

Whether a passport can be revoked or not has been a major question since the mid- 1800's. Haig v. Agee is a landmark Supreme Court case charging that the Secretary of State can not revoke a passport on the grounds that the power has never been granted by the Congress to the Secretary, and that revoking a passport violates the first and fifth amendments of the Constitution of the United States. Not only does the Secretary of State have implied powers, but revoking Agee's passport did not violate any laws or rights.

In Haig v. Agee, the defendant claims that the Passport Act of 1926 does not grant the Secretary of State the right to revoke passports. However, the Passport Act does state that the Secretary of State is the only person who can grant and withhold passport applications. And based upon later provisions, the Secretary can withhold applications if the party is involved with illegal activities. If the Secretary of State can grant and withhold passports, was it implied by the Congress that the Secretary has the powers to revoke passports?

"The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic representatives of the United States . . . under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports." 22 U.S.C. 211a (1976 ed., Supp. IV).

Since the Congress did not specify who has the powers to revoke passports, it should be assumed that because the Secretary is the only person who can grant passports, they are the only ones who can revoke passports on grounds of illegal activities, such as treason. If you consider that Agee's passport was revoked because he was uncovering secret CIA agents, he was undoubtedly committing treason. Though treason is usually considered to be evident during times of war, treason can also be defined as placing national security in jeopardy, such as the case of Agee. Agee's passport should not only have been taken, he should have been extradited and tried by a jury for the crime of treason.

Agee also claims that since the power to revoke passports was not directly given to the Secretary of State or the President, then in order to show they have the power, they must have revoked many passports in the past and have the Congress' approval. However, the need to revoke passports on the grounds of treason has not come up many times before; There is always a first and Agee might just have been it. The Congress did show approval when they voted to approve the President's provisions and amendments on the matter of revoking passports in 1978. This shows that the Congress agrees that the Executive branch has been recognized as having the power to revoke passports.

By revoking a passport, the government is not infringing on the party's first amendment rights, freedom of speech. The party involved is merely being told that they cannot leave the country, not that they cannot speak out against the government. For example, if a person is sentenced to jail, they cannot roam around the world, but they can speak out against the government. Revoking Agee's passport only limits where he can go, not what he can say; This does not infringe on any of his rights granted in the Constitution. Revoking a passport also does not infringe upon the fifth amendment because illegal activities are involved. For example, if you commit a crime, the police do not wait until after you go before a judge and/or jury before they put you in jail; They immediately incarcerate you as a precautionary move. Revoking a passport on grounds of national security does not require a hearing before hand because it is only a precautionary move.

Agee's grounds for suit are totally ludicrous. None of his rights have been violated, considering that he should have none because he is committing treason by revealing secrets of the United States and by compromising national security. Congress may not have said exactly who has the power to revoke passports, but they did mention that the Secretary of state is the only person who can grant and verify them; Why wouldn't the Secretary of State be the only person who can revoke them?

Sources:

U.S. Supreme Court, HAIG v. AGEE, 453 U.S. 280 (1981)