May 10, 1989

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: C M A

The Department of State determined on January 15, 1970 that C M A expatriated herself on January 6, 1970 under the provisions of section 349(a)(6), (now section 349(a)(5)), of the Immigration and Nationality Act by making a formal renunciation of her United States nationality before a consular officer of the United States in Kampala, Uganda. 1/

For the reasons given below, we conclude that the appeal is untimely, and dismiss it for lack of jurisdiction.

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Appellant, C M A , became a United States citizen by birth at [redacted], Illinois on [redacted],

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1/ In 1970 section 349(a)(6) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(6), read as follows:

> Sec. 349. (a) From and after the effective date of this Act a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by --
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> . . .
>
> (6) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; . . .

Pub. L. No. 94-432, 92 Stat. 1046 (1978) repealed paragraph (5) of section 349(a) of the Immigration and Nationality Act, and redesignated paragraph (6) of section 349(a) as paragraph (5).

Pub. L. No. 99-653, 100 Stat. 3655, (1986), amended subsection 349(a) by inserting "voluntarily performing any of the following acts with the intention of relinquishing United States nationality:" after "shall lose his nationality by;".

[redacted]. She lived in the United States until 1959 when she married a citizen of Uganda, Dr. M A , an , and prominent Ugandan personality. Four children were born of the marriage in Uganda between 1960 and 1965. According to appellant, she registered each as a United States citizen at the Embassy in Kampala. From 1961 to 1968 appellant was employed by the African-American Institute (AAI) in Kampala, directing a program that became known as the African Scholarship Program of American Universities.

Appellant stated that she resigned from the AAI in 1968 after TIME magazine published an article identifying organizations throughout the world that it alleged were being funded by the CIA. AAI was among those listed. For some time prior to 1968, appellant informed the Board, she had been identified publicly and privately by Ugandan authorities as a black American who was a CIA agent. "I'm the local representative. So there I was confirmed, you know," appellant stated in oral argument on her appeal. 2/

From 1966 through January 6, 1970, appellant stated in her opening brief, she was continually harassed by Ugandan authorities.

> ...Despite her denials to the contrary, the authorities were convinced that she was an agent of the CIA, and the authorities indicated to her that the only way they would believe she was not a CIA agent was if she renounced her U.S. citizenship and became a Ugandan citizen, and in that event, she would be left alone; otherwise her presence and activities as a citizen of the United States were undesirable to the government and she would be required to leave Uganda, without her husband and four children. After several more months of intensified harassment and threats, Mrs. A decided that for her own and her family's mental and physical health, and to avoid being forced out of Uganda without her family, she

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2/ Transcript of Hearing in the Matter of C M A before the Board of Appellate Review, June 2, 1987 (hereafter referred to as "TR"). TR 31.

> would give up her U.S. citizenship. She approached the American Embassy and spoke to an Embassy official.

On January 6, 1970 appellant made a formal renunciation of her nationality before a consular officer at the United States Embassy in Kampala. The record shows that the consular officer who conducted the proceedings asked appellant before she made oath to read a statement of understanding which set forth in pertinent part that appellant decided voluntarily to exercise her right to renounce her nationality; that she realized renunciation would make her an alien under United States law; that the serious consequences of renunciation had been explained to her by the consular officer and that she understood fully those consequences. Appellant then signed the statement and made the oath of renunciation. She also made a written declaration setting forth why she renounced her United States nationality which read as follows:

> I am renouncing my American citizenship for the following reasons:
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> I am married to a Ugandan and have been residing in Uganda with my husband and children for the past ten years and I intend to do so permanently. Due to recent strict Immigration Laws in Uganda pertaining to aliens entering, living in, and working in Uganda, I feel that it is now necessary to become a citizen of Uganda. It is not possible to have dual citizenship by both American and Ugandan law, so it becomes necessary for me to renounce my American citizenship.

