



INTERIOR BOARD OF INDIAN APPEALS

Laura J. White v. Acting Great Plains Regional Director, Bureau of Indian Affairs

63 IBIA 165 (06/06/2016)

Petition for Reconsideration Denied:

63 IBIA 193



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ARLINGTON, VA 22203

LAURA J. WHITE,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	Docket No. IBIA 16-073
ACTING GREAT PLAINS REGIONAL)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	June 6, 2016

Laura J. White (Appellant) appealed to the Board of Indian Appeals (Board) from a March 1, 2016, decision of the Acting Great Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), dismissing for lack of standing Appellant's appeal from a decision by BIA's Sisseton Agency Superintendent to acquire title in the name of the United States, on behalf of Donovan White, of interests in fee land purchased using Donovan's own funds. The trust acquisition was approved under the authority of 25 U.S.C. § 2216(c), upon submission of a completed application by Donovan. The Regional Director concluded that Appellant had not shown any injury to a legally protected interest held by Appellant, resulting from the Superintendent's decision. We dismiss this appeal from the Regional Director's decision as untimely.

Appellant filed her appeal with the Board on May 25, 2016,¹ well after the 30-day deadline for filing an appeal. A notice of appeal from a decision of a BIA regional director must be filed with the Board "within 30 days after receipt by the appellant of the decision from which the appeal is taken." 43 C.F.R. § 4.332(a). The Regional Director's decision was sent to Appellant by certified mail, and the U.S. Postal Service tracking system and return receipt card show that it was delivered to Appellant on April 5, 2016. The effective date for filing a notice of appeal with the Board is the date of mailing the appeal to the Board or the date of personal delivery of the appeal to the Board. *Id.* § 4.310(a). The 30-day deadline for filing an appeal is jurisdictional, and untimely appeals must be dismissed.

¹ Appellant's notice of appeal was enclosed in a separate envelope addressed to the Board at an incorrect address that had been returned to Appellant as "Not Deliverable as Addressed." Appellant noted on the returned envelope that "Address is my error."

Id. § 4.332(a). The regulations governing appeals to the Board also make clear that the period for filing an appeal may not be extended. *Id.* § 4.334.

The Regional Director's March 1, 2016, decision provided Appellant with correct filing instructions and the Board's mailing address. Appellant, however, did not mail her appeal to the correct address until after the 30-day deadline for filing a notice of appeal had expired. The Board has consistently held that where BIA gives correct instructions for filing a notice of appeal, and an appellant's failure to follow those instructions results in filing after the 30-day deadline, the appeal will be found untimely. See *Castillo v. Pacific Regional Director*, 43 IBIA 9 (2006); *Gardner v. Rocky Mountain Regional Director*, 41 IBIA 89 (2005); *Thweatt v. Acting Western Regional Director*, 39 IBIA 259 (2004); *Joint Board of Control for the Flathead, Mission & Jocko Irrigation Districts v. Portland Area Director*, 20 IBIA 223 (1991); *McLean v. Portland Area Director*, 18 IBIA 311 (1990).

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.

I concur:

// original signed
Robert E. Hall
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge