

DEPARTMENT OF STATE  
BOARD OF APPELLATE REVIEW

February 18, 1981

CASE OF: G [REDACTED] C [REDACTED] E [REDACTED]

This is an appeal from an administrative holding of the Department of State that appellant, Mrs. G [REDACTED] N [REDACTED] C [REDACTED] E [REDACTED], expatriated herself on June 22, 1971, under the provisions of section 349(a) (1) of the Immigration and Nationality Act by acquiring citizenship of the United Kingdom and Colonies upon her own application. <sup>1/</sup>

On February 28, 1974, the American Embassy at Lisbon executed a certificate of loss of nationality in the name of G [REDACTED] N [REDACTED] C [REDACTED] E [REDACTED]. The Embassy certified that appellant acquired United States nationality by virtue of her birth in [REDACTED], [REDACTED] that she acquired the nationality of the United Kingdom by obtaining citizenship of the United Kingdom by registration on June 22, 1971; 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 January 3, 1975. The certificate of loss of nationality constitutes the administrative determination of the Department of State from which an appeal lies to the Board of Appellate Review. The appellant gave notice of appeal from this administrative determination by letter dated May 9, 1980.

Following submission of appellant's letter of appeal, which also served as her brief, the Board on June 5, 1980, requested Passport Services to file the brief of the Department of State. On November 20, 1980, Passport Services submitted the requested brief and the record on which the Department's determination of loss of nationality was based. Passport Services also requested the Board to remand appellant's case to it for the purpose of vacating the certificate of loss of nationality.

<sup>1/</sup> 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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In its memorandum setting forth with particularity points of law and facts, which in the opinion of the Department would warrant a remand of the case, Passport Services concluded that the evidence of record failed to support a finding of an intent on the part of Mrs. E. [redacted] to relinquish her United States citizenship when she became a citizen of the United Kingdom and Colonies. Passport Services further stated that the "Department believes that it cannot meet its burden in this case", and requested the Board to remand the case so that the certificate of loss of nationality can be vacated.

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. (No. 78-1143, January 15, 1980), we are agreeable to the request for remand to vacate the certificate of loss of nationality and hereby remand this case to Passport Services for further proceedings. 2/

  
Julia W. Willis, Chairman

  
Edward G. Missey, Member

  
Gerald A. Rosen, Member

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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 the cases appealed to it.