The consular officer executed a certificate of loss of nationality in appellant's name on January 6, 1970, in compliance with the provisions of section 358 of the Immigration and Nationality Act. 3/ The officer

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3/ Section 358 of the Immigration and Nationality Act, 8 U.S.C. 1501, reads as follows:

> Sec. 358. Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state

certified that appellant acquired United States nationality by birth in the United States; that she made a formal renunciation of United States nationality; and thereby expatriated herself under the provisions of section 349(a)(6) of the Immigration and Nationality Act. The officer forwarded the certificate to the Department for decision, attaching to it appellant's oath of renunciation, statement of understanding, statement of reasons for renouncing, and cancelled passport. He made no report or comment on the circumstances surrounding appellant's renunciation. The Department approved the certificate on January 15, 1970, approval constituting an administrative determination of loss of nationality from which a timely and properly filed appeal may be taken to the Board of Appellate Review. The Department dispatched a copy of the approved certificate to Kampala the same day for the Embassy to forward to appellant.

Following her renunciation appellant acquired Ugandan citizenship and obtained a Ugandan passport. Life thereafter apparently went more smoothly for her, but in October 1972, a year and a half after Idi Amin came to power, she and her family fled Uganda and sought asylum in Kenya, allegedly because they had been warned secretly that their lives were in danger (Dr. A allegedly was a close friend of Milton Obote whom Idi Amin deposed in 1971). The A family established themselves in Nairobi. Appellant was employed thereafter by the United States Information Service (USIS) working on student exhanges.

3/ Cont'd.

> has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

Appellant states that in the summer of 1973 she went to the United States Embassy in Nairobi to inquire how she might recover her United States citizenship. She told the Board during oral argument on June 2, 1987 that the person to whom she spoke at the Embassy had stated that she had voluntarily renounced her citizenship; unless she could present new evidence, for example, statements from people in Uganda who could support her contention that she had renounced under duress, nothing could be done in her case. 4/ Appellant said she was discouraged by this advice, for she considered it impossible, given oppression of the regime of Idi Amin, to obtain statements from knowledgeable people. She was also upset that she had been treated discourteously by the person to whom she spoke, and showed the Board a copy of a letter she received from a consul expressing regret that she had had an unpleasant experience when she visited the consular section.

In March 1975 appellant asked the Embassy in Nairobi to obtain for her a copy of the certificate of loss of nationality that was approved in her name. She required a copy, the Embassy informed the Department, as evidence for the Ugandan authorities to maintain her Uganda citizenship. The Department immediately dispatched a copy to the Embassy. Nine months later, in September 1975, a consular officer at the Embassy, who apparently took a special interest in appellant's case,tried to help her by addressing a memorandum to the Immigration and Naturalization Service in New York City and to the Department. The Embassy officer stated that the Embassy had received an approved preference visa petition for appellant and her family but that appellant wished to regain her citizenship. Appellant had raised two questions, the consular officer wrote: (1) whether the five-year residence requirement for naturalization of aliens could be waived in her case, and (2) whether there was another way for her to regain her citizenship. In response to the officer's request for guidance, the Department stated that if appellant had new or additional evidence to present or if she contended that the holding of loss of her nationality was contrary to law or fact, the Department would reconsider its decision. It was unlikely, however, the Department added, that the holding would be reversed, given the serious nature of formal renunciation of nationality.

4/ TR 63.

The Consular officer also wrote to the Immigration and Naturalization Service in Chicago, stating that appellant would be in Chicago shortly and wished to obtain information about naturalization. According to appellant, when she visited Chicago in the autumn of 1975 she had an interview with an immigration judge who told her that there was nothing that she could do; there was no point in appealing. 5/ He had not advised her that her case was a matter for the State Department. 6/

In February 1976, the Embassy at Nairobi submitted for the Department's consideration a statement prepared by appellant explaining why she had renounced her citizenship. It reads in pertinent part as follows:

> The political situation in Uganda at that time (1968) was most difficult for my husband and myself and family.
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> My U.S. citizenship was renounced as a result of intense pressure from the Uganda Government which, in fact, was threatening to imprison my husband because of suspected pro-American activities accomplished through his wife, who as a U.S. citizen, had access to certain information and people.
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> At that time, there seemed no alternative but to go through with the renunciation of my U.S. citizenship and become a citizen of Uganda.
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> I must admit, our distressing situation did change as a result and our situation did improve greatly.

5/ TR 64-67.

6/ On December 16, 1975 an official of INS in New York replied to the consular officer's memorandum of September 1975. He noted that the Department not INS had jurisdiction to determine loss of citizenship of a person abroad. Since appellant had expatriated herself, she might re-acquire citizenship only through naturalization.

The Department informed the Embassy in March 1976 that after reviewing appellant's file and the above statement, it considered the statement insufficient to show she renounced her citizenship involuntarily. Accordingly, the Department had affirmed its original determination of loss of her nationality. It instructed the Embassy to inform appellant of the procedures to take an appeal to this Board. Appellant stated at the hearing that no one at the Embassy had advised her of her right of appeal or that the Department had declined to reconsider its decision; not until 1984 did she become aware of the foregoing facts. 7/ Asked why she did not follow up with the Embassy, appellant replied that in 1979 she had an interview in Washington, "and the people who interviewed me [appellant later indicated that 'the people' were 'people at Langley'] were going to do it. They took the case up and held it for a year. And they finally came back to me at the end of '79, '80....and said they couldn't do anything." 8/

Early in 1980 a friend of appellant's in Chicago telephoned the Department to inquire about her case. In instructing the Embassy at Nairobi to inform her of the inquiry, the Department recapitulated the essential facts in appellant's case, and added that it had no record that she had indicated a wish to take an appeal, as the Embassy had been instructed in 1976 to advise her she might do. Meanwhile, in the spring of 1980 appellant had come to the United States. Her friend in Chicago arranged an interview for her with a senior official of the Department's Bureau of Consular Affairs in May 1980. Appellant was vague at the hearing about the topics of her conversation with this official, who has not testified about the meeting. 9/ Appellant called it a "casual conversation," but from it she learned that her four children were United States citizens. The official did not have her case file with him, but allegedly offered appellant no encouragement that she might recover her citizenship. He did not, appellant stated, suggest that she take an appeal to the Board.

In March 1984 the Embassy at Nairobi addressed a memorandum to the Department, requesting that the Department reconsider its decision in appellant's case. The Embassy expressed the opinion that appellant's renunciation was due

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7/ TR 68, 69.

8/ TR 143.

9/ TR 72, 73, 129, 130.

to "constant harassment and pressure from the Ugandan government," and recounted at length what appellant told a consular officer about the circumstances surrounding her renunciation. The consular officer who made the report offered the opinion that "even though she took the oath of renunciation voluntarily it was never her intent to transfer her allegiance to Uganda...." Attached to the Embassy's communication was a statement of appellant which detailed the "harassment, threats and strong words" that led her to renounce her nationality. Appellant visited the United States in May 1984. On the recommendation of the consular officer at the Embassy she spoke to an official of the Legal Adviser's office who, she said, suggested that she take an appeal to the Board. 10/

In November 1984 the Department responded to the Embassy's March 1984 communication by stating that the information appellant had provided was insufficient to rebut the presumption that she renounced her citizenship voluntarily. The Department added, however, "that information raises sufficient question of possible duress to warrant further inquiry. We are researching available data on circumstances surrounding renunciation and will advise ASAP of results and any additional evidence believed necessary."

There is no indication in the record that the Department ever completed its "researches", but undated handwritten notes in the Department's record presumably made by an official in the Bureau of Consular Affairs (no name is indicated) record that that official was of the opinion that: "If book, info from desk [presumably the Uganda desk of the Department] & any other additional evidence establishes repressiveness of Obote govt & confirms husband's activitism, 11/ I would be willing to vacate CLN." The handwritten document suggested that another unnamed official should talk to State Department officials dealing with Uganda affairs to see if they could shed light

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10/ TR 74, 75.

11/ In the statement she submitted to the Embassy in March 1984, appellant asserted that she had been interrogated by the Ugandan secret service repeatedly "about my activities on behalf of my (U.S.) government." She allegedly was told that if she was not an agent of the C.I.A., she should prove it by becoming a Ugandan citizen. If she did so, she would be left alone. In its memorandum to the Department the Embassy described appellant's husband as a "political activist," an "outspoken prominent Ugandan."

on the government of President Obote and events mentioned in appellant's statement.

In February 1985 appellant drafted a statement detailing the facts and circumstances surrounding her renunciation, and requested that the Board inform her whether it could consider an appeal. She gave the statement to the Embassy at Nairobi to forward to the Board. The Board received the statement in July 1985. Appellant retained counsel who filed a brief in support of the appeal in November 1985. Pleadings were completed in the summer of 1986. Oral argument was requested and heard on June 2, 1987. At appellant's request, the hearing was continued to June 22, 1988. At that time three witnesses testified in support of the appeal. Appellant could not attend the continued hearing. 12/

II

As an initial matter we must determine whether the Board may entertain this appeal which has been entered fifteen years after the Department of State held that appellant lost her United States nationality. It is well settled that timely filing is mandatory and jurisdictional. United States v. Robinson, 361 U.S. 220 (1960). Thus, if an appellant, providing no legally sufficient excuse, fails to take an appeal within the prescribed limitation, the appeal must be dismissed for want of jurisdiction. Costello v. United States, 365 U.S. 265 (1961).

In January 1970 when the Department determined that appellant expatriated herself, the limitation on appeal to the Board of Appellate Review was "within a reasonable time" after the affected person received notice of the Department's determination of loss of citizenship. 13/ Consistently with the Board's practice in cases where the certificate of loss of nationality was approved prior to the

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12/ The proceedings were further dragged out when the Board requested that the Department submit a memorandum of law commenting on a point of law raised by counsel for appellant in "Proposed Findings of Facts and Conclusions of Law." which he submitted in the fall of 1988.

13/ Section 50.60 of Title 22, Code of Federal Regulations, (1967-1979), 22 CFR 50.60. Those regulations were in force from November 29, 1967 until November 30, 1979, when the limitation on appeal was revised. The limitation now is "within one year after approval by the Department of the certificate of loss of nationality." 22 CFR 7.5(b)(1).

effective date of the present regulations (November 30, 1979), we believe it fair and appropriate to apply the limitation of "reasonable time" in this case.

Whether an appeal has been taken within a reasonable time depends on the facts and circumstances in the particular case. Chesapeake and Ohio Railway v. Martin, 283 U.S. 209 (1931). Reasonable time has been held to mean as soon as circumstances will permit and with such promptitude as the situation of the parties will allow. This does not mean, however, that a party be allowed to determine "a time suitable to himself." In re Roney, 139 F.2d 175, 177 (7th Cir. 1943). In loss of nationality proceedings, the limitation begins to run when the citizenship claimant receives notice of the Department's holding of loss of nationality in his or her case. To determine whether an appeal has been taken within a reasonable time, courts take into account a number of variables: whether a legally sufficient reason has been given for filing of the appeal at the time it was filed; possible prejudice to the opposing party; the practical ability of the moving party to learn earlier of possible grounds for relief; the interest in finality of litigation. Ashford v. Steuart, 657 F.2d 1053, 1055 (9th Cir. 1981); Lairsey v. Advance Abrasives Co., 542 F.2d 928, 940 (5th Cir. 1976). The limitation of reasonable time thus makes allowance for the intervention of unforseen circumstances beyond the moving party's control that might prevent him or her from entering an appeal within a fair period of time after the date on which the decision or judgment being appealed was entered. At the same time, the limitation presupposes that one will seek relief from the decision or judgment with the promptitude of an ordinary prudent person.

Appellant argues, through counsel, that although she did not appeal until 15 years after the Department made a determination of her expatriation, the delay is not excessive in the particular circumstances of her case. Beginning in 1973, she states "the record clearly shows, at least an annual effort, and in many instances more frequent than annually, the Appellant has sought to regain her citizenship." ("Appellant's Proposed Findings of Facts and Conclusions of Law"). The facts show, appellant submits, that she had continuing concern about loss of her nationality and made serious efforts to recover it.

The record does show that appellant attempted sporadically over a period of fifteen years to have her case reviewed by the State Department. Not until 1985, however, did she enter an appeal with the Board of whose existence she claims she only became aware around 1984.

There can be no doubt that appellant knew from the outset that she had expatriated herself, for she performed the most expressive act of expatriation. It is also probable that she received the copy of the approved certificate of loss of nationality that the Embassy in Kampala sent her. What is not clear is whether the Embassy informed her at the time it sent her the certificate of loss of nationality that she had a right to take an appeal to this Board. In 1970 consular officers were under instructions, as they had been for many years, to inform an expatriated person in writing of the right of appeal to the Board. 8 Foreign Affairs Manual 224.21 (1969). Although there is no evidence that the Embassy gave appellant appeal information, it would be reasonable to presume, under the general rule that public officials execute their official duties correctly, that the Embassy did so. However, since so much time has passed, how could one possibly establish now whether she received information about making an appeal in 1970?

Even if we were to assume appellant did not receive the information about making an appeal, we do not consider that that fact would constitute material error, thus excusing appellant from not appealing much sooner than she did. For one thing, in 1970 there was no rule or regulation with the force of law that required the State Department to inform an expatriate of the right of appeal. For another, appellant had knowledge that she expatriated herself. It was therefore incumbent upon her to find out whether she might have recourse.

Knowledge of facts putting a person of ordinary knowledge on inquiry notice is the equivalent of actual knowledge, and if one has sufficient information to lead him to a fact, he is deemed to be conversant therewith and laches is chargeable to him if he fails to use the facts putting him on notice. McDonald v. Robertson, 104 F.2d 945 (6th Cir. 1939).

Appellant states that in 1973 she attempted to find out what she might do to recover her citizenship. In the summer of that year she allegedly discussed her case with someone in the consular section of the Embassy at Nairobi; she has not identified the person, nor indicated whether he or she was a clerk or consular officer. As we have seen, appellant stated that the person to whom she spoke told her that in order to establish that she renounced her citizenship under duress, she would have to obtain evidence from people in Uganda. Appellant was reportedly discouraged by the advice she received, believing it impossible for her to obtain evidence from people in Uganda given the state of affairs then prevailing under Idi Amin. Her despondency was further increased because the person to whom she spoke treated her discourteously.

Nothing of record confirms that appellant sought advice from the Embassy in 1973 about recovery of her citizenship. Appellant contends that the fact she visited the Embassy to discuss loss of her citizenship is confirmed by the letter she presented to the Board from a consular officer dated August 1973. In that letter the officer expressed regret that appellant had been treated discourteously when she called at the consular section. We, on the other hand, note that the letter is silent on the subject matter of appellant's discussion. Nonetheless, assume that appellant was told she would have to obtain evidence from Uganda to corroborate her contention that she renounced her citizenship under duress. Even if it were not possible to obtain evidence from knowledgeable people in Uganda, as appellant stated, she could have sought evidence from people who had been in Uganda, at the relevant time, for example, the Foreign Service officer who was Charge d'Affaires in January 1970 in Kampala and who testified in support of the appeal eighteen years later.

