



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
)	ISCR Case No. 06-25928
SSN:)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Daniel F. Crowley, Esquire, Department Counsel
For Applicant: *Pro Se*

June 16, 2008

Decision

RIVERA, Juan J., Administrative Judge:

Applicant mitigated the foreign preference and foreign influence security concerns arising from his relationship and contacts with Ecuadorian citizens. Eligibility for access to classified information is granted.

Statement of the Case

On June 4, 2007, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) alleging facts and security concerns under Guideline B (Foreign Influence), and Guideline C (Foreign Preference). The SOR informed Applicant that based on available information, DOHA adjudicators could not make a preliminary affirmative finding that it is clearly consistent with the national interest to grant him access to classified information and submitted the case to an administrative judge for a security determination.¹ On June 21, 2007, Applicant answered the SOR and requested a hearing.

¹ The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the

The case was assigned to me on September 4, 2007. Applicant is a resident of the Republic of Colombia (Colombia). On or about September 11, 2007, Applicant elected to have his hearing conducted via video tele-conference (VTC). On September 21, 2007, a Notice of Hearing was issued convening a VTC hearing on October 10, 2007. The hearing was convened as scheduled. The government presented two exhibits, marked GE 1 and 2, to support the SOR. At his hearing, Applicant testified on his own behalf and presented no witnesses or exhibits. I allowed Applicant additional time to present post-hearing submissions. He availed himself of the opportunity and submitted one exhibit, marked AE 1. DOHA received the transcript on October 18, 2007. I issued a decision denying a clearance on November 20, 2007.

APPELLATE LITIGATION

Applicant appealed my decision to deny his clearance. On April 9, 2008, the Appeal Board remanded Applicant's case for a new decision.² In his appeal, Applicant challenged some of my findings of facts contending they were not based upon substantial evidence. After reviewing the record as a whole, the Appeal Board resolved the issue against Applicant indicating that "to the extent that the Judge's findings for fact contain error, it is harmless."³ I will not restate in this decision the facts in the same detail as they were covered in my first decision.

The Appeal Board remanded Applicant's case for the issuance of a new decision which discusses whether or not Applicant's circumstances fall within precedent established by certain Appeal Board cases, and if so, to what extent. The Appeal Board has stated that:

As a general rule, an applicant's prior history of complying with security procedures and regulations is considered to be of relatively low probative value for the purposes of refuting, mitigating, or extenuating the security concerns raised by that applicant's more immediate disqualifying conduct or circumstances. See, e.g., ISCR Case No. 01-03357 at 4 (App. Bd. Dec. 13, 2005); ISCR Case No. 02-10113 at 5 (App. Bd. Mar. 25, 2005); ISCR Case No. 03-10955 at 2-3 (App. Bd. May 30, 2006). However, the Board has recognized an exception to that general rule in Guideline B cases, where the applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurred in the context of dangerous, high-risk circumstances in which the applicant had made a significant contribution to the national security. See, e.g., ISCR Case No. 04-12363 at 2 (App. Bd. July 14, 2006); ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006); ISCR Case No. 07-00034 at 3

revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

² The briefs filed by the parties were not part of the file provided to me.

³ ISCR Case No. 06-25928 at 2 (App. Bd. Apr. 9, 2008).

(App. Bd. Feb. 5, 2008). The presence of such circumstances can give credibility to an applicant's assertion that he can be relied upon to recognize, resist, and report attempts at coercion or exploitation. *Id.*

When an "Applicant has repeatedly been willing to assume a high level of risk on behalf of the U.S., [his behavior] constitute[s] important evidence that Applicant's ties and sense of obligation to the U.S. could be sufficiently strong that he "[could] be expected to resolve any conflict of interest in favor of the U.S. . Directive ¶ E2.8(b). See ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006.) (Applicant's work as an interpreter in Afghanistan occurred "in the context of dangerous, high-risk circumstances in which [he] made a significant contribution to the national security.") See *also* ISCR Case No. 04-12363 (App. Bd. Jul. 14, 2006); ISCR Case No. 07-00034 (App. Bd. Feb. 5, 2008).

ISCR Case No. 06-25928 at 3-4 (App. Bd. Apr. 9, 2008) (footnotes omitted).

Findings of Fact

Applicant admitted all the SOR allegations. His admissions are incorporated herein as findings of facts. After a thorough review of Applicant's testimony and the record evidence, I make the following additional findings of facts.

Applicant is a 43-year-old employee of a U.S. defense contractor providing support for a U.S. agency in Columbia. He was born, raised, and educated in Ecuador. He served approximately six years in the Ecuadorian military forces where he received the equivalent of a college education.

At age 25, Applicant studied in the United States for approximately one year under a student visa (Tr. 40). From around 1989 to 1991, he lived in Ecuador and worked for several Ecuadorian companies. His job allowed him to travel frequently to the United States. In the early 1990s, he moved to the United States to attend further education/training and to work for several U.S. companies. In September 2001, Applicant was undergoing training while working in the United States and was furloughed along with 3,000 other employees across the United States. Between 2001 and 2003, he was forced to take other jobs to make ends meet. In 2003, he was hired by his current employer, a defense contractor, to provide services to a U.S. agency in Colombia. He moved his wife and three children to Colombia to be close to them.

Applicant became a naturalized U.S. citizen in December 2003, and was issued his U.S. passport that same month. His wife is a citizen of Ecuador, a registered legal alien in the United States, and currently a resident of Colombia. He has one step-child born in Ecuador, who is a U.S. resident alien. Another child is a dual citizen of Ecuador and the United States, and the third child was born in the United States. Applicant and his wife have bank accounts in Ecuador and Colombia to pay for their day-to-day living expenses while they are living in one of these countries. They have approximately

\$4,000 in a savings account in Colombia. They also have a \$1,000 savings account in Ecuador, and his wife has a certificate of deposit for \$10,000, resulting from the sale of her automobile (Tr. 34).

Applicant moved his family from the United States to Colombia because of his job for a defense contractor. Applicant bought a small apartment in Colombia with a value of approximately \$150,000. Applicant and his wife do not consider Colombia their home. They reside in Colombia only because of his job. They intend to sell all their property in Colombia when he gets recalled to work for his prior U.S. employer. When that happens, he intends to return to live in the United States and to retire in the United States (Tr. 96). Applicant owns a condominium in the United States with an approximate value of \$300,000. Additionally, he has approximately \$9,000 invested in stocks in the United States (Tr. 83).

Applicant's parents, most of his extended family members, his wife's parents, and her extended family members are citizens and residents of Ecuador. His father retired after 21 years working for a U.S. agency doing business in Ecuador (Tr. 38). He currently works for several U.S. private companies doing business in Ecuador, and as a consultant. His father inculcated in Applicant the idea of coming to live in the United States and becoming a U.S. citizen (Tr. 37-38).

His father would like to live in the United States (Tr. 57). His mother is a homemaker. Applicant contacts his parents once a week via the Internet. His parents visited Applicant in Colombia in 2005. At least once a year since he left Ecuador, Applicant and his family have traveled to Ecuador to visit their family members during vacations, holidays and on special occasions. They allot their time in Ecuador visiting their respective family members and friends.

Applicant's sister is a clothing high fashion designer. She is married to an Ecuadorian senior military officer who was Applicant's classmate. The senior military officer has sensitive responsibilities in Ecuador (Tr. 59, 94). Applicant has contact with his sister and her family whenever he travels to Ecuador, at least two to three times a year, during holidays, birthdays, and special occasions (Tr. 61). His last visit was during the 2006 Christmas holidays (Tr. 60). Applicant and his wife contact her family at least twice a month, as well as during their trips to Ecuador, and during holidays, birthdays, and special occasions (Tr. 62).

On his father's side, Applicant has 11 uncles and aunts; on his mother's side he has three uncles and aunts. One of his uncles is a U.S. citizen, and another is a U.S. legal resident. His remaining relatives are all citizens and residents of Ecuador. To Applicant's knowledge, none of his uncles or aunts works or has worked for the Ecuadorian government. Applicant keeps in contact with a friend who is a senior field grade officer in the Ecuadorian military. They keep contact with each other via e-mail approximately once every three months.

In 2005, when Applicant submitted his security clearance application, he disclosed he was in possession of a valid Ecuadorian passport. He used his Ecuadorian passport, in preference to his U.S. passport, to travel to Ecuador in December 2003 and June 2004. He was made aware of the security clearance concerns raised by his possession and use of an Ecuadorian passport. He promised his agency's regional security officer he would not use his Ecuadorian passport again, and volunteered to surrender it and to renounce his citizenship, if necessary (Tr. 48, 98). Applicant was in possession of a valid Ecuadorian passport the day of his hearing. He volunteered to surrender his Ecuadorian passport at any time he was asked to do so (Tr. 51). There is no evidence he used his Ecuadorian passport after he was informed of the security concerns raised by it in 2005. At his hearing, Applicant reiterated his willingness to surrender the passport and to renounce his Ecuadorian citizenship. On October 22, 2007, Applicant surrendered his Ecuadorian passport to his company's facility security officer for safekeeping (AE 1).²

Applicant introduced statements from a supervisor and two U.S. government agency officials attesting to the significant and dangerous work Applicant has done on behalf of the United States. His program manager, a retired Army lieutenant colonel, manages a substantial contract for a government agency involved in sensitive operations. He closely supervised Applicant for approximately four years. He considers Applicant a highly skilled employee who has consistently performed in an outstanding manner. Applicant earned his manager's trust and respect because of his character and highly ethical conduct. Applicant worked in a position of trust while performing critical operations that required the handling of classified information. His manager endorses Applicant's clearance without hesitation.⁴

The first of the other two character references worked for a U.S. state police department for eight years, and has been working for a government agency for 10 years. He has known Applicant for approximately two years. He is impressed by Applicant's judgment, professionalism, and skills. Applicant has demonstrated unswerving dedication to the mission of the government agency and the United States. He commended Applicant for his judgment while literally making life and death decision during every mission.⁵

The third reference is a retired U.S. Navy Senior Chief, currently working for a government agency. He has known Applicant for approximately one year. He believes Applicant has unquestionable dedication to the United States and its mission. He considers Applicant to be completely trustworthy and a valued friend. Moreover, he

² I left the record open to allow Applicant additional time to submit information for my consideration. He submitted statements from three character references and a letter from his company's facility security officer. Department Counsel did not object to me considering any of the documents. I marked Department Counsel's forwarding memorandum, as well as the documents submitted as AE 1, and admitted them into the record.

⁴ AE 1 at 3.

⁵ AE 1 at 5.

commended Applicant for serving the United States at the risk of his own personal safety.⁶ All of them consider Applicant a dedicated family man.

I take administrative notice of the following facts. Ecuador is a constitutional republic with a democratically elected government. The government generally respects the human rights of its citizens. However, the country continues to experience serious human rights problems including improper conduct by security forces, criminal activity in the National Police, corruption and denial of due process in the judicial system. The United States and Ecuador have maintained close ties based on mutual interests in maintaining democratic institutions; combating narcotrafficking; and cooperating in fostering Ecuador's economic development by building trade, investment, and financial ties.

The United States has long enjoyed favorable relations with Colombia. The United States provides substantial support to the Colombian government's counter-narcotics efforts, and encourages the government's efforts to strengthen its democratic institutions in order to promote security, stability, and prosperity in the region. Although the government's respect for human rights continues to improve, serious problems remain, including: unlawful and extrajudicial killings, forced disappearances, insubordinate military personnel who collaborate with criminal groups, torture and mistreatment of detainees, and other serious human rights abuses. Illegal armed groups and terrorist groups committed the majority of human rights violations—including political killings and kidnappings, forced disappearances, torture, and other serious human rights abuses. Violence by narcoterrorist groups and other criminal elements continues to affect all parts of the country, urban and rural, including border areas. Citizens of the United States and other countries continue to be victims of threats, kidnapping, and other criminal acts. Since 1998, at least ten U.S. citizens have been kidnapped near Ecuador's border with Colombia.

The U.S. Secretary of State has designated three Colombian groups – the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC) – as Foreign Terrorist Organizations. These groups have carried out bombings and other attacks in and around major urban areas, including against civilian targets. Terrorist groups have also targeted critical infrastructure (e.g., water, oil, gas, and electricity), public recreational areas, and modes of transportation.

Policies

The purpose of a security clearance decision is to resolve whether it is clearly consistent with the national interest to grant or continue an applicant's eligibility for access to classified information.⁷

⁶ AE 1 at 7.

⁷ See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's controlling adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The Administrative Judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security."⁸ In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

⁸ *Egan, supra*, at 528, 531.

Analysis

Guideline C, Foreign Preference

Under Guideline C the government's concern is that "[w]hen an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States." AG ¶ 9.

Applicant considers himself a dual citizen of the United States and Ecuador. His military service in Ecuador was before he became a naturalized U.S. citizen in 2003. Since approximately 1991, he has made the United States his home. Applicant's possession and use of an Ecuadorian passport in preference of his U.S. passport, however, constitute an exercise of dual citizenship and raises security concerns under Guideline C. Foreign preference disqualifying condition AG 10(a): *exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes . . . (1): possession of a current foreign passport, applies.*

Since 2005, Applicant has stated his intent to surrender his Ecuadorian passport and to renounce his Ecuadorian citizenship. In October 2007, he surrendered his Ecuadorian passport to his FSO. By surrendering his passport, he forfeits the flexibility of unfettered and undocumented travel. Any attempt by Applicant to retrieve his Ecuadorian passport will be documented and reported to the U.S. Government. These facts warrant application of Foreign Preference Mitigating Conditions AG ¶ 11.b: *the individual has expressed a willingness to renounce dual citizenship;* and AG ¶ 11e.: *the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.* I find that Applicant's FSO qualifies under the AGs as the "cognizant security authority." Applicant has mitigated the foreign preference security concerns.

Guideline B, Foreign Influence

Under Guideline B, the government's concern is that:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, he or she may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 6.

AG ¶ 7 sets out conditions that could raise a security concern and may be disqualifying. In this case, the most pertinent are:

- a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information; . . . ,
- (d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and,
- (e) a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.⁹ Applicant has frequent contacts and a close relationship of affection and/or obligation with his parents, sister, extended family members, friends in the Ecuadorian military, and his parents-in-law who are residents and citizens of Ecuador. His wife is a foreign national. He has property in Colombia. His connection to his family members and his wife's family, as well as his relationship with several Ecuadorian military officers create a potential conflict of interest because his relationships are sufficiently close to raise a security concern about his desire to help them or the government of Ecuador by providing sensitive or classified information.

The government produced substantial evidence raising four potentially disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. The burden of disproving a mitigating condition never shifts to the government.

I considered five foreign influence mitigating conditions under AG ¶ 8 as potentially applicable to the disqualifying conditions in this case:

⁹ See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority . . . ;

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

The evidence shows Applicant has strong feelings of affection and a strong sense of obligation to his spouse, parents, sister, extended family and friends in Ecuador, as well as to his in-laws. The closeness of the relationship is shown by Applicant's frequent telephone and e-mail contacts. His frequent travels to Ecuador with his wife and kids to visit their family and friends underscores his deep feelings of affection and/or obligation to his family. Moreover, Applicant's close contacts with senior Ecuadorian military personnel (his brother-in-law and his friends) increase the security concerns.

In deciding whether Applicant's family members are in a position to be exploited, I considered Ecuador's democratic form of government.¹⁰ I also considered that the United States and Ecuador have maintained close ties based on mutual interests in maintaining democratic institutions; combating narco trafficking; and cooperating in fostering Ecuador's economic development. There is no evidence that the government of Ecuador possesses an aggressive or hostile intelligence/security profile against the United States, or is otherwise engaged in efforts to acquire military, technical, or economic information from the United States.

¹⁰ The focus is not the country or its people, but its rulers and the nature of the government they impose. This approach recognizes that it makes sense to treat each country in accordance with the level of security concern or threat it presents to the United States.

Considering the totality of the circumstances, I find AG ¶¶ 8(a) and (c) apply but only to a certain extent. His frequent contacts and close relationships with his Ecuadorian family, in-laws, and Ecuadorian military officers could potentially force him to choose between the United States interests and those of Ecuador. Applicant did not fully establish it is unlikely he will be placed in a position of having to choose between the interests of his family and friends in Ecuador and the interests of the United States.

AG ¶ 8(b) applies because Applicant has a longstanding relationship and loyalty towards the United States. His father inculcated in him the desire to become an American. Applicant resigned his position in the Ecuadorian military to work in the United States, and he has been living in the United States with his wife and children since around 1991. The only reason he is currently living in Colombia is because of his job with a defense contractor providing services for a U.S. agency.

Moreover, Applicant's evidence convincingly established that he has been willingly assuming a high level of risk while working on behalf of the United States. He has demonstrated to several officials of another agency that he can be trusted to comply with security procedures and regulations while working on dangerous, high-risk missions for the United States. His past behavior convinces me that his ties and sense of obligation to the United States is sufficiently strong that he could be expected to resolve any conflict of interest in favor of the United States.⁹ It also gives credibility to his assertions that he can be relied upon to recognize, resist, and report attempts at coercion or exploitation from family and friends living in foreign countries.¹⁰

AG ¶ 8(f) applies because Applicant's financial/economic interests in Ecuador and Colombia are outweighed by the value of his financial interests in the United States. I find his financial/economic interests in both Ecuador and Colombia are not likely to result in a conflict of interest, and could not be used effectively to influence or pressure Applicant.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the

⁹ Directive ¶ E2. 8(b). See ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006.) (Applicant's work as an interpreter in Afghanistan occurred "in the context of dangerous, high-risk circumstances in which [he] made a significant contribution to the national security.") See also ISCR Case No. 04-12363 (App. Bd. Jul. 14, 2006); ISCR Case No. 07-00034 (App. Bd. Feb. 5, 2008).

¹⁰ *Id.*

individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I have carefully weighed all evidence, and I applied the disqualifying and mitigating conditions as listed under the applicable AGs. I specifically considered Applicant's testimony as well as his references' statements. Applicant is a U.S. citizen and two of his children are U.S. citizens. I considered his age, occupation, the period of time he has been living in the United States, and his professed intent to make the United States his home and to retire in the United States. I considered Applicant's outstanding job performance for his current employer, and that he is highly regarded for his unswerving dedication, trustworthiness, and judgment.

Applicant has established by credible, independent evidence that he has can be trusted to comply with security procedures and regulations while working on dangerous, high-risk missions on behalf of the United States. Applicant's past behavior under these dangerous circumstances shows that he can be relied upon to recognize, resist, and report attempts at coercion or exploitation from family and friends living in foreign countries. Applicant's ties and sense of obligation to the United States is sufficiently strong that he could be expected to resolve any conflict of interest in favor of the United States.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude he has mitigated the security concerns pertaining to foreign preference and foreign influence.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 1.a-1.w:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant's security clearance. Eligibility for access to classified information is granted.

JUAN J. RIVERA
Administrative Judge