



INTERIOR BOARD OF INDIAN APPEALS

Beatriz Alvarado Marruffo v. Southern California Agency Superintendent,
Bureau of Indian Affairs

53 IBIA 276 (7/25/2011)



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

BEATRIZ ALVARADO MARRUFFO,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 11-133
SOUTHERN CALIFORNIA)	
AGENCY SUPERINTENDENT,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	July 25, 2011

On June 27, 2011, the Board of Indian Appeals (Board) received a notice of appeal from Beatriz Alvarado Marruffo (Appellant). In her appeal, Appellant contends that the Southern California Agency (Agency)¹ of the Bureau of Indian Affairs (BIA) has refused to change the blood degree of David Marruffo and Foster Gregorio Marruffo (both of whom are now deceased), to reflect their lineage from Sylverio Nolasquez, not Blas Gonzales, and from Daria Baldon. Appellant encloses with her appeal a copy of a December 15, 2009, letter from Appellant’s daughter, Sophia Marie Marruffo, requesting that Sophia’s Certificate of Degree of Indian Blood (CDIB) be changed and stating that Indian blood degree determinations also need to be made for Sophia’s children and grandchildren so that they may continue to attend an Indian school.² It is unclear to whom Sophia’s 2009 letter

¹ Appellant refers to the Agency as the “Riverside Agency;” the Agency office is located in Riverside, California.

² Although not entirely clear, it appears that Appellant and Sophia are seeking an amended CDIB for Sophia, and CDIBs for Sophia’s children and grandchildren. Probate records of the Department of the Interior indicate that Sophia is the daughter of David and Appellant, and that David and Foster were brothers. Those records also show that Blas Gonzales was the maternal grandfather of David and Foster, and that Sylverio Nolasquez was the maternal grandfather of Blas (i.e., David and Foster’s maternal great-great grandfather). Additional probate records show that Daria Baldon was the paternal grandmother of David and Foster, through their father, Gergario, a.k.a. Gregorio, a.k.a. George Marruffo. We have added to the appeal record certain documents from the estates of David Marruffo (Probate No. P000036089IP), Foster Gregorio Marruffo (Probate No. P000036090IP), Blas Manuel Gonzales (Probate No. IP SA-124-N-05), and Susie Genevieve Marruffo

(continued...)

was directed, but it appears that it may have been submitted to the Agency. We docket this appeal, but dismiss it because we lack jurisdiction.

Appellant's appeal to the Board asserts that the Agency has refused to change certain Indian blood degree determinations. Upon receipt of the notice of appeal, the Board's staff contacted the Agency to determine the status of this matter, and was informed by Agency staff that Sophia's request and matters related to Appellant's request for BIA to revise certain blood degree determinations relating to the Marruffo family remain pending before the Agency.

It thus appears that the Agency has not yet issued a decision, but whether Appellant's allegation that the Agency has refused to change the CDIBs is construed as an attempt to challenge either action or inaction by the Agency Superintendent, the Board lacks jurisdiction. Appeals from action or alleged inaction by an agency superintendent must first be brought to a BIA regional director. See *Gardner v. Uintah and Ouray Agency Superintendent*, 51 IBIA 166, 167 (2010).

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 docket this appeal but dismisses it for lack of jurisdiction. We transmit Appellant's submission to the Superintendent for consideration as appropriate.³

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

²(...continued)

(Probate No. P000035509IP) solely for informational purposes. We make no factual findings concerning ancestry and we express no opinion on whether or how BIA should resolve the issue(s) raised with respect to the CDIBs.

³ A party who believes that a BIA official has unreasonably delayed issuing a decision may make the official's inaction appealable if the party satisfies the conditions of 25 C.F.R. § 2.8, which include both standing and procedural requirements.

Once the Superintendent issues a decision on the merits, he must provide appeal rights. We note that the appeal process from a decision on the merits regarding an Indian blood degree certification does not involve the Board. See *Sanders v. Eastern Oklahoma Regional Tribal Government Officer*, 50 IBIA 307, 307 (2009); *Harrison v. Eastern Oklahoma Regional Director*, 37 IBIA 144, 144-45 (2002).