

June 2, 1987

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

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

The Board of Appellate Review on December 8, 1986 affirmed the administrative determination of the Department of State that J [REDACTED] A [REDACTED] expatriated himself under the provisions of section 349(a)(5) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(5), by making a formal renunciation of his United States nationality before a consular officer of the United States at Stuttgart, Federal Republic of Germany. 1/

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By letter dated December 30, 1986, appellant informed the Board that he wished to move for reconsideration of its decision on his appeal, and requested that he be allowed until March 15, 1987 to present arguments in support of a motion. 2/

1/ [REDACTED] who, the Office of Special Investigations of the Department of Justice (OSI), contends was a Nazi collaborator in Poland during World War II and concealed that fact when he obtained an immigration visa in 1950, renounced his nationality pursuant to an agreement with OSI. Under the agreement, [REDACTED] agreed to renounce his nationality in exchange for OSI's undertaking not to institute denaturalization and deportation proceedings against him.

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 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

The Board granted appellant's request without comment. The Department did not demur at the Board's enlarging the time for appellant to file his motion.

By letter dated February 24, 1987 appellant explained why he believed the Board had erred in affirming the Department's determination of his expatriation.

First, he asserted that certain facts in the Board's opinion were inaccurate. He had not been appointed Buergermeister of Stolpce, Poland in 1941 by the Nazi occupation authorities; "I was chosen to this post by the representatives of the local population." As Buergermeister of Stolpce he was not a collaborator, but rather was a "defender of the local population." He endangered his own life to protect and assist Jews. As to the contention of the Office of Special Investigations (OSI) that he concealed his wartime activities in Poland from United States authorities in Germany in 1950 when he applied for a visa to enter the United States, appellant conceded he had done so, but only to protect himself against being forcibly sent to the Soviet Union. In 1957 when he applied for naturalization in the United States he had disclosed that he had been mayor of Stolpce from 1941 to 1944; after two years of investigation by the Immigration and Naturalization Service he had been granted citizenship in 1959.

Next, he stated that if all the reasons for his departure from the United States were taken into account, it would be clear that his renunciation was involuntary. He reiterated what he had set forth in his initial pleadings that OSI had used threats to induce him to agree to renounce his citizenship. And he asserted he had not been allowed sufficient time to digest the import of the agreement he entered into with OSI at the office of his attorney in January 1984.

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2/ Con'd

shall revise 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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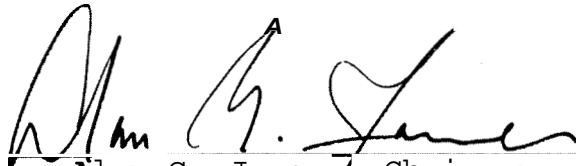
The Department of State informed the Board that it did not intend to respond to appellant's motion for reconsideration "since we believe that all issues have been properly addressed by the Department."

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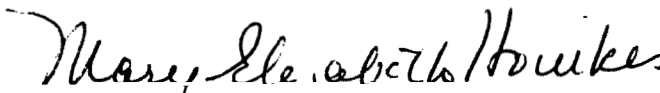
In our original decision we stated that it was outside the purview of the Board to examine appellant's contentions that he was not a Nazi collaborator. And, of course, we may not now review his denials of such collaboration. If he seeks vindication, his recourse is to the federal courts.

As to appellant's allegations in his motion for reconsideration that OSI exerted pressure on him to sign the agreement pursuant to which he renounced his citizenship, appellant has submitted no evidence to warrant changing our original conclusion that he renounced his United States citizenship voluntarily.

Having carefully examined appellant's motion for reconsideration and the entire record, the Board is of the view that the motion fails to disclose any facts or points of law that the Board may have overlooked or misapprehended in reaching its decision, or any new matters that would warrant reconsideration of that decision. Accordingly, appellant's motion for reconsideration is hereby denied.

  
Alan G. James, Chairman

  
J. Pekar A. Bernhardt, Member

  
Mary E. Hoiques, Member