DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

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

This is an appeal from an administrative determination of the Department of State that appellant, M[redacted] B[redacted] L[redacted] expatriated himself on June 3, 1986 under the provisions of section 349(a)(5) of the Immigration and Nationality Act by making a formal renunciation of his United States nationality before a consular officer in the United States Consulate General at Stuttgart, Federal Republic of Germany. 1/

After L[redacted] had sworn the oath of renunciation, a consular officer executed a certificate of loss of nationality in which he certified that L[redacted] acquired United States nationality by birth to a United States citizen father in the F[redacted] of [redacted]; that he made a formal renunciation of his United States nationality; and thereby expatriated himself. The Department approved the certificate on June 25, 1986, approval constituting an administrative determination of loss of nationality from which a timely and properly filed appeal may be taken to this Board. L[redacted] entered the appeal through counsel on August 27, 1986.

I

L[redacted] alleges that he took the oath of renunciation reluctantly. It seems he believed that in order to be a teacher in Germany he would have to become a German citizen and that renunciation of his United States citizenship was a prerequisite to acquiring German nationality. He further asserts that very shortly after he renounced he learned that the State of Hesse, neighbor of the State of Baden-Wuerttemberg where he lived, no longer required teachers to hold German citizenship.

1/ Section 349(a)(5) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(5), provides that:

> 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 --
>
> . . .
>
> 5. making a formal renunciation of 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,. . .

He therefore' attempted to retract his renunciation but was informed by the consular officer who administered the oat5 of renunciation that he might not legally do so. L[redacted] argues that the certificate of loss of nationality executed in his name should not have been approved because the Department acted under the mistaken belief that the oath of renunciation represented "the desire of Mr. L[redacted]." He also argues that his renunciation was involuntary "since it was made under the influence of economic duress." "Were it not for his mistaken belief that economic duress compelled him to choose between his citizenship and his ability to earn a living," his brief states,"he would not have taken the oath of renunciation."

Appellant did not submit a reply to the Department's brief, but through counsel requested that the Board decide the appeal on the basis of the record before it. He also requested that the Board expedite its decision. For reasons that the Board considers justify its doing so, the Board has acceded to L[redacted] request. 2/

II

Upon review of the record submitted to us, we conclude as follows:

1. L[redacted] renunciation of his United States nationality was accomplished in the manner and form prescribed by law and the Secretary of State. He thus brought himself within the purview of section 349(a)(5) of the Immigration and Nationality Act.

2. L[redacted] has not rebutted the statutory presumption that his renunciation was voluntary. 3/

3. L[redacted] intent to relinquish his United States citizenship is evidenced by the fact that he voluntarily, knowingly and intelligently subscribed to an oath expressly renouncing that

2/ Section 7.2(a) of Title 22, Code of Federal Regulations, 22 CFR 7.2(a), provides that: "The Board shall take any action it considers appropriate and necessary to the disposition of cases appealed to it."

3/ Section 349(c) of the Immigration and Nationality Act, 8 U.S.C. 1481(c), provides in pertinent part that:" ...any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily."

citizenship. The Department of State has thus carried the burden it bears under the Supreme Court's holding in Vance v. Terrazas, 444 U.S. 252 (1980), to prove by a preponderance of the evidence that L[redacted] intended to surrender his United States citizenship.

III

Upon consideration of the foregoing, we hereby affirm the Department's determination of June 25, 1986 that L[redacted] expatriated himself.

In accordance with the provisions of 22 CFR 7.8, an opinion setting forth findings of fact and conclusions of law will follow.

Alan G. James, Chairman

Mary Elizabeth Hoinkes, Member

Frederick Smith, Jr., Member