



INTERIOR BOARD OF INDIAN APPEALS

Estate of Betty Jo Dick

59 IBIA 300 (01/07/2015)



# 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 BETTY JO DICK	)	Order Docketing and Dismissing
	)	Appeal
	)	
	)	Docket No. IBIA 15-017
	)	
	)	January 7, 2015

Marvin D. Brady and Steve Brady (Appellants) appealed to the Board of Indian Appeals (Board) from an Order Granting Rehearing, Vacating the Decision Issued on September 10, 2013, and Providing for a New Decision (Rehearing Order), entered on October 8, 2014, by Administrative Law Judge (ALJ) James Yellowtail in the estate of Appellants' sibling, Betty Jo Dick (Decedent).<sup>1</sup> The Rehearing Order granted a petition for rehearing that requested inclusion of Vernon Delford Astarloa as an heir of Decedent, vacated the initial probate Decision, and replaced it with an Amended Decision.<sup>2</sup> In the Rehearing Order, the ALJ found no dispute over the claim that Vernon is Decedent's biological sibling and that Vernon was adopted out, and found no evidence to contradict the statement filed by Lois E. Whitney that Decedent maintained a family relationship with Vernon. The ALJ concluded that Vernon is entitled to inherit a share of Decedent's trust estate pursuant to 25 U.S.C. § 2206(j)(2)(B)(iii)(I).<sup>3</sup>

On receipt of the appeals, the Board ordered Appellants to complete service of their notices of appeal on the ALJ and interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323, and to notify the Board that they had done so. The Board set a deadline of

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<sup>1</sup> Decedent was a Te-Moak Shoshone Indian. Her probate is assigned Probate No. P000102359IP in the Department of the Interior's probate tracking system, ProTrac.

<sup>2</sup> The petition for rehearing was filed by Decedent's sister, Lois Mae Whitney. The ALJ issued an order to show cause why the petition should not be granted, and apparently received responses only from Lois E. Whitney in support of the petition. Rehearing Order at 1.

<sup>3</sup> The cited provision of the American Indian Probate Reform Act states in pertinent part that "an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural kin, other than the natural parent, who has maintained a family relationship with the adopted person."

December 9, 2014, for Appellants to comply with the Board's order, and advised Appellants that if they failed to comply with or respond to the Board's order, this appeal might be dismissed without further notice.

The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellants each received the Board's order on November 14, 2014.

The Board has received no response from Appellants.

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  
Thomas A. Blaser  
Administrative Judge

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//original signed  
Steven K. Linscheid  
Chief Administrative Judge