



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



In the matter of: )  
)  
) ISCR Case No. 18-02125  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey De Angelis, Esq., Department Counsel  
For Applicant: Pro se

May 3, 2019

**Decision**

LOKEY ANDERSON Darlene D., Administrative Judge:

**Statement of the Case**

On December 11, 2018, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines C and B. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant’s security clearance.

Applicant answered the SOR on December 31, 2018, and requested a hearing before an administrative judge. The case was assigned to me on February 21, 2019. The Defense Office of Hearings and Appeals issued a notice of hearing on February 25, 2019, and the hearing was convened as scheduled on March 20, 2019. The Government offered four exhibits, referred to as Government Exhibits 1 through 4, which were admitted without objection. The Applicant offered five exhibits, referred to as Applicant’s Exhibits A through E, which were admitted without objection. Applicant

testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on April 4, 2019.

### **Procedural Rulings**

The Government requested I take administrative notice of certain facts relating to the Kingdom of Saudi Arabia. Department Counsel provided a five page summary of the facts, supported by four Government documents pertaining to Saudi Arabia, identified as HE 1. The documents provide elaboration and context for the summary. Applicant had no objection. I took administrative notice of the facts included in the U.S. Government reports. They are limited to matters of general knowledge, not subject to reasonable dispute. They are set out in the Findings of Fact.

### **Findings of Fact**

Applicant admitted each of the allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 29 years old and is not married. He has a Master's degree in Aerospace Engineering, and currently holds the position of Engineer. Applicant is applying for a security clearance in connection with his employment with a defense contractor. He began working for his current employer in May 2016.

Applicant was born in Mesa, Arizona in March 1989. He and his family are of Saudi Arabian ancestry, and were in the United States because Applicant's father had been granted an educational scholarship from an oil company in Saudi Arabia (Saudi Aramco) to pursue his degree at a University in the United States. When Applicant's father graduated, Applicant was about two or three months old, and his parents moved him and his siblings back to Saudi Arabia. Applicant grew up and was raised in Saudi Arabia. With a desire to return to the United States someday, in 2006, while in high school, Applicant's father arranged for Applicant to live with a Canadian family in Canada for a while, where he studied English and western culture. Following that, Applicant lived with an American family in North Carolina, where he studied English and learned the American culture. Applicant then went back to Saudi Arabia and graduated from high school in 2007.

That same year, Applicant applied for an educational scholarship in Saudi Arabia, made available to Saudi Arabian citizens, who are students with good GPA's; and who graduate from high school in Saudi Arabia, to be able to study and pursue his college degree in the United States. Applicant was awarded the scholarship and attended the same University his father had attended. When Applicant finished his Bachelor's degree in 2012, he applied for a scholarship to obtain his Master's degree, which he completed in 2014. After finishing that, he applied for the Ph.D. program. Applicant completed his first year of the Ph.D. program, and then suspended it, and

started working for his current employer in 2016. He has now closed his scholarship account with Saudi Arabia. If he decides to complete his Ph.D. in the future, he will have to pay for it himself.

Applicant explained that in Saudi Arabia everything is basically owned by the Government. They own the oil industry as well as the hospitals. They also distribute money earned by the Government back to the people to help them obtain their education. In total, Applicant received approximately \$200,000 in educational funds provided to him from the Saudi Arabian Government scholarship to obtain his undergraduate and graduate degrees in the United States between July 2008 and May 2016. Applicant states that he has no duty, responsibility or obligation to pay back the Saudi Arabian Government for the scholarships.

Applicant has a number of family members who are citizens and residents of Saudi Arabia. Applicant's father, his mother, four of his five brothers, four sisters, four brothers-in-law and three sisters-in-law, and numerous extended family members, including aunts, uncles, and grandmothers. They are happy for the Applicant, and consider him lucky to be able to live and work in the United States.

Applicant's father is now retired for eight years, but before that was employed by the state-owned oil company of the Kingdom of Saudi Arabia. Applicant's mother has always been a housewife. Applicant calls his parents once or twice every two weeks. (Tr. p. 40.)

Applicant has five brothers. Four of them are citizens and residents of Saudi Arabia, and one is a dual citizen of the United States and Saudi Arabia. His oldest brother is an accountant. Another brother is a banker, and two are doctors. The youngest brother is a middle school or high school student. Applicant speaks to his brothers by phone about once a month or so. (Tr. p. 45.)

Applicant has four sisters, all of them are citizens and residents of Saudi Arabia. One is an English teacher, who is married to an Engineer, who is receiving a scholarship from Saudi Aramco (the oil company Applicant's father used to work for). Another sister is a dentist. She is married to a male nurse. His next sister, recently graduated from school and is looking for a job. She is currently a child care provider. Her husband is a dentist. Applicant's youngest sister is still in school, trying to become a doctor. Her husband is an Engineer. (Tr. p. 48.)

Applicant currently earns about \$89,000 annually, and lives comfortably on that salary. He has no delinquent debts. (Tr. p. 55.) He has about \$90,000 in savings in his personal bank account, and about \$50,000 in his 401k retirement account. (Tr. p. 56.)

Applicant has received security training from his employer, and is aware of his foreign contacts and the possibility of foreign influence. Applicant has never been approached or confronted by anyone seeking to obtain protected information from him on any level. He states that he would never reveal any protected information to any foreign entity seeking to obtain information under any circumstances. If he is

threatened with death, or if someone in his family or his friends are threatened with death, he states that he will never disclose U.S. protected information. (Tr. p. 58.) Applicant is currently a dual citizen of Saudi Arabia and the United States. He maintains his Saudi Arabian citizenship because he wants to make sure that he is able to pass easily through customs when he travels to Saudi Arabia to see his family. (Tr. p. 62.)

Performance Evaluations of the Applicant for 2016, 2017, and 2018, are favorable and reflect that he has always either “met expectations” or “exceeded expectations” in every category. (Applicant’s Exhibits A, B, and C.)

In assessing the heightened risk created as a result of a security clearance, the Applicant’s ties to a hostile country are important. However, even countries friendly to the United States have attempted to gain unauthorized access to classified information. Under the particular facts of this case, I have taken administrative notice of the information provided concerning the Kingdom of Saudi Arabia. Saudi Arabia is a monarchy ruled by King Salman bin Abdulaziz al Saud, who is both head of state and head of government. The government bases its legitimacy on its interpretation of sharia (Islamic Law) and the 1992 Basic Law, which specifies that the rulers of the country shall be male descendants of the founder, King Abdulaziz bin Abdulrahman Al Saud. The most significant human rights issues include unlawful killings, including execution for other than the most serious offenses and without requisite due process; torture; arbitrary arrest and detention, including of lawyers, human rights activists; and antigovernment reformists; political prisoners; arbitrary interference with privacy; restrictions on freedoms of peaceful assembly, association, movement, and religion; citizen’s lack of ability and legal means to choose their government through free and fair elections; trafficking in person; violence and official gender discrimination against women, although new women’s rights initiatives were announced and criminalization of same restrictions on freedoms of expression, including on the internet, and the criminalization of libel; and antigovernment reformists. The U.S. Department of State has issued a Level 2 Travel Advisory regarding Saudi Arabia advising U.S. travelers to “exercise caution” while visiting Saudi Arabia due to terrorism and the threat of missile attacks on civilian targets. Terrorist groups continue plotting possible attacks in Saudi Arabia. Terrorists may attack with little or no warning, targeting tourist locations, transportations hubs, markets/shopping malls and local government facilities. (HE.1.)

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing 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 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 (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**

### **Guideline C, Foreign Preference**

The security concern relating to the guideline for Foreign Influence is set out in AG ¶ 9:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he may provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's

judgement, reliability, and trustworthiness when it is in conflict with U.S. national interests or when the individual acts to conceal it. By itself: the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

The guideline notes several conditions that could raise security concerns under AG ¶ 10. One is potentially applicable in this case:

(a) applying for and/or acquiring citizenship in any other country.

AG ¶ 11 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 11 including:

(b) dual citizenship is based solely on parental citizenship or birth in a foreign country, and there is no evidence of foreign preference.

Applicant maintains his Saudi Arabian passport to be able to travel more conveniently to see his parents in Saudi Arabia, and for no other reason.

### **Guideline B, Foreign Influence**

The security concern relating to the guideline for Foreign Influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. Two are potentially applicable in this case:

(a) contact, regardless of method, 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; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

Applicant's foreign family members include his mother, father, five brothers, four sisters, aunts, uncles, grandmothers, cousins, and other extended family, who are citizens and residents of Saudi Arabia. Based upon the evidence presented, they do not threaten or influence Applicant's choice of interest as a native-born United States citizen. Applicant's contact with them is casual, minimal, and not out of the ordinary. They have no interest in or knowledge of Applicant's security clearance or work product. All of Applicant's family in Saudi Arabia are either in school or are established professionals in their own right. They clearly do not need the Applicant for upward mobility or financial support. Under the particular circumstances here, the risk-benefit analysis is applicable, and this contact does not pose a significant security risk to the U.S. government. There is nothing here that may manipulate or induce the Applicant to help a foreign person or government in a way that is inconsistent with the U.S. interests. All of Applicant's assets are in the United States. He is a proud American-born citizen and has worked hard since high school to learn the American culture and its ways in order to assimilate into the American lifestyle comfortably. Applicant feels lucky to be an American, and only for the fact that his parents and siblings are of Saudi Arabian ancestry and reside in Saudi Arabia has this issue even surfaced. Applicant has not subjected himself to a heightened risk of foreign influence or exploitation or personal conflict of interest from his connection with his family. However, the evidence is sufficient to raise these disqualifying conditions.

AG ¶ 8 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 8 including:

(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 United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, 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.

The nature of Applicant's relationships with his family do not pose a security risk. There is no conflict of interest. No one in Applicant's immediate family has ever been the victim of terrorism in Saudi Arabia. His family is not disturbed with where Applicant lives, what Applicant does, nor do they show any interest in the Applicant or his work. Applicant is a native-born U.S. citizen and his relationship with his family does not result in a divided allegiance. Full mitigation under AG ¶ 8(a), 8(b), and 8(c), has been established in regard to his family members.

### **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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (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) 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 considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines C and B in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Under the particular facts of this case, Applicant's familial Saudi Arabian connections do not pose a risk to the U.S. government. Applicant is an intelligent American citizen whose only connection with Saudi Arabia at this point in his life is his parental upbringing, which occurred from the early age of two months old through high school. Since then, he has been educated in the United States, and is committed to the American culture. He is now dedicated to living his dream of developing technology for the American government.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Foreign Preference and Foreign Influence security concerns.



## Formal Findings

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

|                           |               |
|---------------------------|---------------|
| Paragraph 1, Guideline F: | FOR APPLICANT |
| Subparagraph 1.a:         | For Applicant |
| Paragraph 2, Guideline F: | FOR APPLICANT |
| Subparagraph 2.a:         | For Applicant |
| Subparagraph 2.b:         | For Applicant |
| Subparagraph 2.c:         | For Applicant |
| Subparagraph 2.d:         | For Applicant |
| Subparagraph 2.e:         | For Applicant |
| Subparagraph 2.f:         | For Applicant |
| Subparagraph 2.g:         | For Applicant |
| Subparagraph 2.h:         | 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 national security eligibility and a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge