



INTERIOR BOARD OF INDIAN APPEALS

Estate of Stanford Walker Saupitty

60 IBIA 28 (02/24/2015)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
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ARLINGTON, VA 22203

ESTATE OF STANFORD WALKER        )  
SAUPITTY                                )  
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  )  
  )       February 24, 2015

Carney C. Saupitty, Jr. (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Denying Petition to Reopen (Order Denying Reopening) entered on June 5, 2012, by Administrative Law Judge (ALJ) Richard L. Reeh in the estate of Appellant’s uncle, Stanford Walker Saupitty (Decedent).<sup>1</sup> The Order Denying Reopening denied a petition for reopening submitted by the Anadarko Agency Superintendent (Superintendent), Bureau of Indian Affairs (BIA), on behalf of Appellant.<sup>2</sup> For the reasons discussed below, we dismiss Appellant’s appeal.

Appellant contended that he was not given due notice of the initial probate hearing held for Decedent’s estate, and thus was not afforded an opportunity to exercise the purchase at probate option pursuant to the American Indian Probate Reform Act of 2004 (AIPRA), 25 U.S.C. § 2206(o)(2)(B). Notice of Appeal, June 27, 2012, at 1. According to the Superintendent’s petition for reopening, Appellant wanted to purchase Decedent’s interest in Allotment No. 802 S 2654 (Elizabeth Chibitty) (Allotment), which the Decision distributed to the Comanche Nation (Nation) pursuant to Decedent’s will.<sup>3</sup> Petition for Reopening, Jan. 20, 2012.

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<sup>1</sup> Decedent was a Comanche Indian. His probate is assigned Probate No. P000080310IP in the Department of the Interior’s probate tracking system, ProTrac.

<sup>2</sup> The effect of the Order Denying Reopening was to let stand the ALJ’s previous Order Determining Heirs, Approving Will and Decreeing Distribution (Decision), entered on March 1, 2011. The Superintendent did not appeal the Order Denying Reopening.

<sup>3</sup> Appellant did not dispute the Superintendent’s identification of the Allotment as the subject of the surface estate that Appellant contended he should have been afforded an opportunity to purchase. *See* Notice of Appeal at 1.

Upon review of the appeal after the close of briefing, the Board concluded that as a threshold issue, for Appellant to purchase at probate Decedent's interest in the Allotment, Appellant would need the consent of the Nation. With limited exceptions not relevant here, before a co-owner may purchase an interest in trust or restricted land from an estate, the heir(s) or devisee(s) of that interest must grant their consent. 25 U.S.C. § 2206(o)(3)(A)(ii); 43 C.F.R. § 30.163(a)(1). Accordingly, the Board requested that the Nation respond by October 10, 2014, as to whether it would consider consenting to a purchase at probate of Decedent's interest in the Allotment. Order Requesting Information from Comanche Nation Regarding Purchase at Probate, Sept. 17, 2014, at 1-2. In our order we explained that, if the Nation would not consent, then it would appear that nothing would turn on the outcome of a Board decision on the merits of Appellant's contention that he was denied adequate notice of the probate hearing, and that the appeal may be subject to summary dismissal. *Id.* at 2. Our order also instructed that if the Nation did not respond, the Board would construe that as non-consent. *Id.*

Further, in the event the Nation did not consent, the Board gave Appellant until October 31, 2014, to show cause (i.e., explain) why the appeal should not be summarily dismissed. *Id.* The Board advised Appellant that if the Nation did not consent and Appellant failed to respond to the show cause order, his appeal might be dismissed without further notice. *Id.*

Neither the Nation nor Appellant responded to the Board's order.<sup>4</sup> We therefore dismiss the 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:

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// original signed  
Thomas A. Blaser  
Administrative Judge

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//original signed  
Robert E. Hall  
Administrative Judge

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<sup>4</sup> The U.S. Postal Service's Track-and-Confirm service on its website indicates that the Nation received the Board's order on September 22, 2014, and that Appellant received the Board's order on September 30, 2014.