

June 11, 1986

## DEPARTMENT OF STATE

## BOARD OF APPELLATE REVIEW

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

The Board of Appellate Review on January 8, 1986 concluded by a vote of 2 to 1 that the appeal of J [REDACTED] K [REDACTED] taken from an administrative determination of loss of his nationality made by the Department of State on February 10, 1976, <sup>1/</sup> was time-barred. The Board dismissed it for lack of jurisdiction.

On February 25, 1986 K [REDACTED] moved for reconsideration of the Board's decision. <sup>2/</sup> He argued on the lines of the dissent that his appeal should have been considered timely and that if his appeal were deemed to be timely, the Board should find in his favor on the merits.

The Department submitted a brief memorandum on March 24, 1986, in opposition to the motion. It stated that the Department did not believe the Board overlooked or misapprehended any evidence relating to the timeliness of the appeal, and that the Board should deny appellant's motion for reconsideration.

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<sup>1/</sup> The Department determined that K [REDACTED] expatriated himself on October 2, 1957 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 the Philippines upon his own application.

<sup>2/</sup> 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' 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 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 th