

December 12, 1980

BOARD OF APPELLATE

REVIEW

DEPARTMENT OF STATE

CASE OF: C [REDACTED] R [REDACTED] Z [REDACTED]

This is an appeal from an administrative holding of the Department of State that appellant, C [REDACTED] R [REDACTED] Z [REDACTED], expatriated himself on August 8, 1970, under the provisions of section 349(a)(1) of the Immigration and Nationality Act by obtaining naturalization in Rhodesia upon his own application. 1/

On November 19, 1970, the Consulate General at Johannesburg, South Africa, executed a certificate of loss of United States nationality in the name of C [REDACTED] R [REDACTED] Z [REDACTED]. The Consulate General certified that appellant acquired United States nationality by virtue of his birth in [REDACTED]; that he acquired the nationality of Rhodesia on August 8, 1970, by naturalization upon his own application; and that he thereby expatriated himself 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 3, 1971. Appellant gave notice of appeal by letter dated December 7, 1979.

Upon receipt of the appeal, the Board of Appellate Review requested Passport Services of the Department of State to submit the record on which the holding of loss of nationality was based and a legal memorandum setting forth the Department's position on the appeal. On September 29,

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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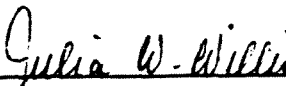
1980, the Office of Passport Services requested the Board to remand appellant's case. That Office stated in its memorandum of request as follows:

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...A person who naturalized in Rhodesia during that time cannot be considered to have performed an expatriating act...

Passport Services subsequently submitted to the Board the Department's record on appellant's case.

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 grants the request for remand. It is understood that the purpose of the remand is to vacate the certificate of loss of nationality in appellant's case, which was approved by the Department on February 3, 1971.

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


 JULIA W. WILLIS, Chairman


 EDWARD G. MISEY, Member


 ALAN G. JAMES, Member

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

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