



INTERIOR BOARD OF INDIAN APPEALS

Estate of Marcella Jean Wicks, a.k.a. Gayton

15 IBIA 78 (01/05/1987)

Related Board case:
39 IBIA 211



United States Department of the Interior

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

ESTATE OF MARCELLA JEAN WICKS, : Order Approving Settlement
a/k/a GAYTON : Agreement
: :
: Docket No. IBIA 86-36
: :
: January 5, 1987

Appellant Chaske (Charles) Frederick Wicks sought review by the Board of Indian Appeals (Board) of a March 12, 1986, order after rehearing issued in the estate of Marcella Jean Wicks (decedent) by Administrative Law Judge Elmer T. Nitzschke. The March 12 order confirmed Judge Nitzschke's order of December 5, 1984, approving decedent's will.

On July 14, 1986, the Board received notice from appellant that he was engaged in settlement negotiations with Joseph James Wicks (appellee). On October 20, 1986, the Board received the parties' proposed settlement. The proposal provided that appellee would convey the White Cow Walking allotment, No. SR-2219, which appellee received under decedent's will, to the Superintendent, Standing Rock Agency, Bureau of Indian Affairs. The property was to be held in trust for Winona Marcella Mae Wicks and Leona Maxine Wicks, daughters of appellant, until the younger of the two reached her eighteenth birthday, at which time the Superintendent was to convey the property in fee to Winona and Leona in equal shares. The Board found that the settlement as drafted could have resulted in a violation of law by requiring the Superintendent to convey the property to Winona and Leona in fee while at least one of them was under 21 years of age and without regard to their competence. Therefore, the Board disapproved the agreement in part.

The parties have now submitted a revised settlement agreement, executed by appellant on December 2, 1986, and by appellee on December 15, 1986. The new agreement provides that the property may be conveyed to Winona and Leona in fee in accordance with applicable laws and regulations. With this revision, the Board's objections to the original agreement have been resolved.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the revised settlement agreement is approved. The Bureau of Indian Affairs is instructed to distribute decedent's trust estate in accordance with Judge Nitzschke's December 5, 1984, order as modified by the settlement agreement.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Acting Chief Administrative Judge