



INTERIOR BOARD OF INDIAN APPEALS

Scotty M. Simpson v. Southern Plains Regional Director, Bureau of Indian Affairs

38 IBIA 114 (09/12/2002)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

|                            |   |                                |
|----------------------------|---|--------------------------------|
| SCOTTY M. SIMPSON,         | : | Order Docketing and Dismissing |
| Appellant                  | : | Appeal                         |
|                            | : |                                |
| v.                         | : |                                |
|                            | : | Docket No. IBIA 02-147-A       |
| SOUTHERN PLAINS REGIONAL   | : |                                |
| DIRECTOR, BUREAU OF INDIAN | : |                                |
| AFFAIRS,                   | : |                                |
| Appellee                   | : | September 12, 2002             |

Appellant Scotty M. Simpson seeks review of a June 27, 2002, decision issued by the Southern Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning matters relating to lands at one time held in trust for the Ponca Tribe of Oklahoma, the Ponca Tribe of Nebraska, and/or members of those tribes. For the reasons discussed below, the Board of Indian Appeals (Board) docketed this appeal but dismisses it because Appellant has failed to show that he is seeking any relief which the Board has the authority to grant.

It appears that this controversy stems from action taken by the State of Oklahoma in or about 1997 in regard to Buddy's Smoke Shop, a business operated by Appellant on land which he apparently owns. It further appears that the State asserted that the business was not located on trust land, while Appellant believed that the land should have been in trust. Appellant apparently began asking BIA for materials relating to the land and its status.

In the June 27, 2002, decision, the Regional Director indicates that he asked Appellant to set out all of the information he was requesting. The June 27 decision responds item-by-item to that request. The Regional Director provided most of the information Appellant requested. However, in some cases, the Regional Director indicated that he believed the information requested was covered by the Privacy Act. The Regional Director stated that Appellant would have to file a formal Freedom of Information Act request for those items of information and that, upon receipt of such a request, BIA would determine whether or not the documents could be released.

Although Appellant's notice of appeal to the Board was quite lengthy, the Board was unable to determine what relief Appellant was seeking. Therefore, on July 31, 2002, the Board ordered Appellant to state what relief he sought from this appeal. It stated that it was possible,

but not clear, that Appellant was asking to have 11.19 acres of land restored to trust status. The Board informed Appellant that, if this was the relief he was seeking, it lacked authority to order any such restoration. However, the Board gave Appellant the opportunity to state whether this was actually the relief he was seeking.

The Board has received and reviewed Appellant's response. Appellant still does not clearly state the relief he is seeking. However, he continues to ask for information. It appears that some of the information he is requesting has already been provided to him, some is what the Regional Director stated Appellant would have to request under the Freedom of Information Act, and some is material perhaps requested for the first time.

However, the Board finds nothing in Appellant's response which shows that Appellant is seeking relief which the Board has authority to grant. If Appellant is seeking additional information from BIA, he should file his request under the Freedom of Information Act, as directed by the Regional Director. If Appellant does so, the Regional Director will notify him of his right to seek further review as to any document which the Regional Director does not release. The Board is not, however, part of the administrative review process under the Freedom of Information Act.

Because of its disposition of this case, the Board finds it unnecessary to address Appellant's request for assistance in filing his appeal.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Regional Director's June 27, 2002, decision is docketed but dismissed because Appellant has failed to show that he is seeking any relief that the Board has authority to grant.

\_\_\_\_\_  
//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

\_\_\_\_\_  
//original signed  
Anita Vogt  
Administrative Judge