STEWARTS POINT RANCHERIA, Appellant	: Order Docketing and Dismissing : Appeal
v.	:
	: Docket No. IBIA 00-3-A
SACRAMENTO AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	: : : October 20, 1999

On October 12, 1999, the Board of Indian Appeals received, by transmittal from the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), an August 24, 1999, notice of appeal and a September 21, 1999, statement of reasons filed by Stewarts Point Rancheria (Appellant), 1/ through counsel, Maureen H. Geary, Esq., Santa Rosa, California. In its notice of appeal, Appellant stated that it sought review of the Area Director's "unauthorized disbursement of monies from the Stewarts Point Rancheria's FY 1999 ICWA [Indian Child Welfare Act] funds." Notice of Appeal at 1. The appeal documents indicate that the disbursement to which Appellant objects was a payment of $7,215 made to California Indian Legal Services (CILS) for ICWA legal services rendered to a Stewarts Point tribal member in In re Guardianship of Dominic and Isaac Antone, Sonoma County, California, Superior Court, Case Nos. 68001 and 68002.

Payment of legal fees in the Antone guardianship proceeding was the subject of an earlier appeal before the Board. California Indian Legal Services v. Sacramento Area Director, 33 IBIA 121 (1999). 2/ During the course of that appeal, it became apparent that BIA had approved payment of the legal fees but had delayed making payment because of a disagreement between the Sacramento Area Office and BIA's Central Office as to which office would make payment. By letter of January 13, 1999, CILS informed the Board that it had received pay-

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1/ This tribal entity is also known as the Kashia Band of Pomo Indians of the Stewarts Point Rancheria, the name by which it appears on BIA's list of "Indian Entities Recognized and Eligible To Receive Services from the United States Bureau of Indian Affairs." 63 Fed. Reg. 71941, 71943 (Dec. 30, 1998).

2/ Appellant's present attorney also represented CILS in the earlier appeal.

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ment from the Area Director on January 4, 1999. In light of that payment, CILS sought dismissal of its appeal. The appeal was dismissed on January 20, 1999.

The Area Director's October 4, 1999, transmittal memorandum indicates that he forwarded the present appeal documents to the Board in the belief that the Board has review authority in this case.

Matters concerning payment of legal fees under subsec. 102(b) of ICWA, 25 U.S.C. § 1912(b), are addressed in 25 C.F.R. § 23.13, "Payment for appointed counsel in involuntary Indian child custody proceedings in state courts." The Board's role in these matters is set out in subsec. 23.13(f), which provides:

> No later than 15 days after receipt of a payment voucher, the Area Director shall send written notice to the court, the client, and the attorney stating the amount of payment, if any, that has been authorized. If the payment has been denied, or the amount authorized is less than the amount requested in the voucher approved by the court, the notice shall include a written statement of the reasons for the decision together with a statement that complies with 25 CFR 2.7 and that informs the client that the decision may be appealed to the Interior Board of Indian Appeals in accordance with 25 CFR 2.4 (e); 43 CFR 4.310 through 4.318 and 43 CFR 4.330 through 4.340.

Nothing in this provision suggests that the Board's review authority in these cases extends to any matters beyond the denial (in whole or in part) of requests for payment of legal fees. Moreover, the only mention of funding issues anywhere in sec. 23.13 appears in the list of reasons for which certification for payment of legal fees may be denied: "Funds are not available for the particular fiscal year." 25 C.F.R. 23.13(b)(6). This appeal, of course, does not involve a certification issue and, if it did, it would have to be made to the Assistant Secretary - Indian Affairs, rather than this Board. 25 C.F.R. §23.13(c).

The Board concludes that its review authority over matters concerning the payment of legal fees in child custody proceedings does not extend to questions concerning the source of funds used to pay those legal fees. 3/

3/ Cf. the Oct. 19, 1998, Order for Joint Status Report in California Indian Legal Services, which stated: "The Board expects that BIA will make payment to [CILS] expeditiously. If making payment at this time involves the necessity of a later reimbursement between BIA offices, that is an internal matter for BIA resolution."

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Therefore, 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 is docketed but is dismissed for lack of jurisdiction.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge

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