If appellant inquired at the Embassy in Nairobi about what she might do to recover her citizenship, the information she says she was given was correct as far as it went; she would have to establish that she acted under duress to prevail. (Whether she was also told that there was a Board that might review her case, we now have no way of knowing.) Appellant did nothing to obtain evidence at that time. She did not apparently even ask to discuss her case with a senior officer of the Embassy. Nor did she ask the kinds of questions an ordinary prudent person who was anxious to recover his or her citizenship might be expected to ask, questions that might lead to early review of her case by the Department or the Board: "If I obtain evidence, will the State Department reconsider my case; if the Department turns me down, what else might I do to recover my citizenship." In short, appellant has not satisfied us that she should be excused from doing more than she allegedly did in 1973 to initiate review of her case, at least by the State Department.

Two years passed before appellant again acted. By then five years had elapsed after appellant received notice of the Department's decision that she expatriated herself.

As we have seen, a consular officer raised appellant's case with the Immigration and Naturalization Service and the State Department in the autumn of 1975. The consular officer quoted appellant as saying that she wished to regain her citizenship and asked for guidance from both agencies about what appellant might be told. At the Department's suggestion, in February 1976 appellant

submitted a statement explaining why she contended that she had not renounced her citizenship voluntarily. In March 1976 the Department informed the Embassy that it did not consider appellant's statement sufficient to warrant reversing the Department's decision on loss of her nationality. The Department instructed the Embassy to inform appellant about her right to appeal to this Board and the applicable procedures.

As noted above, appellant claimed at the hearing in June 1987 that she had never been informed of the Department's ruling in her case and its instruction that she be informed of the right of appeal to this Board. It is true that in forwarding appellant's appeal to the Board in July 1985, a consular officer of the Embassy at Nairobi stated that there was no record appellant had been informed in 1976 about an appeal. Nonetheless, we find it difficult to accept that the Embassy failed to advise appellant, as instructed, especially since appellant, then an employee of USIS, was so readily accessible. Furthermore, it is conceivable that no one made a record that appellant had been informed, or if a note was made, it has since been destroyed. Once again, how can one now be sure what happened in 1976, absent surviving evidence?

Even if the Embassy failed to pass the Department's message to appellant in 1976, she had a responsibility to inquire about the action the Department had taken on her request for review. Had she made an effort to inquire, she would undoubtedly have learned that the Department had made a negative ruling on her request for review but that she might appeal the Department's original decision to the Board of Appellate Review.

Three more years passed -- nine in all since appellant's renunciation. In 1979 she allegedly requested that "the people at Langley" obtain a review of her case. "They" were unsuccessful. Then, according to appellant, she discussed her case in 1980 with a senior official of the Bureau of Consular Affairs, who, appellant said, never mentioned recourse to the Board of Appellate Review. Suggestive of the evidential problems created by the long-delayed appeal is the fact that that official has no recollection of the meeting with appellant.

There follows another hiatus of approximately four years in appellant's now-and-then quest for review of her loss of nationality. In March 1984 a consular officer at Nairobi submitted a detailed exposition of appellant's case to the Department. As we have seen, the Department informed the Embassy in November 1984 that although appellant had not given sufficient reasons to rebut the presumption that she

acted voluntarily, the Department would research available data concerning the circumstances surrounding her renunciation and in light of its researches would advise the Embassy if it saw the need for appellant to submit additional evidence. There is no indication in the record that the Department pursued its researches to a conclusion. Meanwhile, possibly in the spring of 1984, appellant states that she talked to an official of the Legal Adviser's Office who informed her of the right of appeal to the Board. She entered the appeal in the following year.

It is obvious that appellant did not, as she asserts, make an annual effort to recover her citizenship. The fifteen years that passed between the Department's decision of her expatriation and the entry of the appeal are punctuated by significant gaps of time in which she did nothing to advance her professed objective of recovering her citizenship. Appellant leaves us to speculate why she remained passive in the periods 1973 to 1975; 1976 to 1979; and 1980 to 1984. As an employee of USIS, she worked closely with the personnel of the Embassy at Nairobi, especially those of the consular section. With ready access to official information, the slightest effort to learn what she might do to obtain reconsideration of her case would have elicited reliable advice. Yet, for some undisclosed reason, appellant seems to have felt no urgency to act. On the evidence, there was no obstacle to appellant's taking a much earlier appeal to this Board. Had she been diligent, she would have learned at least in 1976 about the Board of Appellate Review. One could not therefore justly say that anyone or any agency was to blame for the fact that she did not, as she alleges, learn until 1984 that she might turn to the Board of Appellate Review.

In short we are of the opinion that appellant has not shown a legally sufficient reason to justify not filing an appeal from the Department's adverse decision on her nationality until fifteen years after that decision was made.

We are also of the view that to allow appellant to challenge her renunciation some fifteen years after the fact would, without adequate justification, place the Department in a difficult position with respect to carrying its statutory burden of proving that appellant voluntarily renounced her citizenship with the intention of relinquishing that citizenship. Why it would be unfair to the Department if we were to allow the appeal becomes evident when we note merely one of appellant's reasons for contending that the Department erred in determining that she expatriated herself, namely, that her renunciation was void ab initio. Appellant contends that one of the two people who purportedly witnessed her statement of understanding of the serious consequences of renunciation was a consular

officer who was not present on the day she made her renunciation. Therefore, the document was not executed in conformity with 8 Foreign Affairs Manual 225.6(g) (1969), the procedures promulgated by the Secretary pursuant to 8 U.S.C. 1481(a)(5). Her renunciation was also void ab initio, appellant argues, because the consular officer "materially deviated" from the prescribed regulations by not suggesting to her to defer renunciation for a sufficient period to reflect on its serious consequences. "The uncontroverted evidence," appellant states, suggests that her renunciation was handled in a purely perfunctory manner.

The foregoing are serious claims which the Department would find difficult to rebut precisely because so many years have passed since 1970. The consular officer whose signature appears on the attestation clause of the statement of understanding is dead. Why he signed after appellant renounced, as it seems he did, might be a relevant fact which cannot now be established. The consular officer who presided over appellant's renunciation remembers the event but only hazily. And the record made in January 1970 consists merely of appellant's oath of renunciation; statement of understanding; statement of reasons for renouncing and the certificate of loss of nationality. There is no other contemporaneous evidence to shed light on appellant's claims about the way her renunciation was handled.

In brief, a long-delayed appeal can present many difficulties, as the court observed in a recent loss of nationality proceeding. See Maldonado-Sanchez v. Shultz, Civil No. 87-2654, memorandum opinion (D.D.C. 1989):

> The court agrees with defendant's [the State Department's] argument that to allow plaintiff to challenge his renunciation some twenty years after the fact is contrary to public policy. It places a tremendous burden on the government to produce witnesses years after the relevant events and to preserve documentation indefinitely. Moreover, a reasonable statute of limitations period serves the important function of mandating a review of the issuance of the CLN when the relevant events are fresh in the minds of the participants.

Op. at 10.

III

Upon consideration of the foregoing we conclude that appellant's delay of fifteen years has not been satisfactorily explained. She had ample reason to move much earlier to seek review of her case by the Board, but failed to act. Her waiting so long to come before us constitutes possible prejudice to the Department in taking up its burden of proving that appellant's renunciation was valid, voluntary and done with the intention of relinquishing citizenship. In the circumstances, the delay of fifteen years in appellant's seeking relief was not reasonable. The interest in stability and repose must be given substantial weight. The appeal is time-barred, and is hereby dismissed for want of jurisdiction.

Alan G. James, Chairman

Mary Elizabeth Hoinkes, Member

Gerald A. Rosen, Member