

DEPARTMENT OF STATE  
BOARD OF APPELLATE REVIEW

October 10, 1980

CASE OF: H [REDACTED] J [REDACTED] P [REDACTED]

This is an appeal from an administrative holding of the Department of State that appellant, H [REDACTED] J [REDACTED] P [REDACTED], expatriated herself on August 15, 1970 under the provisions of section 349(a)(1) of the Immigration and Nationality Act by acquiring Rhodesian nationality upon her own application. 1/

On March 18, 1975, the Department approved a Certificate of Loss of Nationality in the name of H [REDACTED] J [REDACTED] P [REDACTED]. The appellant acquired United States citizenship by virtue of her birth to parents, both of whom were American, on [REDACTED], in Portuguese East Africa, Mozambique. Appellant was registered as an American citizen at the American Consulate in Lourenco Marques. Appellant's husband, R [REDACTED] L [REDACTED] P [REDACTED], also an American citizen, became a naturalized citizen of Rhodesia on August 15, 1970 under a provision of Rhodesian law in order to retain his employment as a civil servant of the Rhodesian Government. Appellant has stated that since the American Consulate in Rhodesia had been withdrawn, she believed that the United States would not guarantee her safety and that it was, therefore, expedient for her to follow the lead of her husband. Appellant then became a naturalized citizen of Rhodesia on the same date as did her husband, August 15, 1970.

Appellant gave notice of appeal from the Department's administrative holding of loss of nationality of March 18, 1975, by letter dated November 10, 1979 to the Consulate General at Johannesburg, South Africa. Upon receipt of her appeal on January 15, 1980, the Board of Appellate Review requested Passport Services to submit the record on which the Department's determination of loss of

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

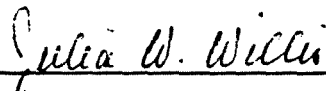
Sec. 349. From and after the effective date of this Act a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by--

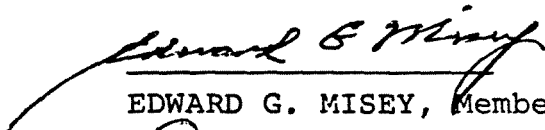
(1) obtaining naturalization in a foreign state upon his own application, ...

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nationality was based and a memorandum of law setting forth the Department's position on the appeal. On August 13, 1980, appellant's counsel submitted a brief in support of the appeal. Passport Services submitted the record on the same date, and on September 29, 1980 requested the Board to remand the appellant's case. In its memorandum of September 29, 1980, Passport Services stated that "The Department has determined that Rhodesia, during the period between November 25, 1965 and April 18, 1980, was not a state within the terms of the Immigration and Nationality Act," and that a "person who naturalized in Rhodesia during that time cannot be considered to have performed an expatriating act."

Upon review of the entire record before the Board and in light of the position taken by the Department on the status of Rhodesia, as stated above, the Board is agreeable to the request for remand which, it is understood, is for the purpose of vacating the Certificate of Loss of Nationality, approved on March 18, 1975. Accordingly, this case is hereby remanded to Passport Services for further proceedings. 2/

  
 JULIA W. WILLIS, Chairman

  
 EDWARD G. MISEY, Member

  
 ALAN G. JAMES, Member

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2/ Section 7.2 of 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 the cases appealed to it.