

February 1, 1984

DEPARTMENT OF STATE  
BOARD OF APPELLATE REVIEW

IN THE MATTER OF: [REDACTED]

This case is before the Board of Appellate Review on an appeal by [REDACTED] from an administrative determination of the Department of State that he expatriated himself on June 13, 1980, under the provisions of section 349(a) (5) of the Immigration and Nationality Act by making a formal renunciation of his United States nationality before a consular officer of the United States at Paris, France. 1/

The Department approved the certificate of **loss** of nationality that was issued in this case on September 26, 1980. Appellant brought this appeal nearly three years later on June 23, 1983. The initial issue presented is whether appellant has shown good cause why the appeal could not have been brought within the one-year limitation prescribed by the applicable regulations. We conclude that appellant has shown no good cause why he could not have brought a timely appeal. The appeal is thus time barred. Lacking jurisdiction, we will dismiss it.

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1/ Section 349(a) (5) of the Immigration and Nationality Act, 8 U.S.C. 1481, 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 --

. . .

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; . . .

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Appellant became a United States citizen by birth at [REDACTED], Louisiana on [REDACTED]. Through his mother, a citizen of France, appellant also acquired the nationality of that country, Appellant, younger son of a U.S. military officer, states that he began his education at a pre-school in Paris, and continued it in various places in the United States. He obtained an American passport in 1978 and a French passport in April 1979 from the French Embassy at Washington, D.C. After graduation from high school in 1980, appellant departed for France where, he has stated, he intended to settle.

On June 5, 1980, two days after his arrival in France appellant appeared at the United States Embassy at Paris. He was then eighteen years old, He informed a consular officer that he wished to renounce his United States citizenship, According to the consular official, appellant informed her that he had always considered himself to be a French citizen rather than American and that for the past ten years it had been his intention to renounce his United States citizenship. He submitted a sworn statement explaining his reasons for his decision which read in pertinent part as follows:

...I have never considered myself to be American. I have always identified myself with France and have thought of my U.S. citizenship as being a mere technicality that I would eventually rid myself of as soon as I reached my majority. I acquired a "political conscience" at a very young age and have learned to resent the U.S. for many reasons, mainly their relations abroad....However, my being critical of the U.S. has little to do with my decision to renounce my U.S. citizenship, I simply want to be French and nothing else.

The consular officer counselled appellant to consider his decision before acting, and gave him a copy of the relevant documents to study.

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Appellant returned to the Embassy on June 13, 1980, and told the consul his decision was final. The consular officer advised appellant that he was not required to choose between his two nationalities; he might remain a dual national for the rest of his life. She also cautioned him to think ahead; some day he might regret his decision. However, since appellant was insistent, the consul agreed to take his renunciation. Appellant signed the prescribed Statement of Understanding attesting that he had acted freely and not under the influence of another; that the consequences of renunciation had been explained to him fully by the consul and that he fully understood its implications. He then executed a formal oath of renunciation of United States nationality,

As required by section 358 of the Immigration and Nationality Act, the consul prepared a certificate of loss of nationality in appellant's name on August 13, 1980. 2/ The

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2/ Section 358 of the Immigration and Nationality Act, 8 U.S.C. 1501, reads:

Sec. 358. Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

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consul certified that appellant had acquired the nationality of both the United States and France at birth; that he made a formal renunciation of his United States nationality before a consular officer of the United States in the form prescribed by the Secretary of State; and thereby expatriated himself under the provisions of section 349 (a) (5) of the Immigration and Nationality Act.

In forwarding the certificate to the Department, the consular officer, who seems to have handled this case with considerable sensitivity, submitted a detailed report of the circumstances surrounding appellant's execution of the oath of renunciation.

The Department approved the certificate on September 26, 1980, approval constituting an administrative determination of loss of nationality from which a timely and properly filed appeal may be brought to this Board.

Appellant gave notice of appeal on June 23, 1983, nearly three years after the Department approved the certificate of loss of nationality that was issued in this case. He requested a hearing which was held on August 31, 1983.

Appellant, in his notice of appeal, presented his case to the Board as follows:

At that time when he renounced his citizenship/ motivated by very unrealistic ideals, and lacking maturity, I did not fully comprehend the gravity of my actions.

...

The consequences of this most irrational, unrealistic and impracticable sic past decision of mine have been catastrophic. I have not been able to adapt myself to French society, and in spite of my being officially a French citizen, I am obviously a foreigner...

...repentant of my past mistake, I now ask you to allow me to undergo Appeal Procedures in view of recuperating my American citizenship,

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In a letter to the Board, dated August 25, 1983, appellant amplified his reasons for renouncing his citizenship as follows:

Throughout my adolescence we [appellant and his father] had a poor relationship, which subsequently influenced my whole attitude, political inclinations included. My only desire was to be diametrically opposed to him and everything he represented, I therefore decided to renounce my U.S. citizenship as soon as I reached legal age.

### I

The initial question the Board must decide is whether we have jurisdiction to entertain an appeal brought nearly three years after the Department approved the certificate of loss of nationality in appellant's name.

With respect to the time limit on appeal, the Department's regulations provide as follows:

A person who contends that the Department's administrative determination of loss of nationality or expatriation under subpart C of Part 50 of this Chapter is contrary to law or fact, shall be entitled to appeal such determination to the Board upon written request made within one year after approval by the Department of the certificate of loss of nationality or a certificate of expatriation. 3/

The regulations further provide that:

An appeal filed after the prescribed time shall be denied unless the Board determines for good cause shown that the appeal could not have been filed within the prescribed time. 4/

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3/ Section 7.5(b), Title 22, Code of Federal Regulations, 22 CFR 7.5(b).

4/ Section 7.5(a), Title 22, Code of Federal Regulations, 22 CFR 7.5(a).

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Although appellant has brought this appeal outside of the governing limitation, the delay would not, in itself, be fatal if he were able to show good cause why he could not have appealed within the one year grace period.

Appellant informed the Board on August 25, 1983, six days before the oral hearing was held as follows:

Concerning my failure to appeal before a period of almost three years; I unfortunately have no legally valid or justifiable excuse, other than the fact that I maintained the same irrational convictions beyond the one *year* deadline. At this point my **incomprehension** of the difficulties I was imposing upon myself was due less to immaturity than perhaps hard-headed obstination and inability to accept that I had made a mistake.

At the hearing 4/ appellant indicated that he had received a copy of **the** approved certificate of loss of nationality sometime in the fall of 1980. He had not paid much attention to it at that time. Only much later did he realize that information about the right to take an appeal within one year had been communicated to him on the reverse side of the certificate. When he looked at the "**papers**" early in 1983, after considering what recourse he might have, he realized that the time for appeal had long since passed. He states that he had been told **by** the Embassy at Paris when he inquired there about appeal rights in the Spring of 1983 that because he had let more than a year pass without acting, that he had no chance of regaining his citizenship.

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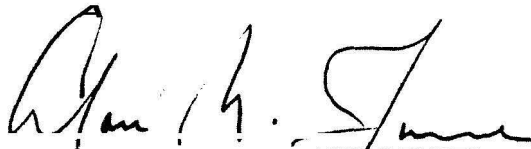
4/ Transcript of Proceedings in The Matter of [REDACTED], Board of Appellate Review, August 31, 1983, pp. 21, 23, 24, 27 and 29.


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Appellant states forthrightly that the only reason he did not bring the appeal within the required one-year period was that he did not acknowledge to himself until some years later that he had acted rashly in renouncing his United States citizenship. **A** belated change of heart **does** not, of course, constitute good cause for a delay of nearly three years.

No good cause having been shown why the appeal could not have been entered within one year after approval of the certificate of loss of nationality **as** prescribed by the applicable regulations, it follows that the Board has no jurisdiction to entertain the appeal, whatever its possible merits. Being time barred, the appeal is not properly before the Board. It **is** hereby dismissed.

Given our disposition of the case, we are unable to reach the other issues presented.

  
Alan G. James, Chairman

  
Warren E. Hewitt, Member

  
George Taft, Member