



INTERIOR BOARD OF INDIAN APPEALS

Rose Ann Hamilton v. Acting Sacramento Area Director, Bureau of Indian Affairs

29 IBIA 122 (03/12/1996)

Reconsideration denied:
29 IBIA 188



United States Department of the Interior

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

ROSE ANN HAMILTON, : Order Dismissing Appeal
Appellant :
 :
 :
v. : Docket No. IBIA 95-65-A
 :
 :
ACTING SACRAMENTO AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : March 12, 1996

Appellant Rose Ann Hamilton sought review of a November 22, 1994, decision issued by the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning March 13 and 27, 1994, meetings of the Cahuilla Band of Mission Indians (Band), the removal of appellant from the position of Chairwoman of the Band, and the recognition of Michelle Salgado as the Band's Chairwoman. For the reasons discussed below, the Board of Indian Appeals (Board) dismisses this appeal as moot.

In her materials filed with the Board, appellant stated that she was elected to a 2-year term as the Band's Chairwoman on December 13, 1993. Noting that this statement indicated the possibility that another election would be held in December 1995, the Board gave the parties an opportunity to inform it whether an election was held and, if so, what the results of that election were.

The Area Director submitted a copy of a December 18, 1995, letter from the Band's Administrative Assistant to the Superintendent, Southern California Agency, BIA (Agency), stating that "[a]t a General Membership Tribal meeting, duly called and held on November 12, 1995, the membership voted and passed to keep the same council seated for the next two years." The letter states that Michelle Salgado was elected as Chairwoman for the term January 1, 1996, through December 31, 1997. The Area Director also furnished a copy of the Superintendent's January 11, 1996, letter recognizing the results of the meeting. Salgado separately provided the same information.

In her response, appellant does not deny that an election was held in 1995, but generally contends that the Band as a whole has not participated in an election since December 1993. Although she clearly believes that the currently recognized tribal leadership should not be in office--as a result of either the 1994 recall election or the 1995 election--appellant does not indicate that she, or anyone else, has challenged the 1995 election through tribal processes or has contested the Superintendent's January 11, 1996, recognition of the election results. ^{1/}

^{1/} The Board also received a response from Nushune M. Heredia, who identified herself as a tribal member. This response was not considered because it was not served on the parties to this appeal.

After receipt of the responses, the Board contacted Agency personnel by telephone to ask whether any challenge or protest had been filed against the 1995 election or against the Superintendent's January 11, 1996, recognition of the election results. The Agency stated it was not aware of any challenge having been filed with either the Band or the Department.

The Board has consistently held that a valid tribal election held during the pendency of an appeal renders moot questions concerning prior tribal leadership. See, e.g., Villegas v. Sacramento Area Director, 24 IBIA 150 (1993), and cases cited therein. This ruling is based on the fact that the determination of tribal leadership is quintessentially an intra-tribal matter raising issues of tribal sovereignty, and therefore the Department should defer to tribal resolution of the matter through an appropriate tribal forum, including the normal electoral process.

With this principle in mind, the Board finds that it was the responsibility of appellant, as the person opposing a conclusion that an appeal from a prior leadership dispute is moot, to show one of the following: (1) that the 1995 election has been determined invalid in a tribal forum; (2) that a challenge to the 1995 election is presently pending in a tribal forum; (3) that BIA has declined to recognize the results of the 1995 election; or (4) that BIA has recognized the results of the 1995 election, but an appeal from that recognition is presently pending. Because appellant has not made any of these showings, the Board holds that this case is controlled by its prior rulings as exemplified in Villegas.

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 Acting Sacramento Area Director's November 22, 1994, decision is dismissed as moot.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge