



INTERIOR BOARD OF INDIAN APPEALS

Estate of Wilfred Charles Kozevnikoff

62 IBIA 15 (11/19/2015)



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 WILFRED CHARLES)	Order Docketing and Dismissing
KOZEVNIKOFF)	Appeal
)	
)	Docket No. IBIA 16-013
)	
)	November 19, 2015

On November 10, 2015, the Board of Indian Appeals (Board) received a notice of appeal from Aaron Kozevnikoff, Sr. (Appellant), pro se, which was forwarded to the Board by the Department of the Interior’s Probate Hearings Division (PHD) in Albuquerque, New Mexico. Appellant seeks review of an Order Denying Rehearing entered on August 27, 2015, by Administrative Law Judge (ALJ) James Yellowtail in the estate of Appellant’s father, Wilfred Charles Kozevnikoff, aka Tod Kozevnikoff, aka Wilfred C. Kozevnikoff (Decedent), deceased Alaska Native, Probate No. P000078349IP. The Order Denying Rehearing let stand the ALJ’s July 18, 2014, Decision, in which the ALJ approved Decedent’s will executed on May 6, 2009, and ordered the distribution of Decedent’s trust estate in accordance with the will. Appellant, who sought to challenge the validity of the will, concedes that his appeal is untimely, but asks that the untimeliness be excused and that a decision be issued in his favor. *See* Special Request for Consideration for Late Filing, Oct. 6, 2015. Because the Board does not have authority to extend the time period for filing appeals, we docket this appeal but dismiss it for lack of jurisdiction.

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 the appellant mails it to the Board (if sent by U.S. mail) or the date of personal delivery (if not mailed). *Id.* § 4.310(a). Untimely appeals must be dismissed. *Id.* § 4.321(a). The Board does not have authority to extend the period for filing an appeal. *Id.* § 4.310(d)(1); *see Estate of Bernard Charles Little Nest*, 47 IBIA 52, 52 (2008) (docketing and dismissing appeal when appellant conceded it was untimely).

In the present case, the Order Denying Rehearing was accompanied by a notice stating that any appeal “shall be filed with the Board,” and providing the Board’s correct address, in Arlington, Virginia. The notice includes a certification that it was mailed to the listed interested parties (including Appellant) on August 27, 2015. Calculated from that mailing date, the deadline for filing an appeal with the Board would have expired on

September 26, 2015. However, September 26 was a Saturday, therefore, the deadline for filing an appeal with the Board would have expired on the next business day, which was September 28, 2015. *See* 43 C.F.R. § 4.310(c). Appellant transmitted his notice of appeal to PHD in Albuquerque, New Mexico, on October 6, 2015, and PHD subsequently forwarded the appeal to the Board. Because, as Appellant concedes, the appeal was not timely filed with the Board within the 30-day time period, it must be dismissed.¹

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 this appeal, but dismisses it for lack of jurisdiction because it is untimely.

I concur:

 // original signed
Thomas A. Blaser
Administrative Judge

 //original signed
Steven K. Linscheid
Chief Administrative Judge

¹ The Board notes that its jurisdiction is specifically prescribed by regulation, and is limited to appellate jurisdiction to review certain decisions or orders. *See* 43 C.F.R. § 4.320 (in probate matters, parties may appeal from orders on a petition for rehearing, a petition for reopening, a purchase at probate, and the modification of an estate inventory). Thus, to the extent, if any, Appellant seeks reopening, any such grounds must be “set forth fully” in the petition for reopening and be submitted to the probate judge. *See id.* § 30.243.