



INTERIOR BOARD OF INDIAN APPEALS

Louis Naranjo, Jr., et al. v. Albuquerque Area Director, Bureau of Indian Affairs

23 IBIA 291 (04/14/1993)

Reconsideration denied:

24 IBIA 32

Related Board cases:

21 IBIA 178

28 IBIA 229



United States Department of the Interior

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

LOUIS NARANJO, JR., et al., : Order Affirming Decision
Appellants :
 :
v. :
 :
 : Docket No. IBIA 92-203-A
ALBUQUERQUE AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : April 14, 1993

Appellants identify themselves as the Governor and Tribal Council of the South Kiva, Pueblo of San Ildefonso. ^{1/} They seek review of a June 5, 1992, decision of the Albuquerque Area Director, Bureau of Indian Affairs, declining to recognize the South Kiva government.

Appellants' notice of appeal appeared to characterize their quest as one for recognition of a separate tribal government for the South Kiva. Further, the notice explicitly stated that appellants sought approval of a tribal attorney contract for the South Kiva. Accordingly, the Board ordered appellants to show cause why the Area Director's decision should not be summarily affirmed under Edwards, McCoy and Kennedy v. Acting Phoenix Area Director, 18 IBIA 454 (1990), and Northwest Computer Supply v. Acting Deputy to the Assistant Secretary--Indian Affairs (Operations), 16 IBIA 125 (1988).

In their response, appellants abandoned their appeal insofar as it sought approval of the attorney contract and recharacterized the remainder of the appeal as one concerning an intra-tribal dispute. After reviewing appellants' arguments, the Board determined that it would not summarily affirm the Area Director's decision at that time but would give the parties an opportunity to brief the issues. Accordingly, the Board ordered the Area Director to transmit the administrative record, upon receipt of which it established a briefing schedule. Briefs were filed by appellants, the Area Director, and the Pueblo. After consideration of the briefs and the administrative record, the Board remains of the view that the Area Director's decision must be affirmed.

^{1/} The notice of appeal states that Louis Naranjo, Jr., is Governor of the South Kiva. It does not identify the tribal council members by name. However, a February 19, 1992, letter from Naranjo states that the other officers of the South Kiva are Martin Aguilar, Jr., Raymond Gonzales, Paul Gonzales, Willie Naranjo, Victor Aguilar, Frankie Brewer, Bryan Montoya, and Chris Wayne Pena.

Appellants' principal argument before the Board concerns a 1958 agreement for governance of the Pueblo. Appellants urge the Board to determine that the agreement is no longer in effect. Further, they seek an order requiring the Area Director to acknowledge that the Pueblo has returned to its pre-1958 state, when it apparently had no centralized government.

The Area Director argues that the status of the 1958 agreement is not properly before the Board because the issue was not raised before him and consequently was not decided by him. The Board agrees that appellants' submissions to the Area Director did not specifically request that he make a determination concerning the status of the agreement. ^{2/} Arguably, however, the issue was raised by implication. Similarly, the Area Director's position on this point may be deemed implicit in his decision and has been made explicit in his brief before the Board. Therefore, the Board will consider the issue.

It is apparent from the record that the Pueblo has been divided for many years, probably since the early part of this century, into opposing groups known as the "North" and "South" parties, factions, or kivas. In 1958, the two groups negotiated an agreement under which the Pueblo was to be governed. The agreement was signed by 26 members of the Pueblo and has a preamble reading: "This agreement made and entered on the 28th day of January, 1958 between two so-called parties being the North Side and South Side faction, hereinafter be it known only as San Ildefonso, Pueblo." Paragraph 7 of the agreement reads: "In the event changes become necessary in this system of government it may be done by 2/3 vote majority by the entire male members of voting age having six months residence at the time in San Ildefonso pueblo." The agreement was amended once, in 1962. No change was made to Paragraph 7.

Appellants acknowledge that the agreement has served as the Pueblo's organic law since 1958. They do not contend that any action has been taken to dissolve the agreement pursuant to Paragraph 7. Nor do they contend that any tribal forum has declared the agreement ineffective. Instead, they seek to persuade the Board to render such a declaration.

It is difficult to imagine any Departmental action more intrusive upon the Pueblo's right to self-government than an attempt by BIA or this Board to declare the Pueblo's organic document ineffective. In light of the well-established Federal policy of respect for the right of tribes to govern themselves, the Board cannot and will not engage in such an attempt.

^{2/} Appellants' first letter to the Area Director, dated February 19, 1992, asked him to recognize the government of the South Kiva, to freeze Federal funding of the Pueblo pending approval of contracts by the South Kiva government, and to assist in dividing the Pueblo's assets between the North and south Kivas. Appellants' second letter, dated May 5, 1992, sought approval of the attorney contract.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's June 5, 1992, decision is affirmed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge