



INTERIOR BOARD OF INDIAN APPEALS

In Re Federal Acknowledgment of the Snoqualmie Tribal Organization

31 IBIA 299 (11/28/1997)

Related Board cases:

31 IBIA 260

Reconsideration denied, 31 IBIA 298

34 IBIA 22



United States Department of the Interior

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

IN RE FEDERAL ACKNOWLEDGMENT	:	Order Docketing and Dismissing
OF THE SNOQUALMIE TRIBAL	:	Request for Reconsideration/
ORGANIZATION	:	Notice of Appeal
	:	
	:	
RONALD R. LAUZON,	:	
Appellant	:	Docket No. IBIA 98-27-A
	:	
v.	:	
	:	
DIRECTOR, OFFICE OF TRIBAL	:	
SERVICES, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	November 28, 1997

On November 5, 1997, the Board received an apparent notice of appeal from Ronald R. Lauzon, pro se. It was not clear, however, what decision Lauzon sought to appeal. Therefore, on November 6, 1997, the Board ordered him to identify the decision he intended to appeal. The Board's order stated:

It appears possible that [Lauzon's] filing is intended to be a request for reconsideration of the Final Determination published by the Assistant Secretary - Indian Affairs on August 29, 1997, acknowledging that the Snoqualmie Tribal Organization exists as an Indian tribe. It also appears possible, however, that he is attempting to appeal a tribal determination concerning his membership in the Snoqualmie Tribal Organization. Finally, it is conceivable that he intended to appeal an October 22, 1997, letter from the Director, Office of Tribal Services, Bureau of Indian Affairs.

The Board received a response from Lauzon on November 24, 1997. The response is not much clearer than Lauzon's original filing.

From the materials submitted by Lauzon, the Board can identify only two Departmental "decisions" which Lauzon may have intended to appeal to the Board. Therefore, for purposes of this order, the Board assumes that Lauzon intended to file either (1) a request for reconsideration of the Final Determination of the Assistant Secretary - Indian Affairs to Acknowledge the Snoqualmie Tribal Organization (STO), published at 62 Fed. Reg. 45,864 (Aug. 29, 1997) or (2) a notice of appeal from the October 22, 1997, letter of the Director, Office of Tribal Services.

The Board first considers Lauzon's filing as if it were intended to be a request for reconsideration of the Assistant Secretary's Final Determination to Acknowledge the STO.

Regulations governing the acknowledgment of Indian tribes are found in 25 C.F.R. Part 83. Section 83.11, cited by Lauzon, describes the procedures for requesting reconsideration of a final acknowledgment determination made by the Assistant Secretary. This section requires that a request for reconsideration be filed with the Board no later than 90 days after publication of the Assistant Secretary's determination in the Federal Register (subsection 83.11(a)(2)) and that it "contain a detailed statement of the grounds for the request, and * * * include any new evidence to be considered." Subsection 83.11(b). Further, the request for reconsideration is to serve as the opening brief of the party requesting reconsideration. Subsections 83.11(b)(1), 83.11(e)(5).

Subsection 83.11(d) provides:

The Board [of Indian Appeals] shall have the authority to review all requests for reconsideration that are timely and that allege any of the following:

- (1) That there is new evidence that could affect the determination; or
- (2) That a substantial portion of the evidence relied upon in the Assistant Secretary's determination was unreliable or was of little probative value; or
- (3) That petitioner's or the Bureau's research appears inadequate or incomplete in some material respect; or
- (4) That there are reasonable alternative interpretations, not previously considered, of the evidence used for the final determination, that would substantially affect the determination that the petitioner meets or does not meet one or more of the criteria in § 83.7(a) through (g).

Under this provision, the Board's jurisdiction over requests for reconsideration of the Assistant Secretary's acknowledgment determinations is limited to those requests which make at least one of the listed allegations. Lauzon's filing fails to make any of these allegations. Accordingly, the Board lacks jurisdiction over this request for reconsideration.

Under subsection 83.11(f)(1), the Board is required to "describe in its decision any grounds for reconsideration other than those in paragraphs (d)(1)-(4) of this section alleged by a petitioner's or interested party's request for reconsideration." Any request for reconsideration which alleges such other grounds is to be referred to the Secretary of the Interior under subsection 83.11(f)(2).

As far as the Board can determine from his filing, Lauzon's complaint is that the STO has excluded him from membership. As noted above, all of Lauzon's allegations and arguments were required to be included in his request, which is also to serve as his opening brief. Accordingly, the Board must make its determination here on the basis of the initial filing made by Lauzon.

The Board finds that, not only does Lauzon's filing fail to allege any of the grounds in subsection 83.11(d), it also fails to allege any other basis for reconsideration that would warrant referral to the Secretary. Accordingly, if Lauzon's filing is construed as a request for reconsideration of the Assistant Secretary's Final Determination to Acknowledge the STO, it must be dismissed for lack of jurisdiction.

The Board next considers Lauzon's filing as if it were a notice of appeal from the October 22, 1997, letter of the Director, Office of Tribal Services.

The Director's letter furnished Lauzon with copies of certain documents from the files of BIA's Branch of Acknowledgment and Research. It also informed him that, if he wished to appeal a membership determination made by the STO, he must do so through the STO and pursuant to tribal procedures. Finally, the letter discussed contentions made by Lauzon concerning the proceedings leading to acknowledgment of the STO.

If the Board has jurisdiction over an appeal from the Director's letter, that jurisdiction must derive from the Board's authority to review BIA decisions "issued under 25 CFR chapter I, except as limited in 25 CFR chapter I or § 4.330 of this part." 43 C.F.R. § 4.1(b)(2).

One of the limitations in 43 C.F.R. § 4.330 concerns enrollment appeals. Subsection 4.330(b) provides: "Except as otherwise permitted by the Secretary or the Assistant Secretary - Indian Affairs by special delegation or request, the Board shall not adjudicate: (1) Tribal enrollment disputes." There has been no special delegation to the Board authorizing it to adjudicate Lauzon's dispute with the STO concerning his membership. Therefore, to the extent that the Director's letter is a decision concerning Lauzon's membership dispute with the STO, the Board lacks jurisdiction over it.

Another limitation on the Board's jurisdiction appears in 25 C.F.R. § 83.11 which, as noted above, concerns the Board's review authority over acknowledgment determinations. As discussed above, the Board has no jurisdiction over acknowledgment determinations except as set out in section 83.11. Therefore, to the extent that the Director's letter is a decision relating to the acknowledgment of the STO, the Board's jurisdiction is limited to that set out in section 83.11. The Board has already determined that it lacks jurisdiction over Lauzon's filing under section 83.11.

The Board therefore finds that it lacks jurisdiction over an appeal from the Director's October 22, 1997, letter.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1 and 25 C.F.R. § 83.11, this request for reconsideration/notice of appeal is docketed but is dismissed for lack of jurisdiction.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge