March 22, 1990

DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN THE MATTER OF: G[redacted] J[redacted] P[redacted]

This is an appeal from an administrative determination of the Department of State, dated February 20, 1987, that appellant, G[redacted] J[redacted] P[redacted] expatriated herself on October 8, 1[redacted]r [redacted]ov[redacted]s of section 349(a)(5) of the Immigration and Nationality Act by making a formal renunciation of her United States nationality before a consular officer of the United Skates at Tel Aviv, Israel. 1/

For the reasons given below, we conclude that appellant has rebutted the statutory presumption that she renounced her citizenship voluntarily. Since she has succeeded in doing so, there can be no expatriation. Accordingly, the Department's determination of loss of appellant's nationality is reversed.

I

Appellant, G[redacted] J[redacted] P[redacted] became a United States citizenship by virtue of her birth at Pittsburgh, Pennsylvania on February 28, 1955. She lived in the United Skates until 1979 when she went to Israel. There she joined the Hebrew Israelite Community (so-called Black Hebrews) at Dimona. She married a member of the Community. They have two young children. She informed the Board she was made to believe the Community

---

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

> 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 –
>
> . . .
>
> (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:. ..

> ...was the establishment on earth of the Kingdom of *God.* Here you lived in peace and harmony with God and his creations. Willingly I came and started a whole new life, marrying and having children though in actuality it was never all that was said to be it was OK.

However, in April 1986, appellant stated, the Israeli government began mass deportations of many Community members.

> ...In retaliation to this move the leadership of said Community determined that mass renunciation of American citizenship was the answer. All adult individuals were instructed that this was the requirement of all 'loyal' members. 'Loyal' meaning those who did as was told, without question....

On October 8, 1986 appellant, and four or five others from the Community, one of whom was the official Community representative, went to the Embassy at Tel Aviv. There she renounced her United States nationality. Before making the oath of renunciation, appellant was asked to read and did read a statement of understanding, and having done so, affirmed in the presence of two witnesses, and a consular officer that she had read it and understood its contents. In the statement appellant affirmed that she decided to exercise her right to renounce her nationality voluntarily, "without any force, compulsion or undue influence;" having been exerted upon her; that after renouncing, she would become an alien vis-à-vis the United States; that the extremely serious and irrevocable nature of renunciation had been explained to her by a consular officer, and that she understood the consequences. Appellant also executed an affidavit which the Department has developed for use in the cases of formal renunciation of nationality by Black Hebrews. 2/ The affidavit posed a number of questions

---

2/ In 1973 a number of Black Hebrews indicated to the Embassy that they wished to renounce their United States nationality. The Department accordingly sent instructions on September 26, 1973 to the Embassy to govern the processing of formal renunciation by Black Hebrews. The instructions read in pertinent part as follows:

> In view of the circumstances involved, Embassy must make certain that renunciation be voluntary and not performed under duress, coercion

for the prospective renunciant to answer. The first question read: "Have you retained an attorney to represent you in this matter of renunciation? If not, why not? Do you want additional time to consult with an attorney, friends or family advisors?" To each part of that question appellant answered respectively "no, I don't need one," and "no." The second question read in part: Is your decision to renounce based: (A) On the fact that the GOI (Government of Israel) is deporting you?; (B) On your present financial condition?; (C) On personal or family problems and/or living conditions?

2/ (Cont'd.)

or influence. Request Black Hebrews who wish to renounce to answer following questions in supplemental affidavit:

1. Have you retained an attorney to represenk you in this matter of renunciation? If not, why not? Do you want additional time to consult with an attorney, friends, or family advisors?

2. Is your decision to renounce in any part based:

(A) On the fact that the GOI is considering deporting you? If so, explain.

(B) On your present financial condition? If so, explain.

(C) On personal or family problems and/or living conditions? If so, explain.

(D) On influence, force and/or coercion that is being brought upon you by any person or persons? If so, explain.

If Consul believes that the renunciant may have any reservations, do not repeat do not adminisker the oath of renunciation, but send to the Departmenk for decision all documents and a memorandum of conversation in the event of refusal to sign affidavits.

If no reservations are apparenk, adminisker the oath of renunciation and send all documenks to the Department.

(D) On influence, force and/or coercion that is being brought upon you by any person or persons? Appellant answered "no" to all four parbs of that question. She then made the oath of renunciation, swearing, rather than affirming as she did in the case of the statement of understanding and the special affidavit, that she absolutely and enbirely renounced her United States nationality, "together with all rights and privileges and all duties of allegiance and fidelity thereunto perbaining."

When the proceedings were completed, the consular officer concerned executed a certificate of loss of nationality in appellant's name, as prescribed by law. 3/ The certificate recited that appellant acquired the nationality of bhe United States by virtue of her birth therein; that she made a formal renunciation of United States nationality; and thereby expatriated herself under the provisions of section 349(a)(5) of the Immigration and Nationality Act. The Embassy forwarded the certificate and supporting documents to the Department under cover of a memorandum which stated simply:

> Enclosed for the Department's approval is a Certificate of Loss of Nationality which was executed by the Embassy in the case of Ms. [redacted] Black Hebrew, who f renunciation of her U.S. nationality on October 8, 1986.
>
> The certificate is accompanied by an Oath of Renunciation, a statement of understanding and an additional Affidavit as requested in reftel.
>
> Ms. [redacted] U.S. passport is also enclo

The Department approved the certificate on February 20, 1987, approval constituting an administrative determination of loss of nationality from which an appeal may be taken to the Board of Appellate Review, pursuant to 22 CFR 7.3(a).

The appeal was entered on March 11, 1989.

3/ Section 358 of the Immigration and Nationality Act, 8 U.S.C. 1501, reads as follows:

> Sec. 358. Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under

II

The limitation on appeal to the Board of Appellate Review is one year after the State Department approves a certificate of loss of nationality (CLN). 4/ An appeal filed after that time shall be denied unless the Board determines for good cause shown that the appeal could not have been taken within the time allowed. 5/

3/ (Cont'd.)

> any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

4/ Section 7.5(b)(1) of Title 22, Code of Federal Regulations, 22 CFR 7.5(b)(1), provides that:

> A person who contends that the Department's administrative holding of loss of nationality or expatriation under Subpart c of Part 50 of this Chapter is contary to law or fact shall be entitled to appeal such determination to the Board upon written request made within one year after approval by the Department of the certificate of loss of nationality or a certificate of expatriation.

5/ 22 CFR 7.5(a) provides in pertinent part that:

> ...An appeal filed after the prescribed time shall be denied unless the Board determines for good cause shown that the appeal could not have been filed within the prescribed time.

"Good cause" is a term of settled import. It means a substantial reason, one that affords a legally sufficient excuse. Black's Law Dictionary, 5th Ed. (1979). It is generally accepted that in order to show good cause, a litigant must establish that failure to file a paper in timely fashion was the result of an event beyond his immediate control and which was largely unforeseeable.

The Department of State approved the CLN that was executed in this case on February 20, 1987. The appeal was filed on March 11, 1988, one year after the time allowed for appeal.

Appellant alleges that she did not appeal within the time allowed because she did not learn that she might appeal until after the limitation had expired. She submits that:

> The appeal procedures on the back of form 348 [certificate of loss of nationality] were never shown to me, explained, mentioned or anything else. Though my renunciation forms were approved in 1987 it wasn't until at least 88 that I even got them back. All mail comes through one central office in the community and is destributed [sic] to members. When I did get my forms I just filed them away never really looking at them for I already knew from being told that my decision was irrevocable.
>
> I know differently now. [Emphasis appellant's.]

The Embassy at Tel Aviv forwarded a copy of the approved CLN under cover of a registered letter to appellant at Dimona, As required by 22 CFR 50.52, on the reverse of the CLN information was set forth about making an appeal within one year after receipt of the CLN. The postal receipt in the record shows that someone at Dimona on April 15, 1987 signed for the Embassy's letter forwarding the CLN. The signature, however, is *not* that of appellant.

We consider it quite possible, as appellant suggests, that when the Embassy's letter with the CLN arrived at Dimona the Community leadership withheld it from her. For we note that the Community has intercepted mail addressed to members as the Embassy attested in response to an inquiry by the Board in connection with an appeal of another Black Hebrew:

> ...Since the Hebrew Israelite members lead a communal life under the authoritative leadership of Ben-Ami Carter, with one central postal address in Dimona, it is most likely that the mail is intercepted and in certain cases withheld from the addressees.

The regulations presume that a person who is the subject of a CLN shall be given prompt notice that he or she has the right to take an appeal within the year of approval of the CLN. If for a reason beyond such a person's control notice of the right of appeal is not received until a time that precludes the filing of a timely appeal, good cause exists why the appeal could not be filed within the prescribed limitation.

In this case there is reason to believe that appellant did not receive timely notice of her right of appeal due to the interference of third parties. Furthermore, the delay is de minimis. In the circumstances, the appeal must be deemed to be timely. Accordingly, we proceed to consider the merits.

III

Section 349(a)(5) of the Immigration and Nationality Act provides that a national of the United States shall lose his nationality by voluntarily making a formal renunciation of United States nationality before a consular officer of the United States in the manner prescribed by the Secretary of State with the intention of relinquishing nationality.

The record makes clear that appellant's formal renunciation of United States nationality was accomplished in accordance with law and in the form prescribed by the Secretary of State. Thus, the first issue to be addressed is whether appellant voluntarily made a formal renunciation of her United States nationality.

In law, it is presumed that one who performs a statutory expatriative act does so voluntarily, but the presumption may be rebutted upon a showing by a preponderance of the evidence that the act was not voluntary. 6/

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

> (b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after the enactment of this subsection under, or by virtue of, the provisions of this or any other Act, the burden

Under the applicable evidentiary rule it is appellant's burden to prove no more than that the existence of the contested fact - her claim that her renunciation was involuntary - is more probable than its non-existence. See McCormick on Evidence, 3rd Ed., section 339. 7/

Appellant contends that she did not renounce her citizenship voluntarily; but was coerced to do *so* by the Community leadership. She submits that:

> ...We were made to truly believe that [formal renunciation of citizenship] was the only way to assure not being deported and separated from your family. My husband at that time was not ready to leave the community and would not allow me to take my two children, even to the point of threatening my life. [Emphasis in original.]
>
> . . .

6/ (Cont'd.)

> shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. 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.

7/ Section 339 reads in part as follows:

> The most acceptable meaning to be given to the expression, proof by a preponderance, seems to be proof which leads the jury to find that the existence of the contested fact is more probable than its non-existence. */ Thus the preponderance of evidence becomes the trier's belief in the preponderance of probability.
>
> */ [footnote omitted]

> The decision to renounce was not an easy one to make and even though done it was never done out of desire as out of necessity due to circumstances surrounding my life.

In short, fear of deportation and being separated from her family allegedly caused appellant to renounce her citizenship.

In judging appellant's claim, we are mindful of well-established legal principles. "The right of citizenship, being an important civil one, can only be waived as the result of free and intelligent choice." Inouye et al. v. Clark, et al., 73 F. Supp. 1000, 1004 (S.D. Cal. 1947), reversed on procedural grounds, Clark, Atty. Gen. et al. v. Inouye et al., 175 F.2d 740 (9th Cir. 1949). A voluntary act is one "proceeding from one's own choice or full consent unimpelled by another's influence. To determine whether an act is voluntary, the trier of fact must examine all relevant facts and circumstances which might cause the actor to depart from the exercise of free choice and respond to compulsion from others." Kasumi Nakashima v. Acheson, 98 F.Supp. 11, 12 (S.D. Cal. 1951). Similarly, Akio Kuwahara v. Acheson, 96 F.Supp. 38, 43 (S.D. Cal 1951): "The trier of fact must consider all evidence relating to the mental condition of the actor to determine whether his act was 'unimpelled by another's influence.'"

In examining appellant's claim we are also guided by the injunction of Justice Frankfurter in Nishikawa v. Dulles, 365 U.S. 129, 140 (1958).

> ...Where a person who has been declared expatriated contests that declaration on grounds of duress, the evidence in support of this claim must be sympathetically scrutinized. This is so both because of the extreme gravity of being denationalized and because of the subtle, psychologic factors that bear on duress.

The means of interfering with one's freedom of choice, is not limited to force or threat of force, Fear of loss of an important right or privilege "can be more coercive than fear of physical violence." Kasumi Nakashima v. Acheson, supra, at 13. In Kasumi Nakashima the court held that the plaintiff, a dual national of the United States and Japan, did not expatriate herself by voting in a political election in Japan (a statutory expatriative act until 1967).

> ... apparent from her testimony that the real effect of the occupation authorities' campaign and the conversations of her neighbors was to inculcate in her a fear that she would acquire a reputation of uncooperativeness and thereby endanger her opportunity to return to the United States by inviting the wrath of the authorities.

Id.

Similarly, Takano v. Dulles, 116 F.Supp. 307, (D. Hawaii 1953). Plaintiff (a dual U.S./Japanese national) voted in Japanese elections because she feared punishment if she did not comply with the order of the occupation authorities granting women the privilege of voting, because she feared loss of her rations, and because she feared failure to vote might hinder her return to the United States. The court held that such factors constituted duress and voided the expatriative act. Accord, Hatsuye Ouye v. Acheson, 91 F.Supp. 129 (D. Hawaii 1950.)

Pressure in the guise of moral persuasion by persons in a position of authority over the actor to perform the act of formal renunciation may raise a serious doubt whether the renunciation was free of the "taint of incompetency." See Tadayasu Abo et al., v. Clark et al., 77 F. Supp. 806 (N.D. Cal. 1948.) There parental pressure by alien parents on citizen children to renounce their United States citizenship in order to prevent family break-up and avoid draft induction was held to render involuntary formal renunciation of United States citizenship. 7/

Doing a statutory expatriative act in order to be able to care for a loved one who could depend for life-sustaining care upon no one but the actor has been held to constitute

---

7/ In Tadayasu **Abo**, the court noted that the parties agreed that a combination of a number of factors led to the execution of the renunciations at the notorious Tule Lake camp, including threats and deplorable camp conditions. What disagreement there was, the court observed, concerned which factors were primary, and which subordinate, as to the effect and impact upon the plaintiffs. The court was of the view that: "such factors, singly or in combination, cast the taint of incompetency upon any act of renunciation made under their influence by Americans interned without Constitutional sanction, as were plaintiffs." 77 F. Supp. at 808. [Emphasis added.]

duress sufficient to negate the voluntariness to render the act involuntary. Mendelsohn v. Dulles, 207 F.2d 37 (D.C. Cir. 1953); Ryckman v. Acheson, 106 F. Supp 739 (S.D. Tex. 1952).

In the case before us, appellant unquestionably was influenced by others to renounce United States nationality, but the pertinent inquiry is whether the quantum of influence was sufficient to render her renunciation involuntary. The quantum of influence which would remove the act of renunciation from the sphere of free choice varies according to the character of the act. Akio Kuwahara v. Acheson, supra. There the plaintiff, a dual citizen of the United States and Japan, voted in an election in Japan because he feared the consequences if he disobeyed the instructions of the occupation authorities to vote. Addressing the issue of the degree of influence required to make such an act involuntary, the court said:

> ...For example, 'Committing any act of treason against, or attempting by force to overthrow or bearing arms against the United States * * *' subsection (h) [of the Nationality Act of 19401 should require a far greater degree of influence or compulsion to justify a finding that it was involuntary than would the act of voting in an election. Likewise, it would seem that being naturalized in a foreign state, subsection (a), or swearing allegiance to a foreign state, subsection (b), or serving in the armed forces of a foreign state, subsection (c), (particularly of an enemy country), **or** making a formal renunciation of nationality, subsection (f), all are acts which would require a higher degree of pressure than would the act of voting.

96 **F.** supp. at 42.

With respect to the issue of whether appellant renounced her citizenship voluntarily, the contemporary documentary evidence consists of two documents: (1) the statement of understanding in which appellant averred that she was acting voluntarily and (2) the supplemental affidavit in which she declared that no influence, force or coercion had been brought upon her. **As** we have seen, the Embassy, in reporting appellant's renunciation to the Department, did not comment on the circumstances surrounding it or offer any observations about appellant's demeanor or apparent state of mind.

In an affidavit executed on September 18, 1988, in connection with the appeal of another Black Hebrew, who also renounced citizenship in October 1986, the consular officer who administered the oath of renunciation to this appellant outlined the procedures hegenerally followed in 1986 in formal renunciation by Black Hebrews. After each renunciant had been given a copy of the statement of understanding and the supplemental affidavit, the ccnsular officer stated,

> ...I then took each person separately into my office where, in the presence of two Foreign Service Nationals, I conducted the interview which lasted up to an hour. I had the person read each question in the affidavit and Statement of Understanding and I discussed each question with him/her. I explained the seriousness of renunciation of citizenship and the consequences of being stateless. I informed the person that renunciation of citizenship is an irrevocable act and that the only way a renunciant could reacquire U.S. citizenship was through the naturalization process. I questioned the person about his motives in seeking to renounce his citizenship. The would-be renunciants, without exception, stated that they had come to renounce their citizenship voluntarily and were not under duress from any source. I would then offer the person additional time to think over his decision and presented the option of deciding not to renounce.
>
> If the renunciant still wished to proceed with the renunciation, I would have him execute the affidavit and Statement of Understanding. I asked the person to read the oath of renunciation. I would then offer a final opportunity to change his mind. If he chose to continue, I would administer the oath of renunciation and inform the renunciant that he was no longer a United states citizen.

The consular officer's statement indicates that in handling appellant's case he adhered the Department's guidelines governing formal renunciation. 8/ It does not, however, address this appellant's probable state of mind on October 15, 1986. To gauge whether appellant was coerced into making a formal renunciation of United States nationality we must examine all the relevant facts and circumstances.

Although there is no direct evidence to confirm appellant's contention that she was ordered by the Community leadership to renounce her citizenship, circumstantial evidence leaves little doubt that she acted in response to the instructions of the Community leadership. The Board takes note that since 1973 the Community has directed many members to renounce their citizenship. Approximately 360 have done so since 1973; 275 between 1985 and 1988. Those who have appealed loss of their nationality to the Board have given such consistent accounts of the pressure brought upon them as to lend credibility to this appellant's contention. 9/ Nor is there any question that appellant and the others who renounced when she did were escorted to the Embassy by a Community official who listened to the preliminary briefing about renunciation given the renunciants by the local employee of the Embassy. 10/ The presence of the community official, in our opinion, injects a coercive element into the picture.

8/ With respect to the procedures followed in her own case, appellant informed the Board that:

> At the time of my renunciation I was at the U.S. Embassy with four or five other members of the community (one that acted as the official community representative). At no time was I alone or not in earshot of someone that if I had questioned anything it would not have been overheard. Again, as I have stated ..., information regarding such matters always had a way of getting back to those same sources with whom I had to live.

9/ See Matter of M.E.G., February 13, 1986; Matter of I.Y.A., June 30, 1988; Matter of M.A.I., June 30, 1988; Matter of S.J.P., June 30, 1989; Matter of L.P.C., July 5, 1989; Matter of T.A.H., January 23, 1990; Matter of M.J.S., February 2, 1990; and Matter of V.P.A., Februry 22, 1990.

10/ See telegram to the Department from the Embassy, No. 14505, October 12, 1988, describing the Embassy's general procedures in such cases:

In short, several objective considerations lend credence to appellant's contention that she acted under the influence of others. It was at the direction of the Community that she renounced citizenship. She was taken to the Embassy by a Community official who waited while she renounced and then escorted her from the Embassy afterwards.

