



INTERIOR BOARD OF INDIAN APPEALS

Estate of Eugene J. LeQuire

63 IBIA 39 (04/29/2016)

is the sole beneficiary of Decedent's less-than-5% trust real property interests, is one that was decided in the November 27, 2012, Decision. Although the Board has jurisdiction to consider appeals from orders on rehearing or on reopening, it does not have jurisdiction to review directly an initial probate decision. *See* 43 C.F.R. § 4.320(a) & (b).

We docket this appeal but dismiss it because the substance of Appellant's appeal concerns the determination of heirs and distribution of the estate approved in the 2012 Decision. That Decision specifically addressed and decided the heirship of Decedent's less-than-5% interests in land located on the Turtle Mountain Public Domain (Fort Peck), and the Modification Order does not purport to reopen or revisit the determination that Simone is the sole beneficiary of such interests pursuant to AIPRA, as approved in the Decision.

The Board has held that when a probate judge's modification order simply adds property to a Decedent's estate in order that it be distributed pursuant to the terms of a prior, and final, probate decision determining heirs or approving a will, the original probate decision is not within the scope of an appeal to the Board from the modification order. *See, e.g., Estate of Caroline Davis*, 51 IBIA 101 (2010) (docketing and dismissing appeals); *Estate of Irma Ross*, 51 IBIA 21 (2009) (same); *see also* 43 C.F.R. § 4.318 (scope of review). In the present case, the Modification Order was limited to adding an additional less-than-5% interest in land to Decedent's estate and did not reconsider or otherwise address the issue Appellant seeks to raise in this appeal. Appellant's attempt to challenge the heirship determination approved in the 2012 Decision is therefore outside the scope of appeal from the Modification Order.

Conclusion

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.

I concur:

// original signed
Robert E. Hall
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge