



INTERIOR BOARD OF INDIAN APPEALS

Larry Smith and Bridget Smith v. Acting Billings Area Director,
Bureau of Indian Affairs

31 IBIA 310 (12/29/1997)



United States Department of the Interior

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

LARRY SMITH,	:	Order Dismissing Appeals
Appellant	:	
	:	
BRIDGET SMITH,	:	
Appellant	:	Docket Nos. IBIA 97-125-A
	:	IBIA 97-163-A
v.	:	
	:	
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 29, 1997

These are appeals from March 24, 1997, and July 1, 1997, decisions issued by the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA). In the March 24, 1997, decision, the Area Director denied a request by Larry Smith to prepare an appraisal of his trust land. In the July 1, 1997, decision, the Area Director denied Bridget Smith's request for BIA review of an independent appraisal of the same trust land.

Larry Smith is an enrolled member of the Assiniboine and Sioux Tribes of the Fort Peck Reservation (Tribes) and is the beneficial owner of trust land on the reservation. He requested a BIA appraisal of his trust land after having been ordered to do so by the Montana district court in which he had filed a petition for divorce from Bridget Smith. His appeal to the Board was also made by order of that court.

On September 30, 1997, the Montana Supreme Court reversed the district court's order, holding that the district court "erred when it ordered Larry Smith to request an appraisal of his Indian trust lands from the Bureau of Indian Affairs, and when it ordered him to appeal the BIA's refusal to give him an appraisal." Smith v. McKeon, No. 97-499 (Mont. Sup. Ct. Sept. 30, 1997), Slip op. at 4. The Supreme Court remanded the case to the district court for further proceedings necessary to dissolve the parties' marriage and to distribute the non-trust portion of the marital estate.

On the basis of the Montana Supreme Court's decision, Larry Smith moved to dismiss these appeals.

By order of October 15, 1997, the Board allowed responses to the motion to dismiss. Responses were received from the Area Director and from the Tribes as amicus curiae, both supporting the motion. No response was received from Appellant Bridget Smith.

The Tribes' response indicated that Bridget Smith had filed a petition for rehearing in the Montana Supreme Court and that, as of the date the Tribes' response was filed, the Court had not ruled on the petition.

The Board requested Larry Smith to advise it when the Montana Supreme Court acted on the petition for rehearing. Larry Smith has advised the Board that the Court denied the petition for rehearing on October 30, 1997.

Appellant Bridget Smith has not objected to the dismissal of these appeals. All other parties favor dismissal. Given that there no longer appears to be any basis for them, the Board finds that these appeals should be dismissed.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, these appeals are dismissed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge