



INTERIOR BOARD OF INDIAN APPEALS

Estate of George Childs

59 IBIA 310 (01/20/2015)



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).

The ALJ's Order Denying Reopening included accurate appeal instructions and included a certification that it was mailed to the listed interested parties (including Appellant) on September 18, 2014. Calculated from that mailing date, the deadline for filing an appeal with the Board expired on October 20, 2014.<sup>3</sup> The record shows that Appellant filed her appeal on October 21, 2014, as evidenced by the postmark on the envelope.

As noted, the Board has received no response from Appellant to the Board's order to complete service and show cause why the appeal should not be dismissed as untimely.

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 as untimely and for failure to prosecute.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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//original signed  
Thomas A. Blaser  
Administrative Judge

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<sup>3</sup> Because the 30th day after mailing was Saturday, October 18, 2014, the filing date was automatically extended to Monday, October 20, 2014. 43 C.F.R. § 4.310(c)(2).