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** CONCURRING OPINION of _____
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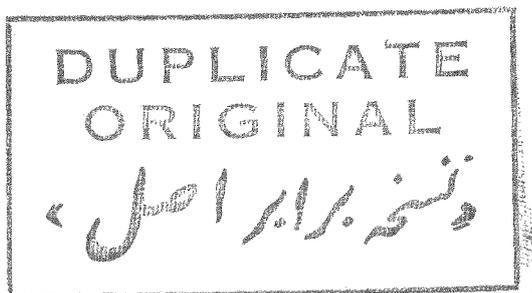
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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعوی ایران - ایالات متحدہ



CASE NO. 413
CHAMBER THREE
AWARD NO. 508-413-3

ALEX ARJAD,
Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,
Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داوری دعوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	22 APR 1991
	تاریخ ۱۳۷۰ / ۲ / ۲

AWARD

I. THE PROCEEDINGS

1. On 18 January 1982 ALEX ARJAD (the "Claimant") filed a Statement of Claim against THE ISLAMIC REPUBLIC OF IRAN ("Iran") claiming a total of U.S.\$23,500,000 for the alleged expropriation of his interests in a bank, a business and real property in Iran. Iran submitted its Statement of Defense on 3 January 1983.

2. In April 1984 the Full Tribunal issued a decision in Case No. A18, Decision No. DEC 32-A18-FT, p.25 (6 April 1984), reprinted in 5 Iran-U.S. C.T.R. 251, 265, in which it determined that "it has jurisdiction over claims against Iran by dual Iran-United States nationals when the dominant and effective nationality of the claimant during the relevant period from the date the claim arose until 19 January 1981 was that of the United States."

3. On 28 June 1985 the Tribunal requested the Claimant to submit all written evidence he wished the Tribunal to consider in determining his nationality and his dominant and effective nationality. The Claimant on 19 December 1985 filed his "Evidence Re Dominant Nationality of Alex Arjad," consisting of a three page statement and copies of several pages from his Iranian passport. Thereafter the Tribunal invited Iran to file "all evidence that it wishes the Tribunal to consider on the issue of the Claimant's nationality." On 25 September 1986 the Claimant filed another three page statement. After granting three extensions to the original deadline set for Iran's filing, the Tribunal on 6 February 1987 denied Iran's fourth request for extension and informed the Parties that it intended to proceed with its deliberations on the issues of jurisdiction in this Case as soon as its schedule permitted on the basis of the evidence then before it, pursuant to Article 28, paragraph 3, of the Tribunal Rules.

4. On 17 February 1989 Iran submitted a memorial on the issue of the Claimant's nationality, which asserts, inter alia, that he has failed to produce evidence of his alleged United States nationality and/or evidence in support of the description of his economic and social life in the United States.

II. FACTUAL BACKGROUND

5. It appears from the Claimant's Iranian passport that he was born in Iran in 1916. He alleges that he came to the United States from Iran in June 1975 and was naturalized a citizen of the United States on 6 August 1979. He states that he has not been in Iran since May 1978.

6. The Claimant's wife allegedly is a citizen of the United States, having been naturalized in 1980. She purportedly has been in the United States continuously since 1978. Claimant states that prior to leaving Iran he sold the family home, automobiles and other personal effects. He claims to have maintained a home in a suburb of Los Angeles since 1976. Further, he claims that his three children were educated in the United States, and that he is a partner in several businesses in the Los Angeles area. Since 1976 the Claimant allegedly has held a social security number and paid taxes in the United States. The Claimant asserts that he has voted in all elections in the United States in which he was able to vote since his registration as a voter in 1980.

7. The Claimant maintains that the only property that he owns in Iran is that which is the subject of his claim before the Tribunal. He states that he has had no contact with Iran since 1978.

III. THE TRIBUNAL'S DECISION

8. In accordance with the various criteria set forth by the Full Tribunal in Case No. A18, supra, the Tribunal must first determine on the basis of the evidence whether the Claimant was, during the period from the date on which his claim arose until the date of the Claims Settlement Declaration, 19 January 1981, a national of the United States or of Iran or of both countries.

9. The only documentary submission upon which the Claimant relies consists of copies of several pages from his Iranian passport, allegedly showing his residence in the United States. The record indicates that the Claimant has offered to submit documentary evidence to the Tribunal to support his claim that his dominant nationality is that of the United States. The Tribunal by its Order of 28 June 1985, however, specifically requested that the Claimant submit "all written evidence it [sic] wishes the Tribunal to consider in determining whether the Claimant is a national of the United States of America or of the Islamic Republic of Iran, or of both, and, in case the Claimant is a national of both, the Claimant's dominant and effective nationality." In response to this Order, the Claimant elected to submit only the three page statement and the copies of several pages from his Iranian passport. Iran in its filing of 17 February 1989 contested the Claimant's United States nationality, pointing out that the "Claimant [has] presented no such evidence to the Tribunal." Following this submission, however, the Claimant still did not supplement his evidence.

10. The Tribunal notes that "[i]t was the particular burden of the Claimant to substantiate his claim with supporting evidence of his United States nationality during the relevant period." David Harounian and The Government of the Islamic Republic of Iran, Award No. 450-447-3, para. 11 (27

Nov. 1989), reprinted in Iran-U.S. C.T.R. , .
Although the Tribunal has provided the Claimant with adequate opportunities to submit such evidence, the record is devoid of documentary evidence supporting the Claimant's United States nationality or, for that matter, the dominance of that nationality. Therefore, the Tribunal concludes that the Claimant has failed to establish his United States nationality as required by Article VII, Paragraph 1, of the Claims Settlement Declaration. Consequently, his claim is dismissed for lack of jurisdiction.

IV. AWARD

11. In view of the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

- a. The Claim of the Claimant ALEX ARJAD against the Respondent THE ISLAMIC REPUBLIC OF IRAN is dismissed for lack of jurisdiction.
- b. Each Party shall bear its own costs of arbitration.

Dated, The Hague
22 April 1991



Gaetano Arangio-Ruiz
Chairman
Chamber Three

In The Name of God



Richard C. Allison

Mohsen Aghahosseini