



INTERIOR BOARD OF INDIAN APPEALS

Vernon E. McCarty v. Muskogee Area Director, Bureau of Indian Affairs

30 IBIA 152 (12/16/1996)



# United States Department of the Interior

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

VERNON E. McCARTY,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	Docket No. IBIA 96-116-A
	:	
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 16, 1996

Appellant Vernon E. McCarty seeks review of a July 11, 1996, decision issued by the Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA), denying a request to exchange trust land appellant owned in Coal County, Oklahoma, for fee land located in Stone County, Missouri, which would then be taken into trust. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant's notice of appeal states in its entirety:

Please accept this letter as my appeal from the Muskogee Area Director's decision to deny the exchange of lands in Oklahoma for lands located in Missouri. A copy of this appeal has been forwarded to the Assistant Secretary - Indian Affairs, Washington, D.C., and to the Muskogee Area Director. I, hereby, request assistance from the Muskogee Area Office in preparing my appeal.

If you have any questions, you may contact me at [address].

The Board's September 24, 1996, notice of docketing advised appellant of his right to file an opening brief. The notice also stated that appellant bore the burden of proving the error in the decision being appealed.

Appellant did not file an opening brief.

The Board has consistently stated that an appellant bears the burden of proving the error in the decision being appealed. An appellant who fails to make any allegation concerning how an Area Director's decision is in error, let alone any argument in support of such an allegation, has not carried his burden of proof. See, e.g., L.W. Yarberry Estate v. Acting Muskogee Area Director, 29 IBIA 81 (1996), and cases cited therein. Appellant has not carried his burden of proof here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4. 1, the Muskogee Area Director's July 11, 1996, decision is affirmed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge