



INTERIOR BOARD OF INDIAN APPEALS

Estate of Dean Douglas Wagner, Jr.

59 IBIA 34 (07/18/2014)



# 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 DEAN DOUGLAS	)	Order Docketing and Dismissing
WAGNER, JR.	)	Appeal
	)	
	)	Docket No. IBIA 14-093
	)	
	)	July 18, 2014

Shawn Wagner (Appellant) appealed to the Board of Indian Appeals (Board) from a Modification Order to Include Omitted Property (Modification Order) entered on April 18, 2014, by Administrative Law Judge (ALJ) R. S. Chester in the estate of Appellant’s father, Dean Douglas Wagner, Jr. (Decedent).<sup>1</sup> The Modification Order added a 1/117 (0.0085470085) trust interest in Allotment No. 201 M 520-C (minerals only) on the Blackfeet Reservation in the state of Montana to Decedent’s estate inventory, and ordered that it be distributed to Decedent’s oldest child, Gail Anita No Runner (Gail), in accordance with the January 17, 2014, Decision determining heirship for Decedent’s trust estate.<sup>2</sup>

On receipt of the appeal, the Board ordered Appellant to complete service of his appeal on the ALJ, as required by 43 C.F.R. §§ 4.310(b) and 4.323, and to notify the Board that he had done so. In addition, the Board ordered Appellant to show cause why his appeal should not be dismissed, because it appeared that he was attempting to challenge the heirship determination in the Decision, which was not reopened by the Modification Order and thus would be outside the scope of an appeal from the Modification Order.<sup>3</sup> The

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<sup>1</sup> Decedent was a Blackfeet Indian. His probate is assigned Probate No. P000081772IP in the Department of the Interior’s probate tracking system, ProTrac.

<sup>2</sup> Pursuant to the Decision, Decedent’s less-than-5% trust real property interests pass to Gail under the “single heir rule” in the American Indian Probate Reform Act (AIPRA). *See* 25 U.S.C. § 2206(a)(2)(D)(iii)(I).

<sup>3</sup> In his notice of appeal, Appellant contended that Gail was not entitled to inherit Decedent’s Blackfeet property because she is not entitled to be an “assignee” under the Blackfeet Constitution. In the order to show cause, the Board explained that even if the merits of the appeal were determined to be properly before the Board, it appeared that  
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Board set a deadline of June 18, 2014, for Appellant to comply with the Board's order, and advised Appellant that if he failed to comply with or respond to the Board's order, his appeal might be dismissed without further notice.

The U.S. Postal Service Track-and-Confirm service on its website indicates that Appellant received the Board's order on June 6, 2014.

The Board has received no response from Appellant.

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:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

\_\_\_\_\_  
//original signed  
Thomas A. Blaser  
Administrative Judge

\_\_\_\_\_  
(...continued)

Appellant mistakenly was failing to distinguish between an assignment of tribal lands and an heirship determination for individually owned lands.