

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: S [REDACTED] M [REDACTED] - Addendum to the Board's
Decision of July 24, 1984

The Department of State on August 16, 1984 informed the Board of Appellate Review that the administrative record in the citizenship case of appellant, S [REDACTED] M [REDACTED], had been located, and transmitted it to the Board on that date.

In forwarding the record, the Department merely noted that it was forwarding it for the Board's consideration; it did not move for reconsideration of the Board's decision of July 24, 1984 wherein the Board found the appeal time barred and dismissed it for want of jurisdiction. Nevertheless, since the Department submitted the record within thirty days after the Board's decision, ^{1/} the Board constructively deemed the Department's action to be a motion for such reconsideration as might be appropriate. Accordingly, the Board forwarded to appellant the administrative record on August 31, 1984, advising her that she might comment on the record. The Board informed appellant that it "takes no position, at this time, on whether your comments, if any, and a review of the record would or would not justify a modification or reversal of its decision of July 24, 1984."

On September 19, 1984 appellant submitted comments on the record. She contended that she had not obtained Israeli nationality with the intention of relinquishing United States nationality; and that the grounds relied on by the consular officer who issued the certificate of loss of her nationality were rebutted by her notarized factual statements. She concluded by stating that:

It is still my contention that the evidence I have presented has neither lost its validity or prejudiced the case in my favor over time.

Appellant offered no additional explanation for her delay in taking the appeal.

^{1/} Section 7.9 of Title 22, Code of Federal Regulations provides that a motion for reconsideration of a decision of the Board may be filed by either party within 30 days of receipt of a copy of the decision.

I

After reviewing the administrative record and appellant's comments thereon, the Board concludes that no information or evidence has emerged that would warrant reversal of its decision of July 24, 1984. The decision will therefore stand as issued.

II

The record, however, clarifies certain factual matters which were not before the Board when it rendered its decision and which the Board considers should be recorded in the interest of accuracy and completeness. The following is a summary of the essential information disclosed by the administrative record.

Appellant was born at [REDACTED] she went to Israel to visit her parents, thereafter married and took up residence in Israel. She was registered as a United States citizen in 1949 at the Embassy in Tel Aviv. In 1952 the Consulate General at Haifa amended her passport to carry her married name, and extended it to 1953.

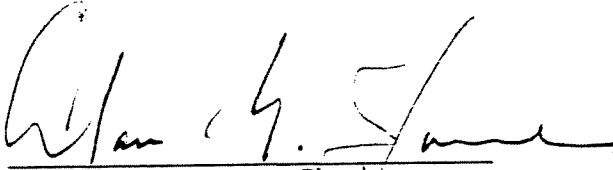
In 1971 Mrs. M [REDACTED] went to the Embassy at Tel Aviv to clarify her citizenship status at which time she informed the Embassy that she had obtained naturalization in Israel. The record contains a copy of a Certificate of Israeli Naturalization dated May 30, 1960 and of the Oath of Loyalty appellant took on June 12, 1960. Appellant executed an Affidavit of Expatriated Person on June 21, 1971. In it she explained that she became naturalized in order to keep her government position. She knew at the time, she stated, she would lose her United States citizenship. She swore that naturalization was her free and voluntary act. The consular officer who handled her case confirmed to the Department that as a government employee Mrs. M [REDACTED] was required to obtain Israeli citizenship or face dismissal. He also reported that Mrs. M [REDACTED] had told him she surrendered her U.S. passport to the Israeli authorities who had retained it. A certificate of loss of nationality was prepared by the Embassy on June 30, 1971, certifying that appellant expatriated herself on June 12, 1960 under section 349(a)(1) of the Immigration and Nationality Act. It was approved by the Department on August 12, 1971.

The record shows no contact between appellant and U.S. authorities until February 1982 when Mrs. M [REDACTED] wrote to the Department explaining that her decision to take Israeli citizenship was forced on her by Israeli law in order for her to continue working. She added:

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While I can not deny the authenticity of the act I made at the time and which I admit proved to be in error, I nevertheless would like to appeal the decision based on today's recognition of dual citizenship and compassion.

Upon receipt of appellant's letter, the Department instructed the Embassy in March 1982 to give her information about taking an appeal to this Board. At the same time, the Embassy was asked to ascertain from the Israeli authorities whether at the time she applied for Israeli citizenship she renounced her United States nationality. The Embassy reported to the Department in June 1982 that the Ministry of Interior advised that Mrs. M [REDACTED] had not requested to be exempt from the requirement of Israeli law that she renounce her previous nationality.


Alan G. James, Chairman


Warren E. Hewitt, Member


George Taft, Member