

DATE: October 24, 2007

In re:)
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 SSN: -----)
)
 Applicant for Security Clearance)

ISCR Case No. 07-01317

**DECISION OF ADMINISTRATIVE JUDGE
SHARI DAM**

APPEARANCES

FOR GOVERNMENT

Caroline H. Jeffreys, Esq., Department Counsel

FOR APPLICANT

Sherry Perry, Personal Representative

SYNOPSIS

Applicant emigrated from Kurdistan, Iraq to the United States in 1962 to attend school. He became a U.S. citizen in 1972. His wife is a resident alien of the United States, awaiting citizenship. They have five children, three of whom were born in the United States. One of the children is a citizen resident of Canada. One of the U.S. born children lives in the United Arab Emirates with her Iraqi husband. Applicant's brother and mother-in-law are citizen residents of Kurdistan, Iraq. Applicant worked in Iraq from 1976 until 1994 on a special project for the Iraqi government and then worked in Jordan for a short time. In 1995, he returned home to the United States. From 2003 to 2006, he worked in Iraq as a translator for the U.S. Army. He has much stronger ties to the United States than to Iraq. He mitigated security concerns pertaining to foreign influence. Clearance is granted.

STATEMENT OF THE CASE

On February 25, 2006, Applicant submitted a Security Clearance Application (SF 86).¹ On June 22, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him,² pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised.³ The SOR alleges security concerns under Guideline B (Foreign Influence). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In an answer notarized on July 10, 2007, Applicant responded to the SOR allegations, and elected to have his case decided at a hearing.⁴ On August 21, 2007, the case was assigned to me. On August 24, 2007, DOHA issued a Notice of Hearing, scheduling the hearing for September 11, 2007. At the hearing, Department Counsel introduced Government Exhibits (GX) 1 and 2 into evidence. Applicant introduced Applicant Exhibits (AX) A through M into evidence. DOHA received the hearing transcript (Tr.) on September 20, 2007.

PROCEDURAL RULINGS

Administrative Notice

Department Counsel requested administrative notice of the facts in GX 3.⁵ Department Counsel also provided supporting documents to show the basis for the facts in GX 3. (GX I to IV and VI to XI—listed in GX 3).

¹GX 1 (Electronic Standard Form (SF) 86, Security Clearance Application).

²Statement of Reasons (SOR), dated June 22, 2007, is the source for the facts in the remainder of this paragraph unless stated otherwise.

³On August 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guidelines to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated January 1987, as amended, in which the SOR was issued on or after September 1, 2006. Applicant's case is resolved under the revised Adjudicative Guidelines.

⁴Applicant's response to SOR, notarized on July 10, 2007, received at DOHA on July 16, 2007.

⁵I marked the pleading "Administrative Notice" as GX 3, post hearing for purposes of clarity.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. *See* ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. *See* Stein, ADMINISTRATIVE LAW, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). I took administrative notice of various facts derived from GX 3 as indicated under subheadings “Iraq” and “United Arab Emirates” of this decision.

FINDINGS OF FACT

Applicant admitted the underlying facts in the SOR with clarifications of certain facts.⁶ His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is 76 years old.⁷ He was born in Kurdistan, Iraq. He is a Kurd. (Tr. 15). In 1952, the Iraqi government sent him to engineering school in England because he received the second highest grade in the Iraqi high school system. (Tr. 16). He completed his studies in 1956 and returned to Iraq. (GX 2 at 4). In 1962, the Iraqi government gave him a scholarship to attend an American University to further his studies in high voltage engineering. (Tr. 30). Shortly after arriving in the United States, he learned that he lost his funding and was notified that he should return to Iraq. He subsequently met a U.S. Congressman, who found him a job and housing. He remained in the United States and obtained a Bachelor of Science degree. He became a U.S. citizen in 1972. (GX 2 at 2).

While attending school, Applicant volunteered to work with the U.S. Army ROTC Counter-guerrilla Unit. From approximately 1963 until 1966, he instructed members of the ROTC in the area of unconventional warfare, mountain and desert operations. (AX G). He learned those military skills during the training he received as a young Kurdish man in Iraq. (Tr. 58).

In 1976, Applicant returned to Iraq to work for the Iraqi government because he could not obtain sufficient work in the United States in his specialty. (Tr. 17). In his position as an electrical engineer, he was responsible for installing electricity throughout Iraq. While there, he attended the University of Baghdad and obtained a master’s degree and Ph. D. in electrical engineering. As he was no longer an Iraqi citizen, he paid for his education and did not receive assistance from the Iraqi

⁶GX 1, *supra* n. 4.

⁷GX. 1, *supra* n. 1, is the source for the facts in this paragraph, unless otherwise stated.

government. (Tr. 31). He and his family returned to the United States many times over the course of those years, using his U.S. passport to travel. (Tr. 50). They lived in Iraq as U.S. citizens until 1994. (GX 2 at 4). He no longer has connections with any of the friends or people he knew during those years in Iraq. (GX 2 at 8).

After completing the project for the Iraqi government, Applicant went to Jordan for two years, where he became the managing director of an engineering business, owned by a Jordanian, who was doing business with the United States. (Tr. 34; 53). While there, he traveled back and forth between Jordan and the United States because his family had returned to their home in the United States. (GX 2 at 5). Since completing the work in Jordan in 1995, he has lived in the United States. (Tr. 18).

Applicant is married to an Iraqi citizen, who came to the United States in the 1960's. (Tr. 27). She has been a resident alien of the United States since 1995, and awaits U.S. citizenship. (Tr. 19). They have five children. Two daughters were born in Iraq, and the other three children (two daughters and a son) were born in the United States. Of the two daughters born in Iraq, one is a naturalized citizen resident of Canada, and the other (his personal representative) is a naturalized U.S. citizen. (Tr. 19). One of the U.S. born daughters currently resides in the United Arab Emirates (UAE) with her Iraqi husband and family. She previously lived in Iraq for many years, but left about two years ago because of the hostility towards American citizens. (Tr. 46). The last time he saw her was in 2003 while working in Iraq. He speaks to her about twice a month regarding family matters. (Tr. 28; 43). His U.S. born son and one of his U.S. born daughters recently worked as civilian translators for the U.S. Army in Iraq and have security clearances. (Tr. 67-68).

Applicant's parents, now deceased, were resident citizens of Iraq. They had four sons and a daughter. One of his brothers and his sister are deceased. He does not know the whereabouts of one brother. (Tr. 25). His other brother lives in Iraq and works as a teacher. He has monthly telephonic contact with him. (Tr. 24; 38). The last time he saw his brother was in 2003 in Iraq, when he was working with the U.S. Army and the Colonel of his training unit requested Applicant contact him or other Kurds for assistance. (Tr. 24; 35). Prior to that time, he had not seen his brother since 1995. (Tr. 36). He has strong ties to his brother. (Tr. 38).

Applicant's mother-in-law is 90-years old. She is a citizen and resident of Iraq, as are her four elderly siblings. His father-in-law was killed by Saddam Hussein's regime. (Tr. 26). All of these relatives live in the northern part of Iraq, the Kurdish territory. (Tr. 55-56). Although his wife has consistent contact with her relatives, he does not. (Tr. 40-41). None of his relatives or his wife's relatives has been persecuted in Iraq since 2003. (Tr. 54-55).

From August 1997 until March 2002, Applicant was retired. (GX 1 at 16; Tr. 70). He then returned to work as an interpreter/translator for a federal contractor from March 2002 until June 2003, at which time he began a position with a federal

contractor that performed translation services for the U.S. Army. (GX 2 at 14). He supported the U.S. forces in Iraq from approximately June 2003 to September 2004, and from October 2004 to February 2006. (GX 2 at 113-14; Tr. 20-21). He decided to work with the U. S. Armed Forces after 9/11 because of his loyalty to the United States. He knew his language skills and cultural background would be valuable to the U.S. troops. (Tr. 23; 70). He held an interim security clearance throughout that time up to 2006. (Tr. 63). He is currently unemployed, but would like to return to work and use his translation skills with the U.S. Army. He applied for a position with a federal contractor, contingent upon his obtaining a security clearance.

Applicant submitted two exhibits attesting to his capabilities and contribution to the U.S. Armed Forces' efforts in the war on terror. In June 2004, a retired Colonel in the U.S. Army, who was the Director of Logistics for the New Iraqi Army Training Team wrote that Applicant "has demonstrated technical expertise in platform translations and written translations. He has consistently exhibited personal flexibility, integrity, trustworthiness and a dedication to job accomplishment." (AX C). In July 2006, a Lieutenant Colonel stated that Applicant has worked "at very senior levels of government and business in both the USA and Iraq that allows him to give a very valued and interesting perspective. We respect his opinion and input." (AX E).

Applicant does not own any property in Iraq nor in the United States, but does have retirement funds in the United States. He belongs to a state engineering society. (Tr. 57). There is no derogatory information concerning his police or financial records. He has never been fired from a job. He has never been arrested. He has never used illegal drugs, or been involved in an alcohol-related incident. (GX 1).

Applicant credibly and sincerely asserted his pride of U.S. citizenship at his hearing and throughout his interview with a government investigator. The investigator noted Applicant's assertions of loyalty "to the U.S. above all other countries . . . and that none of his connections with Iraq and it's people, including his family members, could ever be used to pressure or coerce him in any way." (AX I at 5). Applicant is a talented linguist, who fluently speaks Kurdish, Arabic, Turkish, Turkomani and English. He is also functional in French, German, Persian and Urdu. (GX 2 at 5). Currently, he is writing a Kurdish/Arabic/English dictionary. (Tr. 20). He is ready to use those talents to assist American troops and protect the United States. (Tr. 82).

Iraq

In 2003, the United States led a coalition to remove Saddam Hussein from power in Iraq. After free elections, Iraq's new government took office. Despite the elections and new government, Iraq remains engulfed in violence, perpetrated by Al Qaeda terrorists and other insurgents. Numerous attacks and kidnappings have targeted the U.S. Armed Forces, contractors and other civilians, as well as Iraqis. Despite aggressive governmental action against terrorists, the threat of terrorism in

Iraq remains high. Terrorist groups conduct intelligence activities as effectively as state intelligence services.

United Arab Emirates (UAE)

The UAE is located in the Persian Gulf Region. The UAE's government is a federation of emirates, each with its own ruler. The federal government is a constitutional republic. The UAE and the United States have had a friendly relationship since the formation of the UAE in 1971. The UAE and the United States work closely together to combat terrorism. The UAE's respect for human rights is problematic, due to lack of elections, arbitrary and incommunicado detention, lack of judicial independence, and restrictions on civil liberties.

POLICIES

In an evaluation of an applicant's security suitability, an administrative judge must consider the "Adjudicative Guidelines for Determining Eligibility For Access to Classified Information" (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC), which are used to determine an applicant's eligibility for access to classified information.

These guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. AG ¶ 2. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge considers all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. AG ¶ 2(c).

Specifically, an 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 individual's age and maturity at the time of the conduct; (5) 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."

Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." AG ¶ 2(b). 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.

In the decision-making process, facts must be established by “substantial evidence.”⁸ The Government initially has the burden of producing evidence to establish a case. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to present “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and [the applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).⁹

A person who is granted 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 under this Directive include, by necessity, consideration of the possible risk an 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.

The scope of an administrative judge’s decision is limited. Under Executive Order 10865, § 7, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest, and shall in no sense be a determination as to the loyalty of the applicant concerned.”

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to the allegations set forth in the SOR:

⁸ “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁹ “The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant’s past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

Guideline B (Foreign Influence)

AG ¶ 6 explains the Government's security concern about "foreign contacts and interests," which may arise, "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 [AG ¶ 6] 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 ¶ 7 indicates three conditions that could raise a security concern and may be disqualifying in this case, including:

- (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; and
- (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.

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. *See* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001). Applicant has frequent contacts with his brother, who is a resident and citizen of Kurdistan, Iraq, and his daughter, who is a resident of UAE. He has limited contact with his elderly mother-in-law and family, who also live in the Kurdish area. This close relationship with two family members, and a causal relationship with another, creates a heightened risk of foreign pressure or attempted exploitation because terrorists in the Middle East seek intelligence and are hostile to United States' interests. His connections to his brother and daughter also create a potential conflict of interest because his relationship is sufficiently close to raise a security

concern about his desire to help them. All of these facts establish a disqualification under Guideline ¶ 7(a). In addition, his previous 18-year contract with the Iraqi government and two-year project with a Jordanian company, after becoming a United States citizen, trigger the application of Guideline ¶ 7(b). Sharing living quarters with his wife, an Iraqi citizen, who maintains close connections with her family in Iraq, also raises a disqualification under Guideline ¶ 7(d).

The Government produced substantial evidence of these three disqualifying conditions, and the burden shifted to Applicant to produce evidence of mitigation. Three Foreign Influence Mitigating Conditions under AG ¶ 8 are potentially applicable:

(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; and,

(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.

AG ¶¶ 8(a) and 8(c) do not apply because Applicant's relationships with his brother and daughter are of sufficient magnitude to negate these two mitigating conditions. His contacts with family members in Iraq and UAE are relatively frequent. Although he does not communicate with his in-laws, his wife does regularly. All of these contacts tend to negate the applicability of the mitigating conditions. There is a remote possibility that terrorists could attempt to coerce or threaten Applicant through his daughter, brother or mother-in-law.

Applicant, however, did establish application of AG ¶ 8(b). He provided evidence of his significant relationship and depth of loyalty to the U.S., such that he can be expected to resolve any conflict of interest in favor of the U.S.'s interest. He lived in the United States from 1962 until 1976, and since 1995. While out of the country, he returned to the United States many times, using his U.S. passport. He has been a U.S. citizen since 1972. He credibly and sincerely asserted his pride of being a U.S. citizen and expressed great loyalty. He has a retirement account in the United

States. He belongs to a state engineering organization. His wife resides in the United States and applied for citizenship several years ago. Three of their children were born here. Another child became a naturalized citizen and resident of the United States. In contrast, his Iraqi interests have become minimal over the years. He has no property in Iraq or UAE. He no longer has any Iraqi friends. He has three family members living overseas; however, he has spent minimal time physically with them in the last ten years. His contacts with the family members in Iraq and UAE are primarily to discuss family issues.

“Whole Person” Analysis

“Under the whole person concept, the Administrative Judge must not consider and weigh incidents in an applicant’s life separately, in a piecemeal manner. Rather, the Judge must evaluate an applicant’s security eligibility by considering the totality of an applicant’s conduct and circumstances.”¹⁰ The directive lists nine adjudicative process factors (APF), which are used for “whole person” analysis. Because foreign influence does not involve misconduct, voluntariness of participation, rehabilitation and behavior changes, etc., the eighth APF, “the potential for pressure, coercion, exploitation, or duress,” is the most relevant of the nine APFs to this adjudication.¹¹ In addition to the eighth APF, other “[a]vailable, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.” AG ¶ 2(a). Ultimately, the clearance decision is “an overall common sense determination.”

The Appeal Board requires the whole person analysis address “evidence of an applicant’s personal loyalties; the nature and extent of an applicant’s family’s ties to the U.S. relative to his [or her] ties to a foreign country; his or her ties social ties within the U.S.; and many others raised by the facts of a given case.” ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007).

Substantial mitigating evidence weighs in favor of granting Applicant’s security clearance. Applicant is a mature person. He has lived in the United States for 26 years, and he has been a naturalized citizen for 35 years. Applicant’s spouse has been living in the United States for approximately the same number of years, and is awaiting citizenship. Before obtaining his citizenship, he voluntarily instructed ROTC students in military science out of his sense of love and dedication to the

¹⁰ ISCR Case No. 03-04147 at 3 (App. Bd. Nov. 4, 2005) (quoting ISCR Case No. 02-01093 at 4 (App. Bd. Dec. 11, 2003)); ISCR Case No. 05-02833 at 2 (App. Bd. Mar. 19, 2007) (citing *Raffone v. Adams*, 468 F.2d 860 (2nd Cir. 1972) (taken together, separate events may have a significance that is missing when each event is viewed in isolation)).

¹¹ See ISCR Case No. 02-24566 at 3 (App. Bd. July 17, 2006) (stating that an analysis under the eighth APF apparently without discussion of the other APFs was sustainable); ISCR Case No. 03-10954 at 5 (App. Bd. Mar. 8, 2006) (sole APF mentioned is eighth APF); ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006) (remanding grant of clearance because Judge did not assess “the realistic potential for exploitation”), *but see* ISCR Case No. 04-00540 at 6 (App. Bd. Jan. 5, 2007) (rejecting contention that eighth APF is exclusive circumstance in whole person analysis in foreign influence cases).

United States. His ties to the United States are much stronger than his ties to his brother or mother-in-law living in northern Iraq, and possibly his daughter. After becoming a U.S. citizen in 1972, he obtained a U.S. passport and used it exclusively to travel between Iraq and the United States. While working in Iraq, he openly lived as a U.S. citizen. He came out of retirement at the age of 72, in order to assist the United States in its mission in Iraq, recognizing how vital his language skills and cultural experiences would be to the American troops. He contacted his brother while in Iraq, whom he had not seen for over ten years, for assistance per his commander's request. There is no evidence he has ever taken any action that could cause potential harm to the United States. He takes his loyalty to the United States very seriously, and he has worked diligently for a defense contractor for several years in an important capacity for the U.S. Army. He held an interim security clearance throughout this service with no incidents of security concern. His supervisors assess him as loyal, trustworthy, conscientious, and responsible. He is an excellent family member, employee, and U.S. citizen. After leaving Iraq and Jordan in 1995, he never returned, until he worked with the U.S. Army in 2003. Two of his children have also worked in Iraq, supporting the U.S. troops. No witnesses recommended denial of his security clearance. There is not any derogatory information about him in the record.

Four circumstances weigh against Applicant in the whole person analysis. First, in Iraq there is a significant risk of terrorism, and there are human rights abuses in Iraq and UAE. Terrorists, and even friendly governments, may attempt to use his brother, mother-in-law or daughter, who live in Iraq and/or UAE to obtain such information. Second, he had significant connections to Iraq before he immigrated to the United States in 1962, and after becoming a U.S. citizen. He was born in Iraq, and spent his formative years there. After becoming a U.S. citizen, he returned there to work in a highly specialized area for almost 18 years. Third, his brother and mother-in-law remain citizens of Iraq. His daughter, a U.S. citizen, lives in UAE. Fourth, he has frequent contact with his brother and daughter for whom he has strong affection, which could create a potential risk of coercion, albeit slight based on their geographical locations.

“Because of the extreme sensitivity of security matters, there is a strong presumption against granting a security clearance. Whenever any doubt is raised . . . it is deemed best to err on the side of the government's compelling interest in security by denying or revoking [a] clearance.” *Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990). However, after weighing the disqualifying and mitigating conditions, and all facts and circumstances in the context of the whole person, I conclude Applicant has mitigated the security concerns pertaining to foreign influence.¹² The evidence leaves me without doubts as to Applicant's security eligibility and suitability.

¹² I conclude the whole person analysis weighs heavily towards approval of his security clearance. Assuming a higher authority reviewing this decision determines the mitigating condition articulated in AG ¶ 8(b) does not apply, and after severing any consideration of AG ¶ 8(b), I

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my “careful consideration of the whole person factors”¹³ and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has mitigated or overcome the government’s case. For the reasons stated, I conclude he is eligible for access to classified information.

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 B:	FOR APPLICANT
Subparagraphs 1.a to 1.h:	For Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue eligibility for a security clearance for Applicant. Clearance is granted.

SHARI DAM
Administrative Judge

conclude the whole person analysis standing alone is sufficient to support approval of a security clearance in this case.

¹³See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).