



INTERIOR BOARD OF INDIAN APPEALS

Estate of Walking Woman (Olympia) (Bearshead or Red Hat)

3 IBIA 159 (11/13/ 1974)

Denying reconsideration of:

3 IBIA 132



United States Department of the Interior

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

ESTATE OF WALKING WOMAN (OLYMPIA) (BEARSHEAD OR RED HAT)
(Deceased Cheyenne Allottee No. 840)

IBIA 74-27 Supp.

Decided November 13, 1974

Motion for Reconsideration.

Denied.

1. Indian Probate: Reconsideration: Generally

Indian probate regulations do not contain any provisions for reconsideration of a matter which has been finally determined by the Secretary of the Interior, yet he has the inherent power to reopen and review administrative determinations when some new factors such as newly discovered evidence or fraud are involved.

APPEARANCES: Sophia Red Hat Limpy and Allen Red Hat, pro se.

OPINION BY ADMINISTRATIVE JUDGE SABAGH

The appellants on November 6, 1974, filed what we consider to be a motion for reconsideration of the decision rendered in the above-entitled matter issued October 24, 1974.

Indian probate regulations do not contain any provisions for reconsideration of a final decision, although the Board of necessity has inherent power to rectify manifest error in any of its decisions. Estate of Julius Benter, IBIA 70-5 (Supp) (January 12, 1971).

A petition for reconsideration to be granted must contain an adequate basis for reconsideration such as

newly discovered evidence or fraud. Estate of Ute, IA-143 (Supp) (August 25, 1955).

The petition does not contain newly discovered evidence or evidence of fraud. Instead the Petitioners repeat assertions previously made but not substantiated. Consequently, under the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, it is determined that this matter has been properly conducted, decided and reviewed.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the motion for reconsideration shall be and the same is hereby DENIED, and the ORDER DETERMINING HEIRS of November 19, 1973, stands unchanged.

//original signed
Mitchell J. Sabagh
Administrative Judge

I concur:

//original signed
David J. McKee
Chief Administrative Judge