Not only is it probable that the Community leadership pressured her to renounce her citizenship. It also appears to have created concern in her mind that if she disobeyed, she might be deported and have to leave her children behind. In the circumstances she allegedly saw no alternative to renunciation. As she put it in her reply to the Department's brief:

> I maintain that for me not to have pursued the avenue of renunciation, would have placed me in a very painful, uncertain and undesirable position.

10/ (Cont'd.)

> One of Mr. Ben Ami Carter's [Community leader] 'Lieutenants' has escorted prospective renunciants (not exceeding four persons at one time) to the Embassy. He has remained with them in the CITSVCS interior waiting room until every one is interviewed separately, and has then escorted them out of the Embassy after the renunciation procedure is over. He is never present during the renunciation procedure.

The Board recognizes that the Embassy official who handled appellant's case was not in an easy position. Since expatriation is a "natural and inherent right" of all American citizens, the officer was constrained in how far he could *go* to discourage appellant. In accordance with the Department's instructions, he apparently made a fair effort to elicit and document expressions of voluntariness from appellant. (see note 2 supra.) Furthermore, given the many previous renunciations made by community members while an official of the community waited in the anteroom which the Department has approved, it is understandable that the official should not have felt he could act differently.

> Though I realized the gravity and complexity of my actions, I felt then and still feel now that for me to have followed any other course of action would have resulted in my having been deported or forced to leave the community without, my children.
>
> Though the renunciation of my **U.S.** citizenship was the most grave decision to be made from a legal stand point, it was the only avenue that I felt would secure my not being separated from my children until they were older and/or my husband decided to release them into my custody or he himself decided to leave the community. I am now in such a position.

Appellant concedes that theoretically she might have refused to renounce but asserts:

> ...Many individuals were not for this [renouncing citizenship] but knew if they were to remain in Israel as they desired and remain a part of the community had no other choice but to adhere to what was going on. A few did not go through with it and of the 1 or 2 still here that didn't, for most were in fact deported, life has not been made easy for them.

Appellant contends that in October 1986 three possibilities were open to her:

> a. renunciation of my U.S. citizenship in the hopes of avoiding deportation;
>
> b. not renouncing and risk deportation and an indefinite separation from my children and husband;
>
> c. return to the U.S. without my children as my husband would not release them into my custody.

Thus, renunciation seemed to her to be the only course that would ensure her not being separated from her children. In the circumstances we believe that renunciation was not the freely formulated design of appellant. Her position in relation to the Community was one characterized by weakness on

her side and strength on the Community's. Feebleness on one side and overpowering strength on the other imply duress." Yuichi Inanyo V. Clark, supra, at 1003.

It is not easy to determine whether the quantum of influence exerted by others upon appellant to renounce United States nationality was greater than that uhich was exerted upon plaintiffs in the Japanese voting cases cited above. But it seems to us it was. In the Japanese voting cases, the plaintiffs might or might not have suffered loss of ration cards; at least that is what they allegedly feared. In some cases they said they also feared that they might be discriminated against to return to the United States if they did not vote, as instructed. Yet it is interesting to note that in Takano V. Dulles, supra, at 309, the court observed that: "..,Further evidence brought out on cross examination revealed that there was no actual threat of bodily harm, or loss of job, or loss of food, if she failed to vote, nor had she ever heard of anyone losing a ration card for failure to vote at a Japanese election." It seems to us that in the circumstances of tho case before us, the influence exerted on appellant was more directly menacing than that involved in the voting cases. Appellant was after all singled out by the Community to renounce; in the Japanese cases the plaintiffs were reacting to a generalized injunction of the occupation authorities to vote.

Examination of all the relevant facts and circumstances leaves us in doubt whether appellant renounced United States nationality as a result of free and intelligent choice. Rather, we consider that her renunciation was tainted; it resulted from the compulsion of others. As such it cannot be considered voluntary.

We thus conclude that appellant has rebutted the presumption that she renounced her United States citizenship voluntarily. Accordingly, since she has succeeded in proving that her act was not voluntary, there can be no expatriation. Vance V. Terrazas, 444 U.S. at 270.

IV

The Department's determination that appellant expatriated herself is hereby reversed.

Alan G. James, Chairman.

Edward G. Misey, Member

George Taft, Member