

September 19, 1984

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: J [REDACTED] C [REDACTED] M [REDACTED]

Appellant took an appeal to the Board of Appellate Review in 1983 from the Department of State's determination of 1969 that she had expatriated herself in 1967 under the provisions of section 349(a)(1) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(1), by obtaining naturalization in Canada upon her own application. In a decision rendered June 4, 1984 this Board concluded that appellant had not taken her appeal within a reasonable time after she received notice of the Department's holding of loss of her nationality, as prescribed by the regulations that were considered to be applicable to her case. 1/ Accordingly, the Board dismissed the appeal for want of jurisdiction.

1/ As is its practice in cases where an appeal is taken from a holding of loss made prior to November 1979, the effective date of the Board's current regulations, the Board applied the regulations that were in effect from 1967 to 1979, section 50.60 of Title 22, Code of Federal Regulations, 22 CFR 50.60, to appellant's case, not the current limitation of one year after approval of the certificate of loss of nationality.

22 CFR 50.60 (1967-1979) provided that:

A person who contends that the Department's administrative holding of loss of nationality or expatriation in his case is contrary to law or fact shall be entitled, upon written request made within a reasonable time after receipt of notice of such holding, to appeal to the Board of Appellate Review.

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Appellant received a copy of the Board's decision on June 26, 1984, On August 22, 1984 she filed a motion for reconsideration of the Board's decision on her appeal under the provisions of 22 CFR 7.9. 2/ Although the motion was filed outside the allowable period of 30 days after receipt of the Board's decision, the Board, for good cause shown, enlarged the time for filing under the discretion granted to it by 22 CFR 7.10, and deemed the motion timely filed.

In her motion appellant argued that she had never been informed of her right of appeal from the Department's holding of loss of her citizenship until 1983. She also argued certain matters of substance relating to the involuntariness of her act of expatriation.

2/ 22 CFR 7.9 provides as follows:

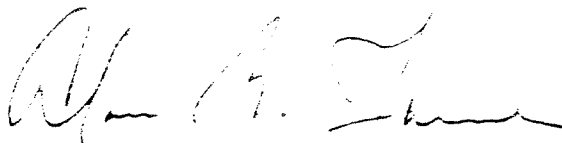
Sec. 7.9 Motion for reconsideration.

The Board may entertain a motion for reconsideration of a Board's decision, if filed by either party. The motion shall state with particularity the grounds for the motion, including any facts or points of law which the filing party claims the Board has overlooked or misapprehended, and shall be filed within 30 days from the date of receipt of a copy of the decision of the Board by the party filing the motion. Oral argument on the motion shall not be permitted. However, the party in opposition to the motion will be given opportunity to file a memorandum in opposition to the motion within 30 days of the date the Board forwards a copy of the motion to the party in opposition. If the motion to reconsider is granted, the Board shall review the record, and upon such further reconsideration, shall affirm, modify, or reverse the original decision of the Board in the case.

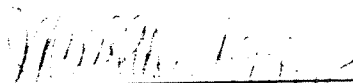
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As provided by the regulations, 22 CFR 7.9, the Department on September 9, 1984 filed a memorandum in opposition to the motion. The Department contended that the Board had fully considered appellant's assertion that she had never been informed of her right of appeal, and had found that argument insufficient justification for her delay in taking the appeal.

Upon consideration of appellant's motion for reconsideration the Board is of the view that the motion fails to disclose any facts or points of law that the Board may have overlooked or misapprehended in reaching its decision, or any new matters that would warrant reconsideration of its decision of June 4, 1984. Accordingly, appellant's motion for reconsideration is denied.



Alan G. James, Chairman



J. Peter A. Bernhardt, Member



George Taft, Member