

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: F [REDACTED] M [REDACTED], [REDACTED] -- On Motion for Reconsideration

The Board of Appellate Review decided on [REDACTED] 5, 1987 that it lacked jurisdiction to hear and decide M [REDACTED] appeal from the Department of State's administrative determination of loss of his nationality, dated January 13, 1978, because it concluded that his inadequately explained delay in taking the appeal was unreasonable. 1/ The Board accordingly dismissed the appeal.

M [REDACTED] moved for reconsideration of the Board's decision by letter dated December 3, 1987. 2/ He based his motion on the following grounds:

1/ The Department determined that M [REDACTED] expatriated himself on August 16, 1977 under the provisions of section 349(a)(6), now section 349(a)(5), of the Immigration and Nationality Act, 8 U.S.C. 1481, by making a formal renunciation of his United States nationality before a consular officer of the United States at Monterrey, Mexico,

2/ Section 7.10 of Title 22, Code of Federal Regulations, 22 CFR 7.9 provides as follows:

Sec. 7.10 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 shall review the record, and, upon such further reconsideration, shall affirm, modify or reverse the original decision of the Board in the case.

Appellant's motion was deemed timely because he did not receive a copy of the Board's opinion until November 30, 1987. The Board sent a copy of its opinion to the Consulate at

The Board bases its determination on what constitutes a reasonable time misunderstanding facts and circumstances of my particular case:

1. 'as soon as the circumstances will permit'. That is the point: I, as appellant, have established that before and after I made my renunciation was mentally incapable to know what was happening, because the year 1977 - 1978 is just the beginning of my psychiatric treatment in which still I am.
2. Everybody knows that a treatment like that lasts many years, sometimes ten or more.
3. A neurotic is always in contact with reality, otherwise he could be a demented.
4. 'Emotionally normal persons' doesn't mean that I had at that time sufficient mental means to reconsider what I had done because I'm still under psychiatric treatment. Dr. Manuel Contreras Ramos didn't have to withhold his diagnosis.
5. If so is considered by the Board, 'There is no reasonable time valid' because a neurotic mind is like a child. Maybe this cannot be understood but by a professional on this matter. I feel the Board's decision is unfair.
6. I hope the Board realizes the Consulate General at Monterrey did not give me copy but 5 months latter, when you commanded it again. So I am on time for me claim.

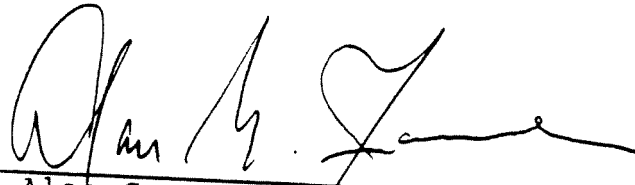
The Department of State informed the Board that it would not file a memorandum in opposition to M [REDACTED]' motion for reconsideration.


Upon examination of appellant's motion for reconsideration, the Board is of the view that it fails to dis-

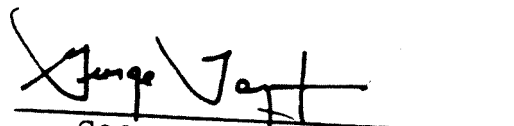
2/ Cont'd.

Monterrey on June 5, 1987 to deliver to appellant. Apparently, the communication enclosing the opinion either went astray or was not acted upon by the Consulate. On October 27, 1987 the Board sent another copy of its opinion to the Consulate to deliver to Mancias who received it on November 30, 1987.

close 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


Edward G. Misesy, Member


George Taft, Member