

December 10, 1981

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

CASE OF: A [REDACTED] H [REDACTED] M [REDACTED]

This is an appeal from an administrative holding of the Department of State that appellant, A [REDACTED] H [REDACTED] M [REDACTED], expatriated herself on February 28, 1968, under the provisions of Section 349(a)(1) of the Immigration and Nationality Act by registering as a citizen of the United Kingdom and Colonies upon her own application. 1/

On April 30, 1968, the American Embassy at London executed a Certificate of Loss of Nationality in the name of A [REDACTED] H [REDACTED] M [REDACTED]. The Embassy certified that she acquired United States nationality by virtue of her birth in [REDACTED]; that appellant acquired on February 28, 1968, the nationality of the United Kingdom and Colonies by virtue of her marriage to a citizen of the United Kingdom and Colonies and her subsequent registration as such upon her own application; and that she thereby expatriated herself under the provisions of Section 349(a)(1) of the Immigration and Nationality Act. The Department of State approved the Certificate of Loss of Nationality on February 4, 1970. The Certificate of Loss of Nationality constitutes the Department's administrative holding from which this appeal lies to the Board of Appellate Review. The appellant gave notice of appeal from this administrative determination on June 10, 1981, and submitted a sworn statement signed the same date which, in addition to a supplementary statement from a lawyer, submitted on August 31, 1981, constituted her brief in support of her appeal.

1/ Section 349(a)(1) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(1), reads:

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 --

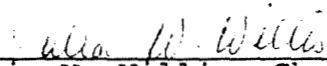
(1) obtaining naturalization in a foreign state upon his own application, . . .

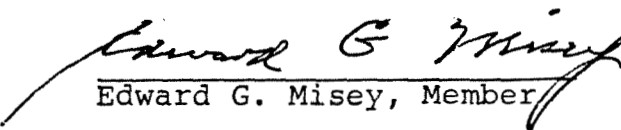
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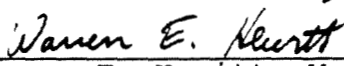
On October 1, 1981, the Deputy Assistant Secretary for Passport Services submitted the record on which the Department's determination of loss of nationality was based and a memorandum requesting the Board to remand appellant's case to Passport Services for the purpose of vacating the Certificate of Loss of Nationality that was issued in her case. The memorandum set forth with particularity points of law and fact which in the opinion of the Department warrant remand, and concluded that the Department could not sustain its burden of showing by a preponderance of the evidence that appellant intended to relinquish her United States citizenship when she became a citizen of the United Kingdom on February 28, 1968.

Upon review of the entire record before the Board and in light of Afroyim v. Rusk, 387 U.S. 253 (1967) and Vance v. Terrazas, 444 U.S. 252 (1980), we concur that the evidence of record fails to support a finding that her expatriating act was accompanied by an intent to relinquish her United States citizenship. We are, accordingly, agreeable to the request for remand to vacate the Certificate of Loss of Nationality.

The case is hereby remanded to Passport Services for further proceedings. 2/


 Julia W. Willis, Chairman


 Edward G. Misey, Member


 Warren E. Hewitt, Member

2/ Section 7.2 Title 22, Code of Federal Regulations,
 22 CFR 7.2 provides in part:

... The Board shall take any action it considers appropriate and necessary to the disposition of cases appealed to it.