

November 15, 1984

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: M [REDACTED] J [REDACTED] C [REDACTED] - On Motion for
Reconsideration of the Board's
Decision of July 12, 1984

The Board of Appellate Review on July 12, 1984 affirmed the Department of State's administrative determination of June 3, 1982 that appellant, M [REDACTED] J [REDACTED] C [REDACTED], expatriated herself on June 27, 1969 by obtaining naturalization in Canada upon her own application.

On September 11, 1984 counsel for appellant filed a motion for reconsideration of the Board's decision under section 7.9 of Title 22, Code of Federal Regulations. 1/

1/ Section 7.9 of Title 22, Code of Federal Regulations, 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. In 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.

The motion was timely since the Board extended the date for filing upon a showing of good cause.

The motion for reconsideration asserted that the following considerations warranted reversal of the Board's decision:

1. The Board erroneously found that Mrs. C [REDACTED] knowingly relinquished her birthright of United States citizenship under Vance v. Terrazas, 444 U.S. 252 (1980). She did not assent at any time to being stripped of her citizenship.

2. The Board erroneously failed to apply a sufficiently stringent standard of understanding and knowledge as required by Johnson v. Zerbst, 304 U.S. 458, 464 (1938).

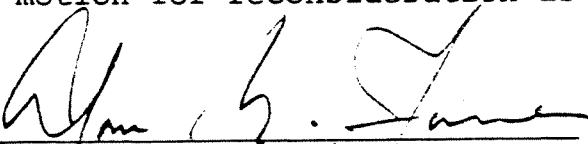
3. The Department of State failed to carry its burden of proof that Mrs. C [REDACTED] intended [sic] to relinquish her United States citizenship.

4. The Board of Appeals [sic] erroneously failed to delete from the record all reference to and documents by Nancy Mackie, who was not present at hearing for examination and cross-examination.

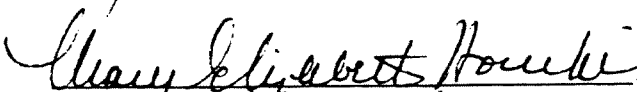
5. All the evidence taken together failed to show that Mrs. C [REDACTED] ever had an understanding of the significance of her Canadian naturalization until the time she received the certification of loss of citizenship; the decision of the Board does not reflect the evidence of her contemporaneous intent.

The Department submitted a memorandum in opposition, contending, in brief, that the points raised by appellant had been correctly decided by the Board.

Upon examination 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 July 12, 1984. Accordingly, appellant's motion for reconsideration is hereby denied.


Alan G. James, Chairman


J. Peter A. Bernhardt, Member


Mary E. Hoinkes, Member