



INTERIOR BOARD OF INDIAN APPEALS

Nelson Pinola, Keith Mendoza, Rick Poe, Merle Cruz, and Leona Ilar
v. Pacific Regional Director, Bureau of Indian Affairs

40 IBIA 54 (07/13/2004)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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NELSON PINOLA, KEITH MENDOZA, : Order Dismissing Appeal
RICK POE, MERLE CRUZ, and :
LEONA ILAR, :
Appellants, :
v. : Docket No. IBIA 04-3-A
PACIFIC REGIONAL DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee. : July 13, 2004

Appellants sought review by the Board of Indian Appeals (Board) from the failure of the Pacific Regional Director, Bureau of Indian Affairs (Regional Director; BIA) to decide an underlying appeal that Appellants had filed with the Regional Director from an October 21, 2002, decision by the Superintendent, Central California Agency. In that October 21 decision, the Superintendent declined to recognize the results of an April 13, 2002, recall election held for the Manchester-Point Arena Band of Pomo Indians of the Manchester-Point Arena Rancheria (Tribe). The appeal to the Board was filed under 25 C.F.R. § 2.8, which allows an appeal from inaction by a BIA official, after an appellant has requested action in compliance with the requirements of that section. The Board now dismisses this appeal as moot.

During the pendency of this appeal, the Board requested and received several status reports from the Regional Director concerning her consideration of Appellants' underlying appeal. On June 15, 2004, the Board received a status report from the Regional Director, indicating that on November 15, 2003, the Tribe had held an election of tribal officers, the results of which were not challenged. The status report also noted that Appellants had participated in the election, and one of the Appellants, Mr. Rick Poe, was elected Tribal Chairperson. On June 18, 2004, the Board issued an order suggesting that this appeal may be moot, and allowing Appellants and other interested parties an opportunity to respond. The Board's order stated that failure to respond would be construed as consent to dismissal of this appeal. The Board received no responses.

A subsequent uncontested tribal election renders moot an appeal concerning prior tribal leadership. See, e.g., Rosales v. Sacramento Area Director, 34 IBIA 125, 126-27 (1999); Villegas v. Sacramento Area Director, 24 IBIA 150 (1993). Based on the information

provided by the Regional Director, and in the absence of any responses, the Board concludes that this appeal is moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses this appeal as moot.

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Steven K. Linscheid
Chief Administrative Judge

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Colette J. Winston
Administrative Judge