

November 7, 1985

DEPARTMENT OF STATE
BOARD OF APPELLATE REVIEW

IN THE MATTER OF: J [REDACTED] A [REDACTED] M [REDACTED] - On Motion for
Reconsideration

The Board of Appellate Review on June 21, 1985 reversed an administrative determination made by the Department of State that J [REDACTED] A [REDACTED] M [REDACTED] expatriated himself on March 7, 1982 under the provisions of section 349(a)(1) of the Immigration and Nationality Act by obtaining naturalization in Canada upon his **own** application. 1/

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

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

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On July 31, 1985 the Department of State moved under the applicable regulations for reconsideration of the Board's decision. 2/

In a closely reasoned memorandum, the Department stated with particularity points of law and fact that it asserted the Board had overlooked or misapprehended in rendering its original decision. The Board is of the view that the motion raises a number of issues which on their face warrant the Board's re-examining the record in this case, Accordingly, the motion is granted.

2/ 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. 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 prescribed by the applicable regulations the Board will review the record, and after having done so, will affirm, modify or reverse its original decision.



Alan G. James, Chairman



J. Peter A. Bernhardt, Member



Warren E. Hewitt, Member