

UNITED STATES
v.
CATHERINE M. COPPRIDGE,
ORIS A. MAHAN, LULA MAHAN,
PAUL R. HOYE AND ELEANOR P. HOYE

IBLA 75-92

Decided October 15, 1974

Appeal from Administrative Law Judge E. Kendall Clarke's decision in contests CA-714 and 716, declaring mining claims invalid.

Dismissed.

1. Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals:
Statement of Reasons

A statement of reasons which does not point out the grounds upon which the decision appealed from is in error will be treated in the same manner as an appeal in which no statement of reasons is filed and the appeal will be dismissed.

APPEARANCES: Oris A. Mahan and Lula M. Mahan, each pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Oris A. and Lula Mahan have appealed from a July 8, 1974, decision of Administrative Law Judge Clarke declaring the mining claims involved in contests CA-714 and 716 null and void for lack of discovery. The decision was premised upon evidence adduced at a duly conducted hearing at which the government presented evidence to show that none of the mining claims involved were validated by discovery. The claimants were given notice of the contest charges and the hearing. Mr. Mahan appeared at the hearing but failed to

present any evidence. In effect, he protested against the contest and hearing as being unlawful. The Administrative Law Judge denied the protest, treating it as a motion to dismiss. In his decision, the Judge discussed Mr. Mahan's objections and cited authorities establishing the procedural and substantive requirements for a mining contest.

In their statement of reasons appellants assert there is collusion between the Justice and Interior Departments, that the mining laws do not provide for government examination of mining claims, and that the declaration of invalidity is tantamount to taking property without due process of law. Appellants also attack the qualifications of the government's mineral expert because he is an employee of the National Park Service, and assert that the decision appealed from "is without a lawful base."

The so-called statement of reasons is nothing more than a protest questioning the authority of the Department of the Interior to examine and challenge the validity of the mining claims in this case, and the manner in which it was exercised in this case. The authority of the Department to examine mining claims and to declare them void when the facts so require, after notice to the claimant and opportunity for a hearing, is well established. Cameron v. United States, 252 U.S. 450 (1920).

[1] The rules of practice, 43 CFR 4.412, require an appellant to state his reasons in support of his appeal. The statement in this case does not satisfactorily meet the requirements of the rules of practice in that it does not adequately point out the grounds upon which the decision appealed from is in error. A mere statement that there has been an error or a constitutional right has been violated does not meet the requirement to show affirmatively in what respect the decision appealed from is in error. Appellants do not show why or how the contest proceeding is unlawful, nor why the authorities cited by the Judge fail to establish the propriety of the proceeding. Appellants merely allege that the authorities do not accurately apply to the situation. However, without some substantiating reason to support their allegation, it must be considered frivolous. The authorities cited by the Judge are applicable. Appellants' contention that the Judge's decision omits statutory references is also frivolous in the absence of any reasons showing a violation of applicable statutes. An appellant may not shift to the Department the burden of determining whether an error has been committed. Once such an attempt is made the appeal will be treated in the same manner as an appeal in which no statement of reasons was filed within the time permitted, and the appeal will be dismissed. Helen Bailey, 11 IBLA 51 (1973); R. C. Bailey, 10 IBLA 281 (1973); United States v. Maus, 6 IBLA 164 (1972); United States v. Heyser, 75 I.D. 14 (1968).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Joan B. Thompson
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Martin Ritvo
Administrative Judge

