

October 24, 1989

DEPARTMENT OF STATE
BOARD OF APPELLATE REVIEW

IN THE MATTER OF: P [REDACTED] G [REDACTED] S [REDACTED]

On Motion for Reconsideration

The Board of Appellate Review, in a decision rendered June 29, 1989, affirmed a decision of the Department of State that appellant, P [REDACTED] G [REDACTED] S [REDACTED], expatriated himself on May 2, 1972 under the provisions of section 349(a)(1) of the Immigration and Nationality Act by obtaining naturalization in Canada upon his own application. 1/

Within the time allowed, appellant, by his counsel, moved for reconsideration of the Board's decision, pursuant to the provisions of 22 CFR 7.10.

Appellant grounded his motion on the contention that the Board "failed to properly take into account all facts presented to it in this matter and, based thereon, failed to properly apply the relevant case law herein."

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

Sec. 349. (a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality --

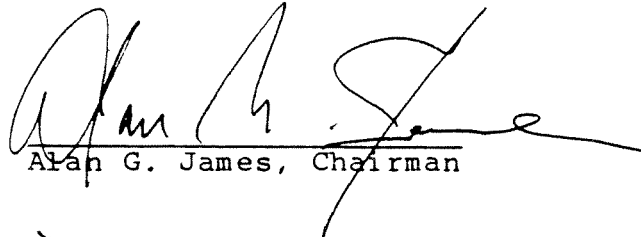
(1) obtaining naturalization in a foreign state upon his own application, or upon an application filed by a duly authorized agent, after having obtained the age of eighteen years; ...

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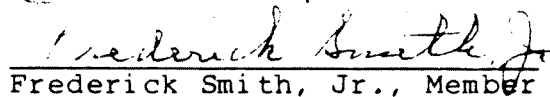
Specifically, appellant noted that the only evidence adduced by the Department to show that he intended in 1972 to relinquish citizenship was the fact he had obtained foreign naturalization, made a renunciatory oath of allegiance to Canada, and obtained a Canadian passport. Against this evidence, appellant "presented sufficient and credible evidence to allow a determination that he did not possess the requisite intent to relinquish his United States citizenship." The Board erred, the appellant asserts in effect, by not according to that other evidence greater evidential weight than the weight it assigned to the factors adduced by the Department in support of its contention that appellant intended in 1972 to relinquish his United States citizenship.

The Department of State did not file a memorandum in opposition to appellant's motion for reconsideration, since, as it informed the Board, it was of the view that the record and its previous submissions fairly represented the Department's position.

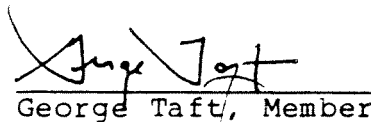
After studying carefully the appellant's motion for reconsideration, we are of the view that the motion does not raise any points of facts or law that the Board overlooked or misapprehended in rendering its decision of June 29, 1989, or any new matters that would warrant reconsideration of its decision. Accordingly, appellant's motion for reconsideration is hereby denied.



Alan G. James, Chairman



Frederick Smith, Jr., Member



George Taft, Member