DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: J[redacted] B[redacted] M[redacted]

J[redacted] B[redacted] M[redacted] appeals an administrative determination of the Department of State that he expatriated himself on July 8, 1970 under the provisions of section 349(a)(6), now 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 Montreal, Canada. 1/ The Department of State approved the certificate of loss of nationality that was issued in this case on July 30, 1970. An appeal therefrom was entered on March 14, 1985.

A threshold issue is presented: whether the appeal, taken more than fourteen years after the Department approved the

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1/ Section 349(a)(5), formerly section 349(a)(6), of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(5), provides as follows:

Section 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 his 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; ....

Public Law 95-432, approved October 10, 1978, 92 Stat. 1046, repealed paragraph (5) of section 349(a) of the Immigration and Nationality Act, and redesignated paragraph (6) of section 349 (a) as paragraph (5).

certificate, was entered within the limitation prescribed by the applicable regulations, namely, within a reasonable time after appellant received notice of the Department's holding of loss of his nationality. It is our conclusion that the appeal was not' filed within a reasonable time and is therefore barred. Lacking jurisdiction to consider the appeal, we dismiss it.

I

Appellant was born on July 8, 1952 in Montreal, Canada. His father is a Canadian citizen; his mother, [redacted], a United States national. He thereby acquired United States citizenship under section 201(g) of the Nationality Act of 1940, 2/

2/ Section 201(g) of the Nationality Act of 1940, 8 U.S.C. 601(g), provided in pertinent part as follows:

Sec. 201. The following shall be nationals and citizens of the United States at birth:

. . .

(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: Provided, That in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: Provided further, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reacnes the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease....

and Canadian citizenship by virtue of his birth there. Appellant's mother registered his birth at the Consulate General at Montreal on March 25, 1954.

Below is the facsimile of a note on the reverse of the birth registration form which had been altered as indicated:

NOTE

For the classes of persons born outside of the United States and its outlying possessions who acquire nationality and citizenship of the United States at birth, see the following sections of Chapter Ii of the Nationality Act of 1940: Section 201, subsections (c), (d), and (g); section 203; section 204, subsection (b); and section 205.

As to persons who acquire citizenship of the United States under Section 201 (g), or persons who were born on or after noon, E. S. T., May **24, 1934,** of parents one of whom was at the time *a* citizen of the United States while the other was an alien, the foreign service officer by whom this report of birth is prepared should notify the American parent, or, if that is impracticable, the alien parent, that under the provisos of Section 201 the child whose birth is reported herein will be divested of citizenship of the United States if he or she fails to reside in the United States or its outlying possessions for a ~~period~~ of ~~consecutive~~ 5 years between the ages of ~~16 and 21 years.~~ 14 and 28 years.

A consul noted on the form that the foregoing information had been communicated to Mrs. [redacted] on March 25, 1954. She acknowledged that she was so informed. 3/

3/ Transcript of Hearing in the Matter of [redacted] Board of Appellate Review, October 23, 1985 (hereafter referred to as "TR"), pp. 7-9.

Because appellant was born prior to December 24, 1952, the effective date of the Immigration and Nationality Act (INA), he acquired United States nationality through his mother under the provisions of the Nationality Act of 1940. However, by the time his mother registered his birth in 1954, the provisions of the INA for retention of United States citizenship were already in force and applied retroactively to [redacted] Section 301(b) of the INA, 8 U.S.C. 1401(b), reads as follows:

> (b) Any person who is a national and citizen of the United States at birth under paragraph (7) of this section, shall lose his nationality and citizenship unless he shall come to the United States prior to attaining the age of twenty-three years and shall immediately following any such coming be continuously physically present in the United State /sic/ for at least five years: Provided, That such physical presence follows the attainment of the age of fourteen years and precedes the age of twenty-eight years.

In 1969 [redacted] was accepted as a Freshman by Brown University. He obtained an application for a student visa from Brown after his mother had telephoned the American Consulate General at Montreal to inquire how he might enter the United States. A visa was issued to him by the Immigration and Naturalization Service at the border and stapled in his Canadian passport. 4/

Appellant's mother states that in the spring of 1970 she inquired about her son's citizenship status at the Consulate General. According to Mrs. [redacted] she was told that her son's presence in

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3/ Cont'd.

The applicability of the 1952 Act to [redacted] was recognized by the consul who made changes as indicated above in the birth registration form. But he failed to delete "to reside" and insert "be continuously physically present."

A later amendment of the INA, effective September 11, 1957 (71 Stat. 644), provided that "continuous physicai presen/ce/" would not be broken during the prerequisite period by absences from the United States aggregating less than tweive months.

Section 301(b) was further amended on October 27, 1972 (Public Law 95-584, 86 Stat. 1289) to reduce the requirement of continuous physical presence in the United States to two years between the ages of fourteen and twenty-eight, and to provide that absences of less than sixty days in the aggregate would not break the continuity of physical presence.

All the above amendments applied retroactively. Then in 1978 section 301(b) was repealed by Public Law 95-432 (92 Stat. 1046) meaning that persons born abroad of one citizen and one alien parent on or after October 10, 1952 were not required to come to the United States to retain their citizenship. However, the legislative history of this provision indicates it did not apply to persons who had already lost their United States citizenship under the pre-existing law.

All of the above changes were conveyed to United States consular and diplomatic officers by instructions and by revisions of the Foreign Affairs Manual.

4/ TR pp. 26, 29, 30.

the United States would not fulfill the residency requirements for United States citizenship; that it was too late any way for him to meet those'requirements; and that it was advisable for him to ensure that he had one clear citizenship (Canadian) by "renouncing his rights to his American citizenship." 5/ Although Mrs. [redacted] declared in an affidavit executed in 1983 that she was given the foregoing information by a consul, she amended that statement at the hearing on October 23, 1985 to say that it was the consul's secretary to whom she spoke. 6/

In response to questions from both her son's counsel and the Department's counsel, Mrs. M[redacted] repeatedly insisted that she understood the language on the reverse of the form of registration her son's birth, prescribing that citizenship would be divested unless he resided continuously in the United States for five years, to mean that her son would have to reside in the United States for the prescribed period of time in order to "attain" or "obtain" Unit States citizenship. She maintained that she believed he was not ar American citizen up to 1970 but simply had a right to become one. She also insisted that, despite the fact she realized appellant probably would complete his undergraduate course at Brown by age twenty-one and could establish five-year's residence in the United States after graduation before age twenty-eight, she had merely followed the advice she received from the consul's secretary that appellant have one clear citizenship. 8/

5/ Affidavit of Mrs. B[redacted] N[redacted] M[redacted]l, March 1, 1983; TR pp. T0-15.

6/ TR p 10.

7/ TR pp. 8-10, 12, 14, i7, 21-23.

8/ TR pp. 22, 23.

Confirming that she thought the advice was for appellant to give up something he did not have, and asked if she did not consider it strange that the advice was for appellant to renounce a citizenship that he did not have, Mrs. M[redacted]l replied she thought she was being told appellant should renounce his right to U.S. citizenship and was not aware he was a citizen. 9/ Appellant confirmed that he had seen the Certificate of Registration of Birth from time to time as he was growing up, but asserted that his understanding of his status was identical to his mother's with respect to the requirement of five-year's residence in the United States. He added that Consulate General employees had indicated to him on July 8, 1970 that there might also be some question about what would happen to his Canadian citizenship if he should reside in the United States for five years, and this would be "a source of potential confusion." 10/

Both appellant and his mother insisted that his renunciation had not been influenced by the possibility that he might be subject to service in the United States armed forces during the Viet Nam war. 11/

9/ TR, pp. 23, 24.

10/ TR, pp. 61-65.

11/ TR, pp. 19, 20, 32, 33, 58-60, 70.

On July 8, 1970, his 18th birthday, [redacted] formally renounced his United States nationality before Consul Richard B. Sorg in the form prescribed by the Secretary of State. Therein he declared that he "absolutely and entirely" renounced his United States nationality "together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining." He also executed a statement, duly witnessed, attesting that he was acting voluntarily; that he understood he would become an alien in relatic to the United States; that the extremely serious consequences of renunciation had been explained to him by Consul Sorg; that he understood the consequences; and that he did not choose to take the opportunity offered to him to make a separate written explanation c the reasons for his renunciation. On July 3, 1970, Consul Sorg executed a certificate of loss of nationality. 12/ He certified

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12/ 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 foreic state ha5 lost his United State:; nationality under any provision oi 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 consuiar officer is approvea 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 shaii be directed to forward a copy of the certificate to the person to whor it relates.

that [redacted] acquired United States nationality by birth abroad to a United States citizen mother; that he made a formal renunciation of his United States nationality; and thereby expatriated himself under the provisions of section 349(a)(6) of the Immigration and Nationality Act. 13/ The consular officer forwarded the certificate and supporting documents to the Department without comment.

The Department of State approved the certificate on July 30, 1970, approval constituting an administrative determination of loss of nationality from which an appeal, properly and timely filed, may be taken to this Board. The Consulate General forwarded a copy of the certificate to appellant at his home address under cover of a letter dated August 12, 1970. Included with the certificate was a preprinted form, bearing the date 1/7/70, which stated in part as follows:

> 'You are hereby notified that you are entitled to appeal to the Board of Appellate Review in the Department of State, with regard to the decision that you have lost your United States nationality....you may present an appeal through an American Foreign Service Office or duly authorized attorney or agent in the United States. ...No formal application for reconsideration need be made but the appeal to the Board of Appellate Review must be made in writing within a reasonable time /after/ receiving notice of the Department's administrative holding of loss of nationality....'

13/ Supra, *note* 1.

Mrs. [redacted] stated at the hearing that she had received the approved certificate of loss of her son's nationality at their home and had "put it away with the birth certificate, vaccination certificates, and all the other papers." 14/ Appellant has declared that he never saw the certificate of loss of nationality until some time in 1983, after his counsel asked him to obtain a copy as part of the process by which counsel requested that the Departinent review appellant's file with a view to overturning its previous determination. 15/ He had gone to camp in Maine as a counselor for the month of August 1970, and surmised that the certificate of loss of nationality had reached his home in his absence. He returned to Erown in September 1970. 16/

[redacted] graduated from Brown in 1973. From 1973 to 1977 he attended Tufts University School of Medicine. Thereafter, he had a succession of residencies in the United States. He married a United States citizen in 1977 and has three children, all born in the United States in 1979, 1981, and 1985. He has been living in the United States on an exchange visa. 17/

In 1983 Dr. [redacted] consulted counsel, notably experienced in nationality law, regarding a visa, and was informed that it might be possible to obtain reversal of the Department's determination

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14/ TR, p 76.

15/ TR, pp. 51, 54, 55.

16/ TR, pp. 34-39, 49, 50, 57, 68.

17/ Affidavit of Appellant dated April 15, 1983; TR, pp. 41, 42, 52.

of loss of his nationality. 18/ On August 8, 1983 appellant, acting through counsel, requested that the Department reverse its decision on the following grounds: his mother had been given incorrect advice in 1970 regarding the statutory requirements for retention of United States citizenship and had been incorrectly informed regarding Canadian law on dual nationality; appellant, then only 18 years old, completely dependent on his parents for support and entirely under their control, acted on this erroneous information, lacking the requisite intent to relinquish his United States citizenship.

A Departmental official replied to counsel on August 25, 1983, stating that a review of [redacted] file disclosed nothing which would support or refute any of his allegations concerning the reasons for his renunciation of United States nationality or the actions of the consular officer involved. The Departmental official added that: "The matter seems to have been handled routinely at the time with no comment made by the consul or Dr. [redacted] as to Dr. [redacted] thoughts or motives." Having found no substantial error and there being no court decisions rendered subsequent to appellant's renunciation that would call into question the basis for the Department's decision, the official could only suggest that [redacted] take an appeal to the Board of Appellate Review.

Appellant made application for a United States passport in March 1984 which the Department refused on October 23, 1984 on the grounds of non-citizenship. The Department again suggested that appellant might wish to appeal to this Board. The appeal was entered on March 14, 1985. The Board heard oral argument on October 23, 1985. Appellant's grounds for reversal of the Department's determination of loss of his citizenship are essentially the same as those he presented in 1984 when he asked the Department to make an administrative review of his case.

18/ TR p 43.

II

At the outset we must decide whether the Board has jurisdiction to consider an appeal taken more than fourteen years after the Department of State determined that Dr. M[redacted] expatriated himself. The Board's jurisdiction depends on whether the appeal may be deemed to have been filed with the limitation prescribed by the applicable regulations.

In July 1970, when the Department approved the certificate of loss of nationality, the regulations then in effect provided that an appeal from an adverse determination of nationality might be brought "within a reasonable time" after the affected person recerved notice of the Department's holding of loss of nationality. 19/ Where an appeal has beer? taken from a holding Of loss of nationality made prior to November 30, 1979, 20/ it is the practice of the Board to apply the limitation prescribed by the regulations in effect at the time of the holding of loss of nationality. To apply the present limitation on appeal of one

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19/ Section 50.60 of Title 22, Code of Federal Regulations, (1967-1979), 22 CFR 50.60 provided:

> 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 such holding, to appeal to the Board of Appellate Review.

20/ On November 30, 1979, new regulations were promulgated for the Board of Appellate Review. Section 7.5(b) of Title 22, Code of Federal Regulations, 22 CFR 7.5(b) provides:

> A person who contends tnat 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 tne Board upon written request made within one year after approval by the Department of the certificate of loss of nationality or a certificate of expatriaticn.

year after approval of the certificate of loss of nationality would be contrary to the generally accepted rule that a change in regulations shortening a limitation period is intended to be prospective in application. Retrospective application of the new standard would work an injustice by disturbing a right acquired under previous regulations. Accordingly, the standard of "reasonable time" will govern in the instant case. Thus, if we find that this appeal was not entered within a reasonable time after appellant received, or may be deemed to have received, notice of the Department's holding of loss of his United States nationality, the Board would lack jurisdiction to entertain it. This is so because timely filing is mandatory and jurisdictional. United States v. Robinson, 361 U.S. 220 (1961). 21/

The rule on "reasonable time" has been exhaustively defined. 22/ What is reasonable time depends on the facts and circumstances in the particular case. It is such length of time as may be fairly and properly allowed or required, having regard for the nature of the act or duty or the subject matter, and the attending circumstances. It has been held to mean as soon as the circumstances of the parties will admit, but a person may not determine a time suitable to himself. Whether an appeal has been filed within a

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21/ See also opinion of the Attorney General on the citizenship case of Claude Cartier, Office of Attorney General, Washington, D.C., File CO-340-P, February 7, 1973:

> The Secretary of State did not confer upon the Board the power...to review actions taken long ago. 22 C.F.R. 50.60, the jurisdictional basis of the Board, requires specifically that the appeal to the Board be maae within a reasonable time after the receipt of a notice from the State Department of an administrative holding of loss of nationality or expatriation.

22/ See generally, Chesapeake & Ohio Railway v. Martin, 283 U.S. 209 (1931); Ashford v. Steuart, 657 F. 2d 1053, (9th Cir. 1981); In re Roney, 139 F. 2d 175 (7th Cir. 1943); Dietrich v. U.S. Shipping Board Emergency Fleet Corp., 9 F. 2d 733 (2nd Cir. 1926); Smith v. Pelton Water Wheel Co., 151 Ca. 393 (1907); Appeal of Syby, 460 A. 2d 749 (N.J. 1961); Black's Law Dictionary 5th ed.; 36 Words and Phrases, (1962).

reasonable time depends on whether a legally sufficient reason has been presented for any delay. A protracted and unexplained delay, particularly one that is prejudicial to the interests of the opposing party, is fatal.

The rationale for allowing a reasonable time to bring an appe to this Board is that the appellant should be permitted sufficient time to prepare a case showing that the Department's holding of lo of nationality is contrary to law or fact. At the same time, the rule presumes that the appellant will prosecute his appeal with th diligence of an ordinary prudent person. Reasonable time begins t run from the time an appellant receives notice of the Department's holding of loss of narionaiity, not at some subsequent time when, for whatever reason, a person is moved to seek restoration of lost citizenship.

Appellant contends that in the particular circumstances of hi case his appeal should be considered timely. For one thing, he di not, he alleges, see the certificate of loss of nationality or kno about his right of appeal until 1983 when he consultea counsel.

As noted above, appellant's mother acknowledged that she received the certificate addressed to appellant at the family home in Montreal in August 1970, that she opened it and put it away with other papers without discussing it with or showing it to appellant. 23/ That his mother may have intercepted and then not have shown appellant the certificate of loss of his nationality with the accompanying information about his appeal rights does not defeat the finding that appellant received notice of the determination of his loss of citizenship. We do not find in these contentions any basis for concluding that the appeal is timely. We believe the receipt of the certificate of loss of nationality by appellant's mother constituted notice to appellant and that the burden was upon appellant to ascertain his right to appeal and any requirements pertainina thereto.

23/ Supra, note 14.

In this case we believe acknowledged receipt by his mother of an official communication addressed to her eighteen year old son constitutes actual notice to him. Neither the Department of State nor this Board is required to bear the legal consequences of any lack of communication within the [redacted] family,

[redacted] maintains, however, that even if he had seen the certificate of loss of nationality, he would have been justified in not taking an earlier appeal because until 1983 he thought he had irrevocably renounced his right "to obtain" United States citizenship. He did not think there was any thing to protest because he "was giving up something that I was told I couldn't achieve, and so from that point of view it wasn't a very important thing to give up." 24/

At the hearing, [redacted] counsel described his client's conception of his situation as follows:

> ...His state of mind was such that he had already been told that it was not possible for him to achieve citizenship, to obtain it, retain it, whatever he was advised, that that was forclosed by the program he had in mind for his future education. His plans terminated at that time at the conclusion of his course at Brown. Whatever he did after that was a subsequent development; and although it is true that he did, in fact, have until his 28th birthday in order to do something, he had ten years from the date of renunciation which would have been 1980, that he had until that time, which was considerably beyond the thing in Brown, that was not within his plans. So he did not feel that he had lost anything. He hadn't given up any-

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24/ TR pp. 40, 41.

> thing. He had been told that he couldn't get it, and so he didn't feel affronted by the certificate of loss of nationality. He didn't think there was anything to appeal. He had already been given a definitive answer as to the possibility of his having citizenship. 25/

A belief, until advised to the contrary, that no grounds exist for an appeal hardly justifies a delay as long as the one in Mendel case.

As an initial matter, we have difficulty in accepting that on July 8, 1970 [redacted] believed he was renouncing an inchoate right to citizenship not citizenship he actually possessed. Even if he had been confused before July 8, 1970 (because his mother allegedly had been confused) about his true legal position, the language of the oath of renunciation and the statement of understanding he executed that day should. have borne in on him the fact that he was indeed renouncing'citizenship rights that had vested.

However, even assuming, arguendo, that [redacted] did not realize he had renounced United States citizenship, he obviously knew he had forfeited a personal right related to citizenship. To remain passive for fourteen years with that knowledge seems to us inexcusable, especially when the effect of appellant's non-action with respect to an appeal is, as will be discussed below, to prejudice the opposing party. [redacted] consulted counsel in 1983 about his case. He has not demonstrated that there was any bar except the one he himself created to his obtaining competent advice and acting on it long before he did so. The rule is well-settled that where anything appears that would put an ordinary person upon inquiry, the law presumes that such inquiry was actually made and fixes notice upon the party as to all the legal consequences. Hux v. Butler, 339 F. 2d 696 (6th Cir. 1964). See also Nettles v. Childs, 100 F. 2d 952 (4th Cir. 1939). [redacted] had cause to move much sooner. In effect, in not moving until 1985 he has determinec a time suitable and convenient to himself, something that is not allowed by the rule on reasonable time. In re Roney, supra, note 23.

25/ TR 80, 81.

Why [redacted] did not initiate an appeal by 1979 is particularly baffling, although we take no position on whether if he had appealed at that time - nine years after the Department's determination of loss of his nationality - the appeal would have been timely.

For a number of reasons [redacted] had good cause at least by 1979 to have taken action with respect to his citizenship status. His first child was born in 1979 in the United States. By that date he had, he states, finally realized he had renounced United States nationality, not merely a right to obtain citizenship. By 1979 he seems to have decided that he might wish to practice medicine in tne united States. Yet, he allowed four more years to pass before taking any action with respect to his citizenship statu!

Through counsel, appellant argues that the Department of State had not been prejudiced by the delay in taking the appeal, "because their lack of information about it /appellant's renunciation of United States nationality7 is basically their own fault." 26/ The Department's agents, counsel aaded, "made no effort to dissuade this young man; "they made *no* effort to give him time to think it over. They handled it in a way that I find incomprehensible...." 27/

We disagree with learned counsel. There is demonstrable prejudice to the Department.

Appellant contends that the Department's determination of loss of his nationality should be reversed because he renounced his nationality as a result of erroneous advice from the Consulate General at Montreal. But his case rests solely on statements he and his mother made many years after the event. Nothing of record corroborates those statements, however s'incerely they have been made. We are thus left to speculate whether appellant was indeed misled. The Department contends that it is improbable an authorized official of the Consulate General would have given appellant and his mother the kind of advice he says he received; it was totally at variance with Departmental instructions and guidelines in effect in 1970 regarding citizenship retention requirements. The Department points out that any consular official who

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26/ TR 82.

27/ Id.

recommended that a citizen renounce United States nationality would have transgressed a fundamental and clearly understood caveat of the Department's rule book. 8 Foreign Affairs Manual, 225.6(c) (1969): "Consular officers should be particularly careful not to recommend or urge renunciation for any reason whatsoever." (Emphasis in original.) But how, at this distance from 1970, can one fairly determine what appellant and his mother were told? How determine whether appellant was warranted in relying on the advice of an unidentified consulate employee with respect to citizenship retention requirements? Precisely because appellant, without legally sufficient justification, allowed so many years to pass before asserting a claim to United States citizenship, the circumstances of July 8, 1970 and the immediately preceding period are difficult fairly to reconstruct.

At the request of the Board, the Department elicited from Richard Sorg, the consul who administered the oath of renunciation to [redacted] a statement, dated February 21, 1986, about his recollection of [redacted] renunciation:

> During my assignment to the U.S. Consulate General in Montreal I was the Administrative Officer and periodically filled in for the Passport and Citizenship Officer whenever he was absent. As I do not recall meeting [redacted] [redacted] or any member of his family prior to his coming to the Consulate General on July 8, 1970 to formally renounce his **U.S.** citizenship, **I** can only surmise that it was the full-time Passport and Citizenship Officer who advised the [redacted] family about Jeffrey's citizenship status. I recall that when **I** administered the Oath of Renunciation of U.S. nationality it appeared that Jeffrey was renouncing his citizenship willingly and that he had not been induced in any way to do so.
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> As the case took place almost 16 years ago, I unfortunately cannot recall many details pertaining to it.

Counsel for [redacted] made the following comments on Sorg's statement in a letter to the Board dated March 19, 1986:

> Since his comments are in no way in conflict with the testimony already on the record, we have nothing further to add except to note 1) That the matter was, in fact, handled as *a* purely routine affair, by one of Mr. [redacted] associates, and that **5-15** own function w probably limited to administering *the* oath

after the papers had been prepared. 2) That his inability to recall any of the events which happened 16 years ago is understandable in view of his failure to make any notes or report concerning a most important event in the life of an 18 year old citizen of the United States, which might have refreshed his recollection and makes his statement that the act was done willingly of doubtful value. 3) He does not address the issue of misinformation at all.

The statements of Sorg and counsel for [redacted] simply point up the serious evidentiary problems that can plague a case when an appeal has been long-delayed. Early action by [redacted] when the recollection of events of July 8, 1970 was fresh in the minds of all concerned would have obviated the kinds of difficulties that are presented by an appeal taken after so long a delay. The ability of the Department to address and rebut [redacted] contentions has plainly been compromised by his delay.

Finally, there must be an end of litigation at some point, and the interest in stability and finality of administrative determinations is entitled to great weight in the circumstances of this case.

In our judgment, appellant has not shown good cause why he could not have entered an appeal long before more than fourteen years had elapsed after his receipt of the certificate of loss of nationality and notice of his right of appeal. We do not consider a delay of this length and in these circumstances to be reasonable within the meaning of the applicable limitation on appeal.

III

Upon consideration of the foregoing, we hold that the appeal is time-barred and that the Board lacks jurisdiction to consider it on the merits. The appeal is hereby dismissed.

Alan G. James, Chairman

Mary E. Hoinkes, Member

Howard Meyers, Member