



INTERIOR BOARD OF INDIAN APPEALS

Estate of Garlon Lee Williamson, Sr.

59 IBIA 107 (08/22/2014)



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 GARLON LEE)	Order Docketing and Dismissing
WILLIAMSON, SR.)	Appeal
)	
)	Docket No. IBIA 14-108
)	
)	August 22, 2014

Ronald A. Williamson, Sr. (Appellant) appealed from a May 19, 2014, Order Affirming Decision after Petition for Rehearing (Order Denying Rehearing) issued by Indian Probate Judge (IPJ) Albert C. Jones in the estate of Appellant’s father, Garlon Lee Williamson, Sr. (Decedent).¹ The IPJ denied a petition for rehearing filed by Appellant and, in so doing, affirmed the IPJ’s Decision issued on March 21, 2013.²

Because it appeared that Appellant’s appeal may have been untimely, the Board ordered Appellant to submit evidence of the date of mailing his notice of appeal. An appeal from a probate judge’s decision must be filed with the Board within 30 days from the date the decision was mailed with accurate appeal instructions. 43 C.F.R. § 4.321. The effective date of filing a notice of appeal with the Board is the date of mailing (if sent by U.S. mail) or the date of personal delivery (if not mailed). *Id.* § 4.310(a)(1); *see Confederated Tribes and Bands of the Yakama Nation v. Northwest Regional Director*, 56 IBIA 176, 181-82 (2013). The Board does not have authority to grant an extension for filing a notice of appeal, 43 C.F.R. § 4.310(d)(1), and untimely appeals must be dismissed, *id.* § 4.321(a). “[A]n appellant who fails to follow accurate appeal instructions bears the risk that the appeal will be untimely.” *Estate of Franklin Porter*, 52 IBIA 243, 244 (2010).

The Order Denying Rehearing included accurate appeal instructions and included a certification that it was mailed to the listed interested parties (including Appellant) on May 19, 2014. Calculated from that mailing date, the deadline for filing an appeal with the Board expired on June 18, 2014. Appellant first submitted his notice of appeal to the IPJ’s

¹ Decedent was a Crow Indian. The Probate number assigned to Decedent’s case in the Department of the Interior’s probate tracking system, ProTrac, is No. P000082562IP.

² The Decision approved Decedent’s will over Appellant’s objection that the will was a product of undue influence and that Decedent lacked testamentary capacity.

office in Billings, Montana, which date-stamped it as received on June 18, 2014. The appeal was then mailed to the Board in an envelope with Appellant's return address but without any postmark. Thus, the Board was unable to determine the date of mailing.

The Board provided Appellant an opportunity to demonstrate when the notice of appeal was mailed to the Board and set a deadline of August 1, 2014, for Appellant to respond to the Board's order. The Board advised Appellant that if he failed to respond to or comply with the Board's order, his 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 June 30, 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:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge