

DEPARTMENT OF STATE
BOARD OF APPELLATE REVIEW

August 21, 1981

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

This is an appeal from an administrative holding of the Department of State that appellant, Mrs. H [REDACTED] M [REDACTED] G [REDACTED], expatriated herself on April 7, 1968, under the provisions of section 349(a)(1) of the Immigration and Nationality Act of 1952 by acquiring the citizenship of Israel upon her own application.^{1/}

On May 21, 1970, the American Embassy at Tel Aviv executed a certificate of loss of nationality in the name of H [REDACTED] M [REDACTED] G [REDACTED]. The Embassy certified that appellant acquired United States nationality by virtue of her birth in [REDACTED] on [REDACTED]; that she acquired the citizenship of Israel by naturalization on April 7, 1968, 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 June 15, 1970. This certificate constitutes the Department's administrative determination from which an appeal lies to the Board of Appellate Review. The appellant gave notice of appeal from this administrative determination on August 6, 1980.

^{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 --

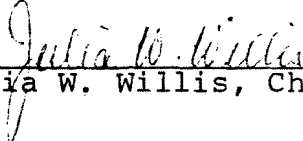
(1) obtaining naturalization in a foreign state upon his own application, . . .

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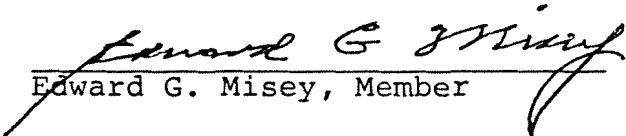
On July 15, 1981, the Acting Deputy Assistant Secretary for Passport Services submitted the record on which the Department's determination of loss of nationality was based and a memorandum setting forth the Department's position on the appeal. The Department concluded that it was unable to sustain the burden of establishing by a preponderance of the evidence appellant's intent to relinquish her United States citizenship, and, therefore, requested the Board to remand appellant's case for the purpose of vacating the certificate of loss of nationality that was issued in her case.

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.

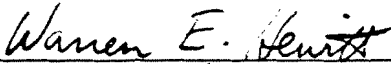
The case is hereby remanded to Passport Services for further proceedings.^{2/}



Julia W. Willis, Chairman



Edward G. Misey, Member



Warren E. Hewitt, Member

^{2/}Section 7.2 Title 22, Code of Federal Regulations, 22 C.F.R. 7.2, provides in part:

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