



INTERIOR BOARD OF INDIAN APPEALS

Greg Villegas v. Sacramento Area Director, Bureau of Indian Affairs

24 IBIA 150 (08/27/1993)

Related Board case:  
22 IBIA 176



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

GREG VILLEGAS, : Order Dismissing Appeal  
Appellant :  
 :  
 :  
v. : Docket No. IBIA 93-15-A  
 :  
 :  
SACRAMENTO AREA DIRECTOR, :  
BUREAU OF INDIAN AFFAIRS, :  
Appellee : August 27, 1993

Appellant Greg Villegas seeks review of a September 17, 1992, decision issued by the Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning elections at the Pinoleville Indian Community. For the reasons discussed below, the Board of Indian Appeals (Board) dismisses this appeal.

The matters raised in this appeal are an October 9, 1990, recall petition; a March 16, 1991, recall election; a March 30, 1991, tribal election; and a March 28, 1992, tribal election. All of these matters, except the 1992 election, were previously before the Board in Pinoleville Indian Community Governing Council v. Sacramento Area Director, 22 IBIA 176 (1992). The factual background of this controversy is fully set forth in the Board's earlier decision, and will not be repeated here. For present purposes, it is sufficient to note that the tribe's constitution provides for two-year terms for tribal council members on a staggered basis, with the Chairperson, Secretary, and Treasurer being elected in odd-numbered years, and the Vice-Chairperson and three council members being elected in even-numbered years. However, because no election was held in 1990, all seven positions were to be filled at the 1991 tribal election. The Vice-Chairperson and council members were to be elected for only one year, with another election for the positions to be held in 1992.

The Area Director's September 17, 1992, decision was issued in response to the Board's remand in Pinoleville. The Area Director found that both the 1991 and 1992 elections were valid. Accordingly, he did not discuss the validity of the recall petition and election.

Another tribal election was held on March 27, 1993, while this appeal was pending. The Board requested and received from the Superintendent, Central California Agency, BIA, a copy of his April 20, 1993, letter recognizing the results of this election, and an April 22, 1993, letter setting forth the names of the persons elected. Four positions were filled at this election, including Chairperson, Secretary, Treasurer, and one council member. Because the term shown for the council member is only one year, the Board assumes this position was on the ballot to fill an unexpired vacancy. The Board is unaware of any contests either to the 1993 election or to the Superintendent's recognition of the election results.

Appellant filed an appeal from the Area Director's September 17, 1992, decision. Only appellant has participated in the appeal.

Appellant raises and discusses seven issues:

1. Whether the Area Director had adequate grounds for determining that the October 1990 recall election was invalid.
2. Whether the Area Director had adequate grounds for (impliedly) determining that the March 1991 recall election was invalid.
3. Whether, notwithstanding the recall elections, those persons claiming to be members of the tribal council were members of the tribal council when, pursuant to the tribal Constitution, their terms of office were vacant because of the passage of time.
4. Whether a quorum of valid tribal councilmembers was needed to reappoint the election committee.
5. Whether the reappointed election committee was validly reappointed, whether by failure of a quorum, or because the appointing tribal "councilpersons" were not legitimately in office when they reappointed the election committee.
6. Whether actions by a tribal council comprised of persons whose terms of office had elapsed pursuant to the tribe's Constitution are valid.
7. Whether the Acting [sic, should probably be "Area"] Director's determinations as to the qualified membership in October 1990 and in March 1991 is supported by anything in the record. If not, whether this matter should not be remanded for a determination as to the qualified membership on those dates.

(Opening brief at 1-2).

None of appellant's arguments challenge the 1992 election, and there is no evidence that appellant challenged the 1993 election. Argument 5 challenges the 1991 election, and arguments 1, 2, and 7 relate to the recall election. In Pinoleville, the Board stated:

[A] valid tribal election renders moot questions concerning prior tribal leadership. See, e.g., Decorah v. Minneapolis Area Director, 22 IBIA 98 (1992); Peters v. Sacramento Area Director, 21 IBIA 74 (1991); Penney v. Aberdeen Area Director, 20 IBIA 90 (1991); Thlopthlocco Tribal Town v. Acting Muskogee Area Director, 19 IBIA 183 (1991); Forrest v. Sacramento Area Director, 18 IBIA 372 (1990); Fort McDermitt Paiute Shoshone Tribe v. Acting Phoenix Area Director, 16 IBIA 221 (1988). As the Board has repeatedly stated, it declines to address a moot issue, "where, in order to

render a decision on the merits, it would be required to interpret tribal law.”  
Sahmut v. Anadarko Area Director, 17 IBIA 60, 64 (1989).

22 IBIA at 182. The Area Director properly did not consider the validity of the recall petition and election once he determined that the 1991 and 1992 elections were valid. Furthermore, in the absence of a challenge to the 1993 election, the challenge to the 1991 election is also mooted. The Board dismisses as moot those parts of appellant’s appeal which are addressed to the validity of the 1990 recall petition, the 1991 recall election, and the 1991 tribal election.

Appellant’s arguments 3, 4, and 5 relate to his interpretations of the tribal constitution and election ordinance. The Board declines to address these issues both because they are moot under the previous discussion and because they involve intra-tribal disputes. The Board has held that, in the interest of promoting tribal sovereignty and self-determination, the Department should refrain from intruding into intra-tribal disputes. See, e.g., Naranjo v. Albuquerque Area Director, 23 IBIA 291 (1993); and cases cited supra. Furthermore, appellant has not shown that he has exhausted any tribal remedies that may be available to him. See, e.g., Bowen v. Acting Portland Area Director, 20 IBIA 263, 265 n.1 (1991).

Appellant’s argument 6 also involves an intra-tribal dispute. From appellant’s opening brief, it appears that this argument relates to actions taken by the tribal council in April 1991, at a time when appellant alleges that he was the Interim Chairperson. Intra-tribal controversies concerning the validity or wisdom of actions taken by a former tribal council are properly resolved in a tribal forum. Wells v. Acting Aberdeen Area Director, 24 IBIA 142 (1993).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Sacramento Area Director’s September 17, 1992, decision is dismissed.

//original signed

Kathryn A. Lynn  
Chief Administrative Judge

//original signed

Anita Vogt  
Administrative Judge