2011).² Thus, the Board lacks jurisdiction to consider an

¹ Decedent, who was also known as George Louis Roy, was a White Earth Indian. His probate is assigned Probate No. P000072557IP in the Department of the Interior’s probate tracking system, ProTrac.

² The notice accompanying the Decision explained that the Decision would become final 30 days after the date on which the notice was mailed, unless a petition for rehearing was filed with the Office of Hearings and Appeals by an interested party who was adversely affected by the Decision in accordance with 43 C.F.R. § 30.238. A party seeking to reopen a closed probate case within 3 years after the original decision must do so within 1 year after the petitioner’s discovery of the alleged error, must demonstrate that an error of fact or law occurred in the original decision, and must satisfy the other requirements for a reopening petition. *See* 43 C.F.R. § 30.243.

appeal from the IPJ's Decision. *See id.* (dismissing appeal); *Estate of Joseph Goggles*, 46 IBIA 158, 158-59 (2008) (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.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge