



INTERIOR BOARD OF INDIAN APPEALS

Estate of Dorothy Zaste (Cindy Zaste Appeal)

58 IBIA 238 (04/17/2014)

Related Board case:  
61 IBIA 333



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ARLINGTON, VA 22203

ESTATE OF DOROTHY ZASTE	)	Order Docketing and Dismissing
	)	Appeal
(Cindy Zaste Appeal)	)	
	)	Docket No. IBIA 14-055
	)	
	)	April 17, 2014

Cindy Zaste (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Reopening Estate and Modifying Decision (Reopening Order) entered on January 28, 2014, by Indian Probate Judge (IPJ) Albert C. Jones in the estate of Appellant’s mother, Dorothy Zaste (Decedent).<sup>1</sup> The Reopening Order granted a petition filed by the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs (BIA), to modify the IPJ’s April 24, 2013, Decision.<sup>2</sup>

On receipt of the appeal, the Board ordered Appellant to complete service of her appeal and to notify the Board that she had done so.<sup>3</sup> In addition, the Board noted that, rather than appealing the Reopening Order, it appeared that Appellant sought to appeal the original probate Decision or sought to raise issues that are outside the scope of an appeal from the Reopening Order, which she is not entitled to do. *See* 43 C.F.R. §§ 4.320(b) (“Any interested party has a right to appeal to the Board if he or she is adversely affected by a decision or order of a judge . . . [o]n a petition for reopening.”), 4.318 (such appeal “will

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<sup>1</sup> Decedent was a Turtle Mountain Chippewa. Her probate is assigned Probate No. P000107843IP in the Department of the Interior’s probate tracking system, ProTrac.

<sup>2</sup> The effect of the Reopening Order is that six children of Decedent, including Appellant, would each receive a 1/6 share life estate in Decedent’s trust property located on the Sisseton-Wahpeton Oyate Reservation, instead of those six children and Elizabeth (Betty) Marcellais each receiving a 1/7 share life estate in that property as was determined in the original probate Decision.

<sup>3</sup> Certain statements in Appellant’s notice of appeal indicate that Appellant wishes to support a separate appeal by Betty, which was assigned Docket No. IBIA 14-054. In its order, the Board stated that if Appellant completed service, the Board would add a copy of her notice of appeal to the appeal record for Betty’s appeal, which remains pending and is unaffected by our dismissal of this appeal.

be limited to those issues that were before the . . . Indian probate judge upon the petition for . . . reopening”). Thus, the Board also ordered Appellant to show cause (OSC) why her appeal should not be dismissed.

The Board issued the orders on February 12, 2014, and set a deadline of March 19, 2014, for Appellant to comply with them, and advised Appellant that if she failed to comply with or respond to either the order to serve or the OSC, her appeal might be dismissed without further notice. On March 18, 2014, the Board received confirmation from Appellant that she completed service of her notice of appeal.<sup>4</sup> However, Appellant has not responded to the OSC.

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:

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// original signed  
Thomas A. Blaser  
Administrative Judge

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//original signed  
Steven K. Linscheid  
Chief Administrative Judge

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<sup>4</sup> Accordingly, the Board has added a copy of Appellant’s notice of appeal to the appeal record for Betty’s appeal, and will consider it, as appropriate, in deciding that appeal.