

1 HEARING HELD: April 28, 1983

2 THE COURT: Continued hearing directed on my own motion, in the case
3 of Karl Linnas - A8 085 626. Mr. Berzins is present for the respondent,
4 Jeffrey Mausner of the Office of Special Investigations in Washington is
5 here representing Mr. Sher, is that right Mr. Berzins?

6 MR. BERZINS: Yes, Your Honor.

7 THE COURT: Mr. Mausner?

8 MR. MAUSNER: Yes, Your Honor.

9 THE COURT: And I've called the parties in for this specific purpose
10 of taking in evidence the response from the State Department to the
11 application for political asylum. A copy of such statement, letter of
12 March 30th, '83 was furnished to Mr. Berzins and I'm furnishing a copy
13 to Mr. Mausner. Is there any objection if the response was received in
14 evidence as Exhibit #34?

15 MR. MAUSNER: The Government has no objection, Your Honor.

16 MR. BERZINS: No objection, Your Honor.

17 THE COURT: EXHIBIT 34 is response, so received...response from
18 State Department. Mr. Mausner, I want to inform you that Mr. Berzins has
19 designated the Republic of Estonia as the country of deportation and that's
20 in Exhibit 33, correct Mr. Berzins?

21 MR. BERZINS: Yes, Your Honor.

22 THE COURT: Does the Government wish any special designation since the
23 Order to Show Cause alleges stateless?

24 MR. MAUSNER: Yes, Your Honor, it is the Government's position that the
25 defendant is stateless and for that reason the Government then goes on to
26 the next alternative of countries that are designated under section 243 of

1 the Immigration and Nationality Act, and would designate the Union of
2 Soviet Socialist Republics under section 243(a)(4)...

3 MR. BERZINS: Your Honor...

4 THE COURT: Yes, Mr. Berzins?

5 MR. BERZINS: May I be heard on that point? I think the Government
6 is mistaken in its belief that the respondent is stateless. The respondent
7 does have in his possession a current and valid passport of the Republic
8 of Estonia, which is still recognized by the Government as these
9 (unintelligible) of the United States. So he could not conceivably be
10 stateless, he carries a valid Estonian passport...

11 THE COURT: All right, assuming counsel...

12 MR. BERZINS: which can be produced, Your Honor.

13 THE COURT: Assuming he could not be removed if he were found
14 deportable and if he had to be deported and he couldn't be removed to the
15 Republic of Estonia for various political reasons. The Government is
16 entitled to have a alternative choice. Assuming...because you made the
17 designation and the Government is required to deport him to that country
18 if he's found deportable. However, if they cannot move him to the
19 Republic of Estonia, then the other choice is under section 243, can be
20 utilized.

21 MR. BERZINS: I beg to differ with Your Honor's interpretation of
22 the law. I believe that the first choice has to be exhausted before we can
23 go to the next choice.

24 THE COURT: Oh absolutely, this is just to anticipate...assuming the
25 Republic of Estonia will not or cannot accept the respondent, then there is
26 alternative relief so we don't need another hearing.