



INTERIOR BOARD OF INDIAN APPEALS

Picayune Rancheria of the Chukchansi Indians; and Morris Reid, Dora Jones, Dixie Jackson, and Harold Hammond v. Pacific Regional Director, Bureau of Indian Affairs

58 IBIA 259 (05/21/2014)

Related Board case:

58 IBIA 255

62 IBIA 103



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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PICAYUNE RANCHERIA OF THE)	Order Dismissing Appeal
CHUKCHANSI INDIANS; AND)	
MORRIS REID, DORA JONES, DIXIE)	
JACKSON, AND HAROLD)	
HAMMOND,)	
Appellants,)	Docket No. IBIA 13-081
)	
v.)	
)	
PACIFIC REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	May 21, 2014

The Picayune Rancheria of the Chukchansi Indians (Tribe);¹ and Morris Reid, Dora Jones, Dixie Jackson, and Harold Hammond, as Tribal Council members² (collectively, Appellants), appealed to the Board of Indian Appeals from several decisions purportedly made by the Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA) and/or BIA's Central California Agency Superintendent (Superintendent), but which

¹ This case involves a tribal dispute. The Board's references to actions taken by or on behalf of tribal officials, tribal entities, or the Tribe, and the Board's use of titles claimed by various individuals, shall not be construed as expressing any view on the underlying merits of the dispute.

² Reid, Jones, Jackson, and Hammond identify themselves, collectively, as members and a majority of the Picayune Rancheria Tribal Council, who were elected on December 3, 2011. Appellants separately appealed to the Board from a November 21, 2012, decision of the Regional Director concerning the Superintendent's renewal of the Tribe's Indian Self-Determination and Education Assistance Act (ISDA) contract for Fiscal Year 2012. That appeal is also being dismissed today at Appellants' request. See *Picayune Rancheria of the Chukchansi Indians v. Pacific Regional Director*, 58 IBIA 255 (2014) (Docket No. IBIA 13-045).

Appellants contend were not put in writing or were not served on them.³ Appellants contended that through the decisions, the Regional Director or Superintendent improperly recognized certain individuals or groups as the Tribe's representatives for government-to-government purposes.

On April 5, 2013, the Board issued an Order for Appellants to Show Cause (OSC) why this appeal should not be dismissed for lack of jurisdiction. Appellants filed a response, as did "Interested Party Picayune Rancheria of the Chukchansi Indians," a group claiming to be the legitimate governing body of the Tribe, led by Reggie Lewis claiming to be the Tribe's Chairman. In response to the OSC, Appellants did not produce any written decisions by the Regional Director as the subject of this appeal, and conceded that they had not made a demand to the Regional Director, pursuant to 25 C.F.R. § 2.8, to memorialize in writing the purported actions or unwritten decisions for which they sought review. Appellants contended, however, that the Regional Director's actions complained about were final for BIA and thus appealable to the Board.

On March 18, 2014, the Board received from Appellants a "Notice of Dismissal of Appeal" (Notice of Dismissal), in which Appellants state that a December 2013 tribal election resolved the intra-tribal election dispute, that there are no longer separate "Lewis" and "Reid" factions, and that "it appears to Appellants" that the election rendered this appeal moot. Notice of Dismissal at 2. Appellants' Notice of Dismissal seeks dismissal without prejudice.

Ordinarily, the Board's dismissal of an appeal that seeks review on the merits of a BIA regional director's decision would be with prejudice. *See State of Oklahoma v. Acting Eastern Oklahoma Regional Director*, 58 IBIA 212 (2014). In the present case Appellants' failure to produce any written decisions by the Regional Director (or to demand a written decision to memorialize some purported final action) leaves unclear whether the Regional Director took any final action or made any final decision that was appealable, and if so whether the time period for appealing from such a decision (or an underlying Superintendent's decision) has now expired.

The Board accepts Appellants' dismissal of their appeal, but in doing so, we make no determination whether we would otherwise have had jurisdiction over the appeal or whether the appeal is moot, and we make no determination about the effect of the dismissal of this appeal on any matters that may arise in the future. Although it appears likely that

³ Appellants subsequently clarified that they only sought to appeal decisions or actions by the Regional Director (not the Superintendent), and also withdrew their appeal as it relates to a BIA decision regarding the Tribe's ISDA contract.

dismissal may, under the circumstances, be without prejudice, we are cognizant of the fact that there is now a dispute within the Tribe between a combined Lewis/Reid faction, and an “Ayala/McDonald” faction,⁴ and we consider it best for the Board to leave it to another case to consider, if necessary, any implications of Appellants’ voluntary dismissal of this appeal.

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 dismisses this appeal.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge

⁴ See *Picayune Rancheria of the Chukchansi Indians v. Pacific Regional Director*, Docket No. IBIA 14-065 & consol.