



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



In the matter of:)
)
) ISCR Case No. 18-01761
)
Applicant for Security Clearance)

Appearances

For Government: Daniel F. Crowley, Esq., Department Counsel
For Applicant: Troy L. Nussbaum, Esq.
07/11/2019

Decision

LYNCH, Noreen A., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant, a native of Cameroon, mitigated the foreign influence concerns raised by his relationship with his wife and his step-son. Applicant mitigated the foreign influence concerns. Clearance is granted.

Statement of the Case

On July 6, 2018, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the foreign influence guideline. The DOD acted under Executive Order (EO) 10865, Safeguarding Classified Information within Industry, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, Defense Industrial Personnel Security Clearance Review Program, dated January 2, 1992, as amended (Directive), and the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance and recommended that the case be submitted to an administrative judge for a determination whether to deny his security clearance.

Applicant timely answered the SOR and requested a hearing before an administrative judge (Answer). The case was assigned to me on January 16, 2019. The case was scheduled for hearing on April 4, 2019. The Government offered Exhibits (GE) 1 through 3. GE 2 was at first objected to by Applicant's counsel, but remained in the record upon review by Applicant's counsel. GE 1 through 3, were admitted without objection. Applicant testified on his own behalf and presented one witness. He submitted eleven Exhibits (AE) A through K, without objection. The record was left open until July 8, 2019, and Applicant submitted documentation. DOHA received the transcript of the hearing on April 15, 2019.

Request for Administrative Notice

Department Counsel requested that I take administrative notice of certain facts about Cameroon. Without objection from Applicant, I approved the request. The relevant facts are highlighted in the Administrative Notice below.

Findings of Fact

Applicant, 37, was born in Cameroon. He is divorced from an American citizen and he has no relationship with her. (Tr. 32) In 2018, he married a citizen and resident of Cameroon who has a child in Cameroon. Applicant has a biological child who resides in the United States. His mother, sister, and younger brother live in the United States. He received an undergraduate degree in law in Cameroon. He completed a security clearance application in July 2017. The SOR (1.a and 1.b) alleges that Applicant's fiancée (now wife) is a citizen and resident of Cameroon. Applicant, in his answer, denied the allegation because he is now married. (AE A) SOR allegation 1.b alleges that Applicant gave money to family and friends in Cameroon for a period of time.

Applicant entered the United States in February 2011. He became a naturalized citizen in 2013. He obtained two master's degrees from American universities. (Tr. 11) He is a security officer for a Federal agency. (GE 1)

As to SOR, 1.a, which alleges that Applicant's now wife is a citizen and resident of Cameroon, she is sponsored by Applicant for citizenship. He advised her to move to the capital of Cameroon near the American Embassy. This area is far removed from the violence in other parts of Cameroon. He submitted a petition I-130 for his wife and his step-son (alien relative) with U.S. Citizenship and Immigration Services (USCIS). (AE B) His stepson is approved for the next phase of the process. (AE H) Applicant submitted documentation showing that since May 2018 he has diligently worked with the legal process to bring his wife and step-son to the United States. (AE C) He paid the fees associated with the process. (Tr. 37, AE I) His wife had to submit a DNA test to prove that the child is hers. She has done so and that has been approved. Applicant was sent the timeline information for I-130 applications. (AE D) Applicant received notice from USCIS that the applications are taken in order and that his wife's is pending. (AE J)

As to SOR 1.b, which alleges that Applicant provided financial support to friends and family members in Cameroon from 2011 to 2018. He disclosed this information in

his security clearance application. (GE 1) Applicant explained that he realized in about 2014 that some of the individuals were taking advantage of him so he ceased sending money except for his mother who now lives in the United States. He had sent money to his current wife and her child, but he no longer sends any money to Cameroon. His current wife is now employed. (AE F)

Applicant has no financial interests in Cameroon. His assets are in the United States. He owns a new car and has been approved for a mortgage for a \$400,000 home. (Tr.41) He has a 401(k) account. His retirement account is worth about \$18,000. He has a savings account. His current salary is about \$140,000 per year. (Tr. 56)

As a post-hearing submission, Applicant submitted documents that confirmed that his wife and step-son's cases are in line at USCIS to be reviewed. (AE K)

Applicant's witness testified by telephone. He has known Applicant through work and praised Applicant for his work ethic. The witness stated that Applicant is a decent man, and he is aware of the security concerns. He recommends Applicant for a security clearance.

Applicant submitted letters from family members, including his mother and siblings who live in the United States. They attest that Applicant has no desire to return to Cameroon and his dream is here in the United States. Once his wife and step-son arrive in the United States, he will have no other family in Cameroon. (AE F)

Applicant submitted nine character references from colleagues and others who have known him as a friend and a professional. Each attests to his trustworthiness and motivation to perform his duties. He is reliable and disciplined. (AE G)

When questioned at the hearing, Applicant stated that if he were in a position of compromise, he would immediately alert his chain of command. He would inform the proper people and ask for guidance. He would never compromise security. He values his U.S. citizenship. (Tr. 51)

Administrative Notice

The Republic of Cameroon

The United States established diplomatic relations with Cameroon in 1960, following the independence of the French-administered part of the country. Cameroon has had just two presidents since independence. U.S. relations with Cameroon are positive, although from time to time they have been affected by concerns over human rights abuses and the pace of political and economic liberalization. Cameroon plays a key role in regional stability and remains our strongest regional partner in countering terrorism in the Lake Chad region.

The U.S. Department of State advised travelers to Cameroon to exercise increased caution due to crime, terrorism, and civil unrest. The areas most affected are the north, far north, northwest and southwest regions.

During 2017, Boku Haram continued to take advantage of weaknesses in Cameroon's border security to conduct terrorist attacks in the country's far north region. Boku Haram perpetrated multiple and indiscriminate killings against civilians – Muslim and Christian alike – but also against government officials and military forces. Cameroonian forces have become more effective at combatting Boku Haram, dozens of Government attacks on Boku Haram occurred in 2017.

Applicant has been in the United States since 2011 and is a naturalized U.S. citizen. His immediate family lives in the United States. His wife in Cameroon is being sponsored for entry into the United States. Applicant's step-son has been approved for an interview. The legal process is ongoing. His wife has no ties to the government of Cameroon and has moved to the capital near the American Embassy. Applicant worked hard to gain a position of employment that allows him to provide for his family in the United States. Applicant knows what to do in a situation of compromise. He does not want to return to Cameroon. He is complying with the legal process to bring his wife and step-son to the United States. He has no financial interests in Cameroon.

Applicant is held in high esteem by his friends and colleagues. He submitted numerous letters of reference. A letter of recommendation touts Applicant's trustworthiness and reliability while working in a challenging and ever-changing environment. (AE G)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I

have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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 the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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).

Analysis

Foreign Influence

“[F]oreign contacts and interest may be a security concern if the individual has divided loyalties or financial interests, 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.” AG ¶ 6. Although Cameroon has historically been an ally of the United States, the recent political instability in the country and region has become a potential threat to U.S. interests operating there. Accordingly, Applicant’s relationships with his wife and step-son who are citizens in Cameroon creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. AG ¶ 7(a).

Applicant’s interactions with his wife cannot be considered casual. However, given the position and activities of Applicant’s wife and step-son in Cameroon and their process of coming to the United States, it is unlikely that Applicant will be placed in a position of having to choose between the foreign interests and those of the United States. AG ¶ 8(a). Applicant’s mother, daughter, sister, and brother are living in the United States. Furthermore, these relationships do not present a conflict of interest because the ties that Applicant has developed in his current position are so deeply intertwined with his own safety and self-interest, it is likely that Applicant will resolve any potential conflict of interest in favor of U.S. interests. (AG ¶ (b)

Based on the record, I have no doubts about Applicant's ability to protect and handle classified information. In reaching this conclusion, I have also considered the whole-person factors in AG ¶ 2(d). For the past several years, Applicant has been working hard to obtain degrees and work in a position that will provide for his family. He has demonstrated that he takes his responsibilities very seriously, as echoed by the many character letters he received in support of his application for access to classified information. Applicant's work and conduct for the past several years is evidence of his ability to operate in a sensitive environment with direct national security implications.

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 Foreign Influence:	FOR APPLICANT
Subparagraphs 1.a-1b	For Applicant

Conclusion

In light of all of the circumstances presented, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

Noreen A. Lynch
Administrative Judge