INTERIOR BOARD OF INDIAN APPEALS

Estate of Ronald Keith Barnaby

58 IBIA 47 (09/27/2013)

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 RONALD KEITH BARNABY	)	Order Docketing and Dismissing Appeal, and Referring Matter to the Probate Hearings Division
	)	
	)	Docket No. IBIA 13-118
	)	
	)	September 27, 2013

Luana D. Sampson (Appellant) appealed to the Board of Indian Appeals (Board) from an Order to Add and Distribute Omitted Property (Modification Order) entered on June 19, 2013, by Administrative Law Judge Earl J. Waits (ALJ) in the estate of Ronald Keith Barnaby (Decedent).[1] The Modification Order added trust interests to Decedent's estate inventory for probate, and ordered that these interests be distributed pursuant to the intestacy law of the State of Montana and the directional disclaimers (renunciations) that were executed in favor of Billie Anna Salois by Appellant, Duretta Billedeaux, and Garry W. Salois. In her notice of appeal, Appellant contends that she executed her disclaimer under pressure and coercion from family members.

On July 16, 2013, following receipt of Appellant's appeal, the Board ordered Appellant to complete service of her appeal on the interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323, and to notify the Board that she had done so. The Board set a deadline of August 16, 2013, for Appellant to comply with the Board's order, and advised Appellant that if she failed to comply with or respond to the Board's order, her appeal might be dismissed without further notice.

The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on July 19, 2013. The Board has received no response from Appellant. Thus, we dismiss Appellant's appeal from our docket for failure to prosecute. In addition, we note that even if Appellant had complied with the threshold requirement to complete service of her notice of appeal, it appears that her appeal, in

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[1] Decedent was a Confederated Salish & Kootenai Indian. The probate number assigned to Decedent's case in Department of the Interior's probate tracking system, ProTrac, is No. P000045026IP.

substance, raises an issue that was not reopened in the Modification Order, and thus would be outside the scope of this appeal. *See* 43 C.F.R. § 4.318.

Notwithstanding our dismissal, we find that documentation submitted with Appellant's notice of appeal—copies of the executed disclaimers—is sufficient to suggest that the original Decision may contain a manifest error. *See id*. Each disclaimer states that the renunciation of interest is "with reservation of life estate," but the Decision fails to address these reservations and treats the disclaimers as renunciations in full. We thus refer this matter to the Probate Hearings Division to address this apparent discrepancy and for consideration of the appeal and the accompanying documents under 43 C.F.R. § 30.243(a).

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 dockets but dismisses this appeal for failure to prosecute. We refer this matter to the Probate Hearings Division for further consideration.

I concur:

Debora G. Luther Administrative Judge	Steven K. Linscheid Chief Administrative